

BILL ANALYSIS

Senate Research Center

H.B. 3588
By: Krusee (Ogden)
Infrastructure Development and Security
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Engrossed

This analysis utilizes the bill analysis from the House Committee Report. A list of adopted floor amendments is attached at the end of the analysis, comprising pages 27 through 55 of this document. Any rulemaking authority granted by the floor amendments is not reflected in the rulemaking section of this analysis.

DIGEST AND PURPOSE

To provide for a comprehensive restructuring of the methods of developing, financing, operating, and policing the state's transportation system to enhance safety, efficiency, and mobility.

During the 20th century Texas experienced tremendous population growth and great economic expansion. One reason for that growth was the development and operation of a world-class transportation system. That transportation system had as its primary component a statewide network of highways financed by motor fuels taxes and centrally directed by the Texas Highway Department, which later became the Texas Department of Transportation (department).

The 20th-century model for transportation growth will not suffice for the 21st century. Motor fuels taxes are declining per mile traveled on the state's highways, and as a result the construction of new highways cannot keep pace with demand. Nearly exclusive reliance on the automobile has produced unacceptable levels of urban congestion, pollution, and motor vehicle fatalities. At the same time, the state has not had the legal tools and financing methods to make full use of other transportation options, including rail, public transportation, and turnpikes.

This bill addresses the full scope of transportation issues facing the state. It creates new financing tools to generate the funding required to maintain a working transportation system. These include the use of bonds to generate immediate cash flow, mechanisms for funding the Texas mobility fund, and an increase in fines and fees levied for traffic violations. Additional cash flow will be generated by increased reliance on turnpikes, both those funded by tolls paid by motorists and those built by local authorities and funded over time by the state. The department is given the authority to encourage increased reliance on rail transportation. In addition, it will begin to plan and construct a new set of intermodal transportation facilities that will be known as the Trans Texas Corridor and that will integrate highway, rail, and utility components. Regional Mobility Authorities will give localities greater flexibility in addressing their local transportation needs

RULEMAKING AUTHORITY

Additional rulemaking authority is delegated to the Texas Transportation Commission in SECTION 1.03 of the bill (Sections 227.004 and 227.049, Transportation Code); SECTION 2.01 of the bill (Sections 370.035, 370.037, 370.038, and 370.188, Transportation Code); SECTION 3.01 of the bill (Sections 201.954 and 201.956, Transportation Code); SECTION 6.02 of the bill (Sections 91.004, 91.033, and 91.057, Transportation Code); SECTION 8.01 of the bill (Section 222.003, Transportation Code); SECTION 9.01 of the bill (Section 222.104, Transportation Code); and SECTION 10.01 of the bill (Section 201.112(a), Transportation Code).

Additional rulemaking authority is delegated to Regional Mobility Authorities in SECTION 2.01 of the

bill (Sections 370.033, 370.035, 370.037, 370.171, 370.185, 370.189, 370.306, 370.308, and 370.311, Transportation Code).

Additional rulemaking authority is delegated to the Department of Public Safety in SECTION 5.01 of the bill (Sections 708.002, 708.052, 708.153, and 708.154, Transportation Code).

Additional rulemaking authority granted in the floor amendments is not reflected here.

SECTION BY SECTION ANALYSIS

ARTICLE 1 - TRANS-TEXAS CORRIDOR

SECTION 1.01. Amends the heading to Title 6, Transportation Code, to reference the Trans-Texas Corridor.

SECTION 1.02. Amends the heading to Subtitle B, Title 6, Transportation Code, to reference the Trans-Texas Corridor.

SECTION 1.03. Amends Subtitle B, Title 6, Transportation Code, by adding Chapter 227 as follows:

CHAPTER 227. TRANS-TEXAS CORRIDOR

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 227.001. SHORT TITLE. Provides that Chapter 227 may be cited as the Trans-Texas Corridor Act.

Sec. 227.002. LEGISLATIVE INTENT AND CONSTRUCTION. Sets forth legislative intent and directs that Chapter 227 shall be construed liberally to achieve its purpose.

Sec. 227.003. DEFINITIONS. Defines "bond," "construction," "facility," "fee," "operation," "public utility facility," "Trans-Texas Corridor," and "turnpike."

Sec. 227.004. RULES. Authorizes the commission to adopt rules as necessary and convenient to implement this chapter.

Sec. 227.005. APPLICABILITY OF OTHER LAW. (a) Provides that all laws governing the financing, design, construction, maintenance, or operation of a state highway apply to the Trans-Texas Corridor unless in conflict with this chapter.

(b) Provides that all laws governing the financing, design, construction, maintenance, or operation of a turnpike apply to the Trans-Texas Corridor unless in conflict with this chapter.

SUBCHAPTER B. ESTABLISHMENT

Sec. 227.011. DESIGNATION. Requires the commission to designate facilities for the Trans-Texas Corridor.

Sec. 227.012. ROUTE SELECTION. Requires the commission to consider specified criteria before selecting a route for the Trans-Texas Corridor.

Sec. 227.013. PUBLIC PARTICIPATION. Requires the commission to hold one or more hearings before designating a route for a segment of the Trans-Texas Corridor.

Sec. 227.014. ESTABLISHMENT OF DISCRETE SYSTEMS. (a) Permits two or more facilities on

the Trans-Texas Corridor to be operated as a single system.

(b) Provides for separate accounting of revenues for each system.

Sec. 227.015. LOCATION OF FACILITIES. Permits the commission to specify the location of each facility within the Trans-Texas Corridor and to control the time and manner of work on a facility within the Trans-Texas Corridor.

SUBCHAPTER C. DEVELOPMENT AND OPERATION

Sec. 227.021. AUTHORITY OF DEPARTMENT. (a) Authorizes the department to construct and operate any facility as part of the Trans-Texas Corridor or to authorize any governmental or private entity to construct or operate any facility that is part of the Trans-Texas Corridor.

(b) Authorizes the department to grant or deny access to the Trans-Texas Corridor by any facility or driveway, subject to the provisions of Section 227.029.

Sec. 227.022. PARTICIPATION BY OTHER ENTITIES. (a) Provides that any highway on the Trans-Texas Corridor will be part of the state highway system, without regard to the builder or operator.

(b) Grants a governmental entity the same powers as the department if the governmental entity is authorized to construct or operate a facility on the Trans-Texas Corridor, except that property must be acquired in the name of the state.

(c) Grants a governmental entity the power to operate outside its ordinary geographic limits in connection with authorized work on the Trans-Texas Corridor.

(d) Provides that a governmental entity operating a facility on the Trans-Texas Corridor will only be liable for claims to the extent that the department would be liable.

Sec. 227.023. PARTICIPATION BY PRIVATE ENTITIES. (a) Requires the department to encourage private participation in facilities on the Trans-Texas Corridor.

(b) Provides that the department shall contract with a private entity to operate a railroad, may not use department employees to operate a railroad, and may maintain a railroad directly or through a private entity.

(c) Provides that the department shall apply its usual procedures to remove barriers to participation by small and disadvantaged businesses and that the department shall encourage participation by small and disadvantaged businesses.

Sec. 227.024. HIGHWAYS. (a) Provides that all highways on the Trans-Texas Corridor are state highways.

Sec. 227.025. VEHICLE SIZE AND WEIGHT LIMITS. (a) Allows the commission to authorize higher height, length, and gross weight limits on vehicles on the Trans-Texas Corridor if supported by an engineering and traffic study.

(b) Provides that this section does not authorize higher axle weight limits on vehicles.

Sec. 227.026. ACQUISITION OF PERSONAL PROPERTY. (a) Authorizes the department to acquire rolling stock and other personal property in connection with operation of a facility on the Trans-Texas Corridor.

(b) Authorizes the department to enter into agreements providing for common use of a facility.

(c) Authorizes the department to enter into agreements providing for common use of a public utility facility.

Sec. 227.027. ENVIRONMENTAL REVIEW. (a) Requires the department to conduct or approve all environmental studies required for the Trans-Texas Corridor.

(b) Authorizes the commission to allocate responsibilities for environmental work among entities involved with the Trans-Texas Corridor.

Sec. 227.028. ENVIRONMENTAL MITIGATION. (a) Authorizes the department to acquire and manage property to be used in mitigating adverse environmental effects resulting from Trans-Texas Corridor projects.

(b) Authorizes the department to contract with a governmental or private entity to manage property to be used in mitigating adverse environmental effects resulting from Trans-Texas Corridor projects.

(c) Authorizes the department to pay a sum of money to mitigate adverse environmental effects resulting from Trans-Texas Corridor projects if authorized by the applicable regulatory authority.

Sec. 227.029. RELOCATION OF EXISTING FACILITIES. (a) Authorizes the department to implement a grade separation for another facility and requires the department to pay the cost.

(b) Authorizes the department to reconstruct a facility at another location if necessary for the Trans-Texas Corridor so local travel and existing facilities will not be disrupted unnecessarily by the existence of the Trans-Texas Corridor.

(c) Provides that this section does not apply to conversion of a part of the state highway system to a highway on the Trans-Texas Corridor.

Sec. 227.030. UNAUTHORIZED USE. Permits the department to remove unauthorized personal property from the Trans-Texas Corridor. Provides for disposal of unclaimed property and specifies that the department is not liable for damage to property removed under this section.

Sec. 227.031. EXCLUSIVE LANES. Authorizes the department to implement exclusive lanes on the Trans-Texas Corridor.

SUBCHAPTER D. RIGHT OF WAY ACQUISITION

Sec. 227.041. POWERS AND PROCEDURES. (a) Authorizes the commission to acquire real property or any interest in real property for the Trans-Texas Corridor. Authorizes the commission to use right of way banking by purchasing property from willing sellers in advance of actual need to lock in prices and reduce overall costs.

(b) Identifies appropriate uses of land acquired for the primary purposes of the Trans-Texas Corridor.

(c) Provides that the acquisition of property for the Trans-Texas Corridor is governed by the same laws that apply to the acquisition of right of way for state highways unless in conflict with this chapter, that Sections 203.056, 203.057, and 203.058 apply to acquisitions of right of way from a state agency, and that compensation to a state agency must be reasonable and may take the form of a single payment or of a participation payment under Section 227.042.

Sec. 227.042. CORRIDOR PARTICIPATION PAYMENT FOR REAL PROPERTY. (a) Authorizes the department, with a landowner's consent, to pay for real property with a corridor

participation payment.

(b) Provides that a corridor participation payment is subordinate to any bonds that are secured by the same fees.

(c) Defines "corridor participation payment."

Sec. 227.043. LEGAL RIGHTS AS PAYMENT FOR REAL PROPERTY. Authorizes the department, with a landowner's consent, to pay for real property with a right to use or operate a facility on the Trans-Texas Corridor.

Sec. 227.044. PURCHASE AND LEASEBACK. Allows the department to buy land and lease it back to the seller.

Sec. 227.045. DECLARATION OF TAKING. (a) Authorizes the department to file a declaration of taking.

(b) Allows the declaration of taking to be filed concurrently with or subsequent to the petition in an eminent domain case, but not until after the special commissioners have made an award.

(c) Requires the declaration of taking to contain a description of the property, a reference to legislative authority, a statement of the property interest to be condemned, the name and address of each property owner, and a statement that immediate possession is necessary.

(d) Requires the department to deposit an amount equal to the appraised value of the property in the registry of the court.

(e) Specifies that the date on which the declaration of taking is filed is the date of taking for the purpose of assessing damages.

(f) Provides that after a declaration of taking is filed, the case shall proceed as other cases.

Sec. 227.046. POSSESSION OF PROPERTY. (a) Provides that the department may take possession of property after serving the declaration of taking on each person possessing an interest in the property.

(b) Prohibits the department from taking possession of a homestead before the 91st day after service of the declaration of taking.

(c) Provides that an owner or tenant who refuses to yield possession is subject to forcible entry and detainer.

Sec. 227.047. RIGHT OF ENTRY. (a) Authorizes the department to enter real property to make examinations and studies.

(b) Requires the department to give notice and to comply with safety practices when entering real property.

(c) Provides that an entry under this section is not a trespass or entry under a condemnation proceeding.

(d) Requires the department to reimburse an owner for any damages.

Sec. 227.048. SEVERANCE OF REAL PROPERTY. (a) Specifies damages when property is divided into two or more noncontiguous parcels by a taking.

(b) Permits the department to purchase the severed real property if the department and the owner agree on terms.

Sec. 227.049. DONATIONS. Authorizes the department to accept donations of interests in real property in connection with the Trans-Texas Corridor. Allows the commission to adopt rules governing situations in which the department may acknowledge donations instead of the commission.

Sec. 227.050. OTHER GOVERNMENTAL ENTITIES. Grants other governmental entities the same powers as the department if the department authorizes that governmental entity to construct or operate any part of the Trans-Texas Corridor.

Sec. 227.051. COST OF RELOCATING PUBLIC UTILITY FACILITY. (a) Provides that the department shall pay the cost of relocating a utility if necessary for the Trans-Texas Corridor.

(b) Provides that a utility is not required to relocate onto the Trans-Texas Corridor if another location is feasible.

(c) Provides that the department shall grant a utility owner reasonable access to the Trans-Texas Corridor if necessary to maintain a utility facility.

SUBCHAPTER E. FINANCING

Sec. 227.061. PERMISSIBLE SOURCES OF FUNDING. Authorizes the department to use any constitutional source of funding to acquire property for, construct, and operate the Trans-Texas Corridor, subject to Section 227.0615.

Sec. 227.0615. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. (a) Limits disbursements from the state highway fund for property acquisition and initial construction on the Trans-Texas Corridor to no more than 20% of federal-aid obligation authority.

(b) Provides that this limitation does not apply to bonds, revenue, loans, or contributions or to money spent on maintenance or reconstruction.

Sec. 227.062. REVENUE BONDS. (a) Authorizes the commission to issue bonds to finance the Trans-Texas Corridor.

(b) Specifies that each bond issuance shall meet designated specifications.

(c) Authorizes the commission to sell the bonds at public or private sale and at the price that is in the best interest of the department.

(d) Provides that proceeds of bonds shall be disbursed in the manner specified by the commission.

(e) Authorizes issuance of additional bonds on the same terms unless different terms are specified by the commission and authorizes bonds secured by a lien on system or facility revenue.

(f) Provides that bond proceeds in excess of facility or system costs shall be segregated.

(g) Provides that bonds are a security under Chapter 8, Business and Commerce Code.

(h) Provides that bonds and bond income are exempt from taxation.

(i) Authorizes the commission to exercise any additional power under Subchapter E, Chapter 361.

Sec. 227.063. INTERIM BONDS. (a) Authorizes the commission to issue interim bonds.

(b) Requires interim bonds to be issued in accordance with this chapter.

(c) Allows a recital that bonds are issued under this chapter is conclusive evidence of validity and regularity.

Sec. 227.064. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED. (a) Provides that bonds may be repaid only from facility or system revenue, other available funds not including funds derived from a facility that is not part of the same system, and amounts received under a credit agreement relating to the facility or system for which the bonds were issued.

(b) Provides that the bonds are not a pledge of the faith and credit of the state and requires a statement to that effect on the face of the bonds.

(c) Prohibits the commission from incurring financial obligations that cannot be repaid from facility or system revenue or other revenue provided by law.

Sec. 227.065. EFFECT OF LIEN. (a) Provides for enforceability of a lien or pledge of revenue from a facility or system.

(b) Provides that an order authorizing issuance of bonds need not be recorded.

Sec. 227.066. BOND INDENTURE. (a) Provides that bonds may be secured by an indenture.

(b) Authorizes the pledge or assignment of facility or system revenue, but not a mortgage.

(c) Specifies permitted contents of a bond indenture.

(d) Provides that expenses of a trust agreement or indenture may be treated as part of the cost of a facility or system.

(e) Authorizes an owner or trustee of a bond to require the commission and department to collect revenue and to apply for a receiver.

Sec. 227.067. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) Requires the commission to apply to the attorney general for approval of bonds.

(b) Specifies that the attorney general shall approve the bonds if they are authorized by law and provide a record to the comptroller.

(c) Requires the comptroller to register the record.

(d) Provides that the bonds and supporting materials are enforceable and incontestable after approval by the attorney general.

Sec. 227.068. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES.

(a) Authorizes a bank or trust company to act as depository.

(b) Provides that bonds may secure the deposit of public money to the extent of face value or market value, whichever is less.

Sec. 227.069. APPLICABILITY OF OTHER LAW; CONFLICTS. Applies Chapters 1201, 1202, 1204, 1207, and 1371, Government Code to bonds issued by the commission, except to the extent of a conflict with this chapter.

Sec. 227.070. LOANS AND OTHER FUNDING. Authorizes the department to borrow money from the federal government or the state infrastructure bank to fund a facility on the Trans-Texas Corridor.

SUBCHAPTER F. REVENUE

Sec. 227.071. FEES. (a) Permits the department to require any person to pay a fee to use the Trans-Texas Corridor.

(b) Permits the commission to establish fees on any reasonable basis, including joint fees and divisions of fees.

(c) Provides that a fee may exceed the department's costs, but may not be prohibitive or unreasonably discriminatory.

(d) Establishes factors that must be considered by the commission in setting fees.

(e) Provides that if a road is replaced by the Trans-Texas Corridor, and if a utility was using that road's right of way, the fee charged the utility may not exceed the amount that the utility was already paying.

Sec. 227.072. LEASE OF PROPERTY OR RIGHTS. (a) Authorizes the department to lease property on the Trans-Texas Corridor for up to 50 years.

(b) Authorizes the department to grant franchise rights to operate a facility on the Trans-Texas Corridor for up to 50 years.

(c) Authorizes the department to grant access to and use of the Trans-Texas Corridor for any purpose to permit flexibility in maximizing revenue and efficient use of land purchased for the Trans-Texas Corridor.

(d) Allows property to be leased and franchise rights and licenses to be granted for any purpose to permit flexibility in maximizing revenue and efficient use of land purchased for the Trans-Texas Corridor.

(e) Allows the department to accept anything of value in return for a lease, a franchise right, or a license.

Sec. 227.073. DISPOSITION OF FEES. Provides that fees collected under this chapter shall be deposited to the credit of the state highway fund and may be used for any purpose authorized by this chapter. Exempts revenue under this chapter from Subchapter D, Chapter 316, Government Code, and from Section 403.095, Government Code.

SECTION 1.04. Amends Subtitle C, Title 7, Transportation Code, by adding Section 545.3531 as follows:

Sec. 545.3531. AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ESTABLISH SPEED LIMITS ON TRANS-TEXAS CORRIDOR. (a) Authorizes the commission to set prima facie speed limits on the Trans-Texas Corridor.

(b) Requires the commission to conduct an engineering and traffic investigation and consider the width and condition of the pavement, the usual traffic at the affected area, the suitability of existing safety features, and other circumstances in setting speed limits on the Trans-Texas Corridor.

(c) Provides for the effective date of speed limits established under this section.

(d) Prohibits the commission from modifying the rules set by Section 545.351(b) or from establishing a speed limit of more than 85 miles per hour.

(e) Requires the commission to follow its "Procedure for Establishing Speed Zones" in conducting the engineering and traffic investigation.

SECTION 1.05. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 2 - REGIONAL MOBILITY AUTHORITIES

SECTION 2.01. Amends Subtitle G, Title 6, Transportation Code, by adding Chapter 370 as follows:

CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 370.001. SHORT TITLE. Provides that Chapter 370 may be cited as the Regional Mobility Authority Act.

Sec. 370.002. PURPOSES; LIBERAL CONSTRUCTION. Sets forth legislative intent and directs that Chapter 370 shall be construed liberally to achieve its purpose.

Sec. 370.003. DEFINITIONS. Defines "authority," "board," "bond," "bond proceeding," "bond resolution," "bondholder," "exclusive development agreement," "governmental entity," "highway," "public utility facility," "revenue," "surplus revenue," "system," "transportation project," and "turnpike project."

Sec. 370.004. CONSTRUCTION COSTS DEFINED. Defines costs included in the costs of acquisition, construction, improvement, extension, or expansion of a transportation project.

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY. Provides that the commission may authorize the creation of a regional mobility authority at the request of one or more counties.

Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. Provides for the addition of a county to an existing authority or for the withdrawal of a county from an existing authority.

Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. Provides that an authority is a governmental unit, a body politic, corporate, and a political subdivision and that its operations are governmental and for the benefit of the people of the counties in which it operates and of the state.

Sec. 370.033. GENERAL POWERS. Provides that an authority may exercise general powers appropriate to its function, including adopting rules, engaging in transportation projects, acquiring and disposing of property, entering contracts, and employing personnel.

Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. Authorizes an authority to combine transportation projects into systems.

Sec. 370.035. CONVERSION AND TRANSFER OF STATE HIGHWAY SYSTEM PROJECTS. Authorizes the conversion of toll or nontoll state highways to an authority and their removal from the state highway system, with provisions for reimbursement to the state.

Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO DEPARTMENT. Authorizes the transfer of a turnpike project to the department if the commission consents and provides other standards.

Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS. Authorizes the transfer of a ferry by the commission to an authority.

Sec. 370.038. COMMISSION RULES. Requires the commission to adopt rules relating to various aspects of authorities.

SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. Authorizes an authority to conduct feasibility studies relating to proposed transportation projects.

Sec. 370.072. FEASIBILITY STUDY FUND. Authorizes an authority to maintain a fund to finance feasibility studies.

Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. Authorizes other governmental entities to pay all or part of the cost of feasibility studies and establishes conditions for reimbursement.

SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

Sec. 370.111. TRANSPORTATION REVENUE BONDS. Authorizes the issuance of bonds by an authority and establishes specifications for bond issuance.

Sec. 370.112. INTERIM BONDS. Authorizes issuance of interim bonds before issuing definitive bonds.

Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT. Provides for sources of revenue to repay bonds and establishes that bonds are not a debt of the state or of a governmental entity or a pledge of the faith and credit of the state or a governmental entity.

Sec. 370.114. EFFECT OF LIEN. Provides for enforceability of liens from a transportation project under this chapter.

Sec. 370.115. BOND INDENTURE. Authorizes the securing of bonds by a bond indenture, establishes provisions of a bond indenture, and provides for enforceability.

Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. Requires approval of bonds by the attorney general before issuance.

Sec. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. Authorizes a bank or trust company to furnish indemnifying bonds or to pledge securities required by an authority.

Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. Applies Chapters 1201, 1202, 1204, and 1371, Government Code, to bonds under this chapter except where in conflict with this chapter.

SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF TRANSPORTATION PROJECTS

Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER COUNTIES. Authorizes an authority to engage in a transportation project in an adjacent county with that county's agreement under specified circumstances.

Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. Authorizes an authority to construct or improve a transportation project on acquired property and to exercise the same powers as the commission in acquiring property.

Sec. 370.063. ACQUISITION OF PROPERTY. Authorizes an authority, in furtherance of a transportation project, to acquire property for a transportation project, including acquisition by eminent domain.

Sec. 370.164. RIGHT OF ENTRY. Authorizes an authority to enter property for examination or study and requires reimbursements for any damage.

Sec. 370.165. CONDEMNATION OF REAL PROPERTY. Authorizes an authority to acquire real property by condemnation under specified conditions.

Sec. 370.166. DECLARATION OF TAKING. Provides for the filing of a declaration of taking after special commissioners have made an award in a condemnation proceeding, specifies the contents, and requires a deposit to the registry of the court or the offer of a bond or other security.

Sec. 370.167. POSSESSION OF PROPERTY. Authorizes early possession of property after the filing and service of a declaration of taking.

Sec. 370.168. SEVERANCE OF REAL PROPERTY. Requires an authority to make payments if a transportation project severs an owner's property and authorizes an authority to negotiate for the purchase of a severed remainder.

Sec. 370.169. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY. Authorizes an authority to use public property under specified conditions.

Sec. 370.170. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. Limits an authority's right to pay for public real property, with exceptions, and grants an authority easements with regard to publicly owned property.

Sec. 370.171. PUBLIC UTILITY FACILITIES. Authorizes an authority to adopt rules for utilities on transportation projects and provides for relocation of utilities when necessary for a transportation project.

Sec. 370.172. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION PROJECT. Authorizes an authority to transfer a transportation project to another governmental entity with that entity's consent.

Sec. 370.173. REVENUE. Authorizes an authority to charge tolls and fees and to contract with a person for use of a transportation project, establishes parameters for charges, requires a sinking fund for bonds, and limits the use of revenue from transportation projects.

Sec. 370.174. AUTHORITY REVOLVING FUND. Authorizes a revolving fund held in trust by a banking institution and establishes permissible uses.

Sec. 370.175. USE OF SURPLUS REVENUE. Requires an authority to use surplus revenue on transportation projects as specified.

Sec. 370.176. EXEMPTION FROM TAXATION OR ASSESSMENT. Exempts an authority from taxation and certain other fees.

Sec. 370.177. ACTIONS AFFECTING EXISTING ROADS. Authorizes an authority to impose a toll for existing roads transferred to the authority, to construct grade separations, and to reconstruct altered county roads, and requires an authority to provide access or reimburse abutting landowners.

Sec. 370.178. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT TOLL; OFFENSE; ADMINISTRATIVE PENALTY. Establishes an offense and an administrative penalty for failing to

pay a lawful toll imposed by an authority.

Sec. 370.179. **USE AND RETURN OF TRANSPONDERS.** Authorizes seizure of a transponder used to assess tolls if it is insufficiently funded and requires designated entities to consider offering motorists the option of using transponders.

Sec. 370.180. **CONTROLLED ACCESS TO TURNPIKE PROJECTS.** Authorizes an authority to control access to designated turnpike projects.

Sec. 370.181. **PROMOTION OF TRANSPORTATION PROJECT.** Authorizes an authority to promote the use of a transportation project.

Sec. 370.182. **OPERATION OF TRANSPORTATION PROJECT.** Requires an authority to operate a transportation project with employees or contractors.

Sec. 370.183. **AUDIT.** Requires use of a certified public accountant to audit an authority's books.

Sec. 370.184. **DISADVANTAGED BUSINESSES.** Provides that an authority shall set goals for awarding contracts to disadvantaged businesses, attempt to identify disadvantaged businesses, and ensure that disadvantaged businesses have full access to the bidding process.

Sec. 370.185. **PROCUREMENT.** Requires an authority to adopt rules governing contracts for goods and services.

Sec. 370.186. **COMPETITIVE BIDDING.** Authorizes the letting of a contract by competitive bidding.

Sec. 370.187. **RESTRICTION ON LOCATION OF TURNPIKE PROJECTS.** Prohibits location of turnpike projects in certain counties.

Sec. 370.188. **PROJECT APPROVAL.** Requires commission approval for connections to the state highway system or a department rail facility and requires the commission to adopt rules governing the approval process.

Sec. 370.189. **ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS.** Requires an authority to adopt rules for environmental review of transportation projects.

SUBCHAPTER F. GOVERNANCE

Sec. 370.251. **BOARD OF DIRECTORS.** Provides for a board of directors to govern an authority.

Sec. 370.2515. **BOARD COMPOSITION PROPOSAL BY TURNPIKE AUTHORITY.** Provides for the submission to the commission of a proposed structure for the board and a method of appointment to the board.

Sec. 370.252. **PROHIBITED CONDUCT FOR DIRECTORS AND EMPLOYEES.** Prohibits directors and employees from certain conduct involving potential conflicts of interest or the appearance of impropriety.

Sec. 370.253. **SURETY BONDS.** Requires a surety bond from each director and establishes contents.

Sec. 370.254. **REMOVAL OF DIRECTOR.** Establishes grounds and procedures for the removal of directors.

Sec. 370.255. **COMPENSATION OF DIRECTOR.** Authorizes reimbursement of directors for expenses, but prohibits additional compensation.

Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Provides that actions of an authority are actions of its board and may be evidenced in any legal manner.

Sec. 370.257. PUBLIC ACCESS. Requires an authority to provide the public with opportunities to appear before the board.

Sec. 370.258. INDEMNIFICATION. Authorizes an authority to indemnify directors or officers in connection with certain claims.

Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. Authorizes an authority to insure officers and employees from liability for relating to equipment used in connection with transportation projects.

Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. Creates an offense if an director, agent, or employee of an authority contracts with the authority or is interested in a contract with the authority.

Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. Requires an authority to adopt a strategic plan containing information specified by counties that are part of the authority and to file written reports on its activities.

Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. Authorizes meetings by telephone conference call.

SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND OPERATION OF TRANSPORTATION PROJECTS

Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS. Authorizes the department to contribute to an authority financially or with personnel services and to require repayment from tolls.

Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE TRANSPORTATION PROJECTS. Authorizes an authority to agree with a public or private entity with regard to a transportation project.

Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. Authorizes governmental entities to issue bonds in connection with agreements with an authority regarding a transportation project.

Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. Authorizes an authority to enter agreements convenient to the purposes of this subchapter.

Sec. 370.305. EXCLUSIVE DEVELOPMENT AGREEMENTS. Authorizes an authority to enter into exclusive development agreements regarding a transportation project.

Sec. 370.306. PROCESS FOR ENTERING INTO EXCLUSIVE DEVELOPMENT AGREEMENTS. Establishes procedures for a competitive process for entering exclusive development agreements, including the handling of unsolicited proposals, the publishing of requests for competing proposals, the solicitation of detailed proposals, the ranking of proposals, payments to unsuccessful entities that submitted detailed proposals, and selection of a contractor.

Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS. Provides for confidentiality of information relating to exclusive development agreement proposals until the entering into of a final contract.

Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. Provides that an authority must

require performance and payment bonds or alternate security from a contractor under an exclusive development agreement and specifies the alternative forms of security.

Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. Provides that an authority owns a transportation project that is the subject of an exclusive development agreement and may lease that property, grant easements, or issue other rights to the property provided that it is returned to the authority in a satisfactory condition.

Sec. 370.310. TERMS OF PRIVATE PARTICIPATION. Provides that an authority shall negotiate the terms of any private participation in a transportation project.

Sec. 370.311. RULES, PROCEDURES AND GUIDELINES GOVERNING NEGOTIATING PROCESS. Authorizes an authority to adopt rules and procedures governing private participation in a transportation project and providing that a proposal or other information submitted for private involvement is confidential.

Sec. 370.312. PARTICIPATION ON CERTAIN OTHER BOARDS, COMMISSION, OR PUBLIC BODIES. Authorizes an authority to permit board members to sit on other boards.

Sec. 370.313. COMBINATION OF ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES. Authorizes an authority to procure engineering, design, and construction services in a single procurement.

Sec. 370.314. PERFORMANCE AND PAYMENT BONDS AND SECURITY. Requires an authority to obtain performance and payment bonds from a contractor.

Sec. 370.315. TRANS-TEXAS CORRIDOR PROJECTS. Grants an authority the same powers as the department with regard to participation in a Trans-Texas Corridor project.

SUBCHAPTER H. DISSOLUTION OF AUTHORITY

Sec. 370.331. VOLUNTARY DISSOLUTION. Provides for voluntary dissolution of an authority and establishes conditions under which voluntary dissolution is permitted.

Sec. 370.332. INVOLUNTARY DISSOLUTION. Authorizes the commission to dissolve an authority if the authority has not substantially complied with a commission rule or with an agreement between the department and an authority.

SECTION 2.02. Repeals Section 361.003, Transportation Code.

SECTION 2.03. Provides for an effective date of September 1, 2003, and that the term of a currently serving member of the board of directors of a regional mobility authority is not affected.

ARTICLE 3 - EXCLUSIVE DEVELOPMENT AGREEMENTS

SECTION 3.01. Amends Chapter 201, Transportation Code, by adding Subchapter N, as follows:

SUBCHAPTER N. EXCLUSIVE DEVELOPMENT AGREEMENTS

Sec. 201.951. DEFINITIONS. Defines "exclusive development agreement" to mean an agreement with a private entity that, at a minimum, provides for the design and construction of a department transportation project and may also provide for the financing, acquisition, maintenance, or operation of a project. Provides that a transportation project includes a facility as defined in Section 227.003, Transportation Code.

Sec. 201.9511. **APPLICABILITY OF BIDDING PROCEDURE REQUIREMENT.** Provides that an exclusive development agreement is not subject to a requirement or restriction of Section 222.103(i), Transportation Code.

Sec. 201.952. **AUTHORITY TO ENTER INTO EXCLUSIVE DEVELOPMENT AGREEMENTS.** Authorizes the department, subject to Section 201.953, to enter into exclusive development agreements. Provides that the department may negotiate provisions relating to professional and consulting services in connection with an exclusive development agreement. Provides that, subject to Section 201.953, the department may use any constitutionally permissible source of funds without restrictions on the number of exclusive development agreements that may be entered into.

Sec. 201.953. **LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION.** Provides that the amount of money that may be disbursed by the department from the state highway fund during a federal fiscal year to pay the costs under exclusive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.

Sec. 201.954. **PROCESS FOR ENTERING INTO EXCLUSIVE DEVELOPMENT AGREEMENTS.** Provides that if the department enters into an exclusive development agreement, it must use a competitive procurement process that provides the best value for the state. Authorizes the department to solicit proposals or accept unsolicited proposals in accordance with this section. Requires the department to establish rules and procedures for accepting unsolicited proposals that include specified items a private entity must include in a proposal. Requires the department, under certain circumstances, to publish a request for competing proposals and qualifications in the Texas Register that includes specified provisions, and requires a proposal submitted in response to contain identified information. Authorizes the department to interview a private entity submitting a proposal and to qualify at least two private entities to submit detailed proposals unless certain circumstances exist. Requires the department to issue a request for detailed proposals that may require a private entity to submit additional specified information. Authorizes the department to solicit input from other persons and entities in issuing a request for proposals and regarding alternative technical concepts. Requires the department to rank each proposal based on the criteria in the request for proposals and select the private entity offering the best value to the department. Authorizes the department to require an unsolicited proposal to be accompanied by a nonrefundable proposal review fee. Authorizes the department to pay an unsuccessful private entity that submits a response to a request for proposals a stipulated amount of the final contract price for costs incurred in preparing that proposal, and specifies conditions affecting the amount of the payment and the use of work product contained in the proposal. Authorizes the department to prescribe the general form of an exclusive development agreement and to negotiate the specific terms of an agreement. Provides that certain laws do not apply to an exclusive development agreement.

Sec. 201.955. **CONFIDENTIALITY OF NEGOTIATIONS FOR EXCLUSIVE DEVELOPMENT AGREEMENTS.** Provides that, in order to encourage private entities to submit proposals, certain specified information relating to a proposal or the consideration of a proposal is confidential and not subject to disclosure or legal compulsion.

Sec. 201.956. **PERFORMANCE AND PAYMENT SECURITY.** Authorizes the department to require a private entity entering into an exclusive development agreement to provide a performance and payment bond or alternative form of security in specified circumstances and in an amount sufficient to comply with the requirements of this section. Prescribes authorized alternative forms of security. Requires the department to adopt rules prescribing requirements for alternative forms of security.

Sec. 201.957. **EXPIRATION.** Provides that this subchapter expires August 31, 2011.

SECTION 3.02. Repeals Section 222.103(j), Transportation Code.

SECTION 3.03. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 4 – ADVANCE ACQUISITION OF PROPERTY

SECTION 4.01. Amends the heading to Chapter 202, Transportation Code, by deleting a reference to highways.

SECTION 4.02. Amends Chapter 202, Transportation Code, by adding Subchapter F as follows:

SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

Sec. 202.111. DEFINITION. Defines "advance acquisition."

Sec. 202.112. ADVANCE ACQUISITIONS. (a) Authorizes the commission to acquire property in advance of a final decision to locate a transportation facility on that property.

(b) Provides that advance acquisitions will be governed by procedures established in Subchapter D, Chapter 203 or other applicable law.

(c) Prohibits the use of eminent domain in an advance acquisition.

Sec. 202.113. MANAGEMENT. Provides that the General Land Office shall manage property acquired by advance acquisition if requested by the department and prohibits sale or encumbrance of the property.

Sec. 202.114. DISPOSAL OF SURPLUS PROPERTY. Provides that the commission shall use the procedures established in Subchapter B in disposing of property acquired by advance acquisition and not needed for a transportation facility.

ARTICLE 5 – DRIVER RESPONSIBILITY

SECTION 5.01. Amends Subtitle I, Title 7, Transportation Code, by adding Chapter 708 as follows:

CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 708.001. DEFINITIONS. Defines "department," and "license."

Sec. 708.002. RULES. Requires the Department of Public Safety (DPS) to adopt rules to implement and enforce the chapter.

Sec. 708.003. FINAL CONVICTIONS. Provides that a conviction is considered a final conviction, whether or not a sentence is probated.

SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

Sec. 708.051. NONAPPLICABILITY. Provides that the subchapter does not apply to convictions that became final before September 1, 2003, or to offenses covered by Subchapter C.

Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS. Assigns motor vehicle points for different kinds of traffic violations.

Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Provides for an annual surcharge on drivers who accumulate 6 motor vehicle points or more over a 36 month period.

Sec. 708.054. AMOUNT OF POINTS SURCHARGE. Identifies the amount of the surcharge as \$100 for six points and \$25 for each additional point.

Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. Provides that the DPS shall notify a driver when the driver receives a fifth point.

SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND LICENSE SUSPENSIONS

Sec. 708.101. NONAPPLICABILITY. Provides that the subchapter does not apply to a conviction that became final before September 1, 2003.

Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. Establishes a surcharge of \$1,000 per year for three years for offenses relating to driving while intoxicated and of \$1,500 per year for three years for a third or subsequent violation.

Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. Establishes a surcharge of \$250 per year for three years for convictions under Section 521.457, 601.191, or 601.371 during the preceding 36 months.

Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT VALID LICENESE. Establishes a surcharge of \$100 per year for three years for a conviction under Section 521.021 during the preceding 36 months.

SUBCHAPTER D. COLLECTION OF SURCHARGES

Sec. 708.151. NOTICE OF SURCHARGE. Requires DPS to notify a driver of the assessment of a surcharge, the date for payment, and the consequences of not paying.

Sec. 708.152. FAILURE TO PAY SURCHARGE. Provides that a driver's license is suspended automatically if the driver fails to pay an assessed surcharge.

Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. Provides that DPS shall provide by rule for installment payments of surcharges and establishes maximum durations.

Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. Authorizes DPS to accept credit card payments of surcharges, allows suspension of a driver's license if a payment is later reversed by a credit card company, and provides for assessment of a fee.

Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. Authorizes DPS to contract with a third party to collect surcharges.

Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO COMPTROLLER. Provides that surcharges shall be remitted to the comptroller under Section 780.002, Health and Safety Code.

SECTION 5.02. Amends Subtitle B, Title 9, Health and Safety Code, by adding Chapter 780, Health and Safety Code, as follows:

CHAPTER 780. TRAUMA FACILITIES AND EMERGENCY MEDICAL SERVICES

Sec. 780.001. DEFINITIONS. Defines "account," "commissioner," and "department."

Sec. 780.002. DEPOSITS TO ACCOUNT. Provides that DPS shall remit surcharges collected under the driver responsibility program to the comptroller, that one percent of the collected surcharges will be appropriated to DPS for administration of the driver responsibility program, that 49.5 percent will be deposited to the credit of the account, and that 49.5 percent will be deposited to the credit of general revenue.

Sec. 780.003. ACCOUNT. Creates the trauma facility and emergency medical services account. Money in this account may be appropriated only to the Texas Department of Health (TDH) for the purposes described in this chapter. Exempts this account from Sections 403.095 and 404.071, Government Code.

Sec. 780.004. PAYMENTS FROM THE ACCOUNT. Provides that the commissioner is required to use money appropriated from the account to fund designated trauma facilities, county and regional emergency medical services (EMS), and trauma care systems. Requires the commissioner to maintain a reserve of \$500,000 for extraordinary emergencies. Requires the commissioner to use at least 96% of the money in the account, calculated after deducting the \$500,000 reserve, to fund a portion of the uncompensated trauma care provided at facilities designated by TDH. Provides that the administrator of a designated facility is authorized to request a regional advisory council chairperson to petition TDH for disbursement of funds to a designated trauma facility in the chairperson's service area that has provided uncompensated care. Allows funds to be disbursed based on a proportionate share of uncompensated trauma care provided in the state and may be used to fund innovative projects to enhance the delivery of patient care in the overall EMS and trauma care system. Prohibits the commissioner from using more than 2% of the money in the account, calculated after deducting the \$500,000 reserve, to fund the cost of supplies, operational expenses, education and training, equipment, vehicles, and communication systems for local EMS services. Provides detailed limitations and procedures regarding such disbursements. Prohibits the commissioner from using more than 1% of the money in the account, calculated after deducting the \$500,000 reserve, for operation of the 22 trauma service areas and for equipment, communications, and education and training for the areas. Provides detailed limitations and procedures regarding the disbursements. Prohibits the commissioner from using more than 1% of the money in the account, calculated after deducting the \$500,000 reserve, to fund the administrative costs of the bureau of emergency management of the department associated with administering the trauma program, the state EMS program, and the account.

Sec. 780.005. CONTROL OF EXPENDITURES FROM THE ACCOUNT. Provides the executive committee of the trauma service area regional advisory council control of distributions of the account created by this Act.

Sec. 780.006. LOSS OF FUNDING ELIGIBILITY. Prohibits TDH from disbursing money from the account for one to three years, at the discretion of the commissioner, to any county, municipality, or local recipient that the commissioner finds used money in violation of Section 780.004 created by this Act.

SECTION 5.03. Requires TDH to submit a report to the lieutenant governor and the speaker of the house, no later than December 1, 2004, concerning the use of money under this chapter and recommending any changes to the law to ensure appropriate funding and coordination of services.

ARTICLE 6 - RAIL FACILITIES

SECTION 6.01. Presents legislative findings.

SECTION 6.02. Amends Title 5, Transportation Code by adding Subtitle A, Chapter 91 as follows:

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 91. RAIL FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. DEFINITIONS. Defines "commission," "construction," "department," "maintenance facility," "operation," "rail facility," "revenue," "right-of-way," "station," "surplus revenue," "trackwork," and "train controls."

Sec. 91.002. PUBLIC PURPOSE. Provides that the specified functions granted to the commission and the department under this chapter are public and governmental functions, exercised for a public purpose, and matters of public necessity.

Sec. 91.003. CHAPTER LIBERALLY CONSTRUED. Provides that this chapter shall be liberally construed to effect its purposes.

Sec. 91.004. RULES. Authorizes the commission to adopt rules and the department to implement procedures and prescribe forms necessary to implement this chapter.

Sec. 91.005. GENERAL POWERS. Authorizes the department to plan and make policies for rail facilities and systems in this state, to acquire, finance, construct, maintain, and operate passenger or freight rail facilities and systems, to accept grants or loans for the purpose of acquiring or financing rail facilities and systems, to contract with public or private persons to finance, construct, maintain, or operate rail facilities, and to perform any other act necessary to the full exercise of the department's powers under this chapter.

Sec. 91.006. RELIANCE ON PRIVATE ENTITIES. Provides that the department shall contract with a private entity to operate a railroad, may not use department employees to operate a railroad, and may maintain a railroad directly or through private entities.

Sec. 91.007. COOPERATION OF STATE AGENCIES AND POLITICAL SUBDIVISIONS. Provides that a state agency or political subdivision is required to cooperate with and assist the department in exercising its powers and duties under this chapter.

Sec. 91.008. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. Requires the department, on receipt of the notice of intent to abandon or discontinue rail service described by 49 C.F.R. Section 1152.20, as amended, to coordinate with the governing body of any municipality, county, or rural rail transportation district in which all or a segment of the line is located as to whether the department should acquire the rail facilities to which the notice relates, or any other actions should be taken to provide for continued rail transportation service.

SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) Authorizes the commission to create rail systems for the purpose of jointly operating two or more rail facilities as one operational and financial enterprise.

(b) Authorizes the commission to create more than one system and combine two or more systems into one system.

(c) Authorizes the department to finance, acquire, construct, and operate additional rail facilities as additions to and expansion of a system.

(d) Provides that the revenue of a system shall be accounted for separately and may not be commingled with the revenue of a rail facility that is not part of the system.

Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) Authorizes the commission to authorize the

department to acquire existing rail facilities at locations and on routes the commission determines to be feasible and viable for rail transportation service.

(b) Authorizes the department to enter into an agreement with an owner of an operating railroad for the acquisition or use of rail facilities on terms and conditions the department finds to be in the best interests of the state.

(c) Authorizes the department to acquire rolling stock or other personal property.

Sec. 91.033. ENVIRONMENTAL REVIEW. (a) Requires the department to conduct or approve all environmental studies or evaluations required for the construction, maintenance, or operation of a rail facility.

(b) Authorizes the commission to adopt rules allocating responsibilities for conducting environmental evaluations or studies or preparing environmental documentation among entities involved in the construction, maintenance, or operation of a rail facility.

Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) Provides that the department may acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating adverse environmental effects arising from the construction, maintenance, or operation of a rail facility, whether or not the need for mitigation has already been established.

(b) Authorizes the department to contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating adverse environmental effects.

(c) Authorizes the department to pay a sum of money to a governmental or private entity instead of acquiring or managing property for the purpose of mitigating adverse environmental effects.

Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR PRIVATE ENTITY.

Authorizes the department, with the consent of the applicable political subdivision, to use streets, alleys, roads, highways, and other public ways of the political subdivision for the purpose of acquiring, constructing, maintaining, and operating rail facilities and systems. Authorizes the department, at its expense, to relocate, raise, reroute, or change the grade of the construction of a street, road, highway, and railroad, electric, telephone, or pipeline facility, and other properties necessary in the construction, maintenance, and operation of rail facilities or systems.

Sec. 91.036. EXPENDITURE OF FUNDS. Authorizes the department to receive, accept, and expend funds received from the state, any federal agency, or other public or private sources for certain stated purposes, including the acquisition, construction, maintenance, or operation of rail facilities under this chapter.

SUBCHAPTER C. CONTRACTS

Sec. 91.051. AWARDING OF CONTRACTS. Provides that, unless otherwise provided by this subchapter, a contract for the construction, maintenance, or operation of a rail facility must be let by a competitive bidding procedure in which the contract is awarded to lowest responsible bidder.

Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE RAIL FACILITIES. Authorizes the department to enter into an agreement with a public entity to permit that entity, independently or jointly with the department, to acquire, construct, maintain, or operate a rail facility or system.

Sec. 91.053. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) Authorizes the department to enter into an exclusive development agreement with a private entity to construct, maintain, or operate, in

any combination, a rail facility or system. Provides that an exclusive development agreement may provide for the issuance of franchises, concessions, licenses, or permits to the private entity.

(b) Requires the department, when contracting with a private entity under this section, to use a competitive procurement process that provides the best value for the department, including through the issuance of requests for proposals. Requires a request for bids, proposals, or qualifications to include the criteria used to evaluate offerors and the relative weight given to each criterion. Authorizes the department to accept unsolicited proposals for projects under specified conditions. Authorizes the department to require a nonreimbursable proposal review fee.

(c) Provides the department with broad discretion to negotiate provisions in an exclusive development agreement, including provisions for combining professional services and construction services.

(d) Provides that the department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(e) Requires the department to prescribe the form of an exclusive development agreement, and authorizes the inclusion of any matter advantageous to the state.

(f) Provides that an exclusive development agreement is not subject to the requirements of Section 91.051.

Sec. 91.054. PAYMENT FOR WORK PRODUCT. Authorizes the department to pay an unsuccessful private entity that submits a proposal a stipulated amount of the final contract price for any costs incurred in preparing the proposal, provided the amount paid does not exceed the value of work product contained in the proposal that can be used by the department.

Sec. 91.055. LIABILITY FOR PRIVATE OBLIGATIONS. Provides that the department may not incur a financial obligation on behalf of a private entity that constructs, maintains, or operates a rail facility or system.

Sec. 91.056. INFORMATION RELATED TO PROPOSALS. Provides that proposals for projects developed under an exclusive development agreement and related information are confidential.

Sec. 91.057. PERFORMANCE AND PAYMENT SECURITY. Requires a private entity entering into an exclusive development agreement to provide performance and payment bonds or alternative forms of security authorized under this section, and prescribes the amount of security. Requires the commission to prescribe by rule requirements for alternate forms of security.

Sec. 91.058. SMALL AND DISADVANTAGED BUSINESSES. (a) Requires the department to set goals for the award of contracts to small and disadvantaged businesses, to identify small and disadvantaged businesses that can provide supplies, materials, equipment, and services to the department, and to give small and disadvantaged businesses full access to the department's contract bidding process.

(b) Provides that this section does not exempt the department from competitive bidding requirements imposed by other law.

SUBCHAPTER D. FINANCING OF RAIL FACILITIES

Sec. 91.071. PERMISSIBLE SOURCES OF FUNDING. Authorizes the department to use any legally permissible source of funding in acquiring, constructing, maintaining, and operating a rail facility or system, including appropriations from the state highway fund, bond proceeds, loans, and donations.

Sec. 91.072. REVENUE BONDS. (a) Authorizes the commission to issue revenue bonds to pay all or part of the cost of acquiring, constructing, maintaining, or operating a rail facility or system, or to refund

previously issued bonds.

(b) Provides that Chapters 1201, 1202, 1204, 1207, and 1371, Government Code apply to bonds issued by the commission, and that the provisions of this chapter prevail to the extent of any conflict between those laws and this chapter.

Sec. 91.073. PAYMENT OF BONDS. Provides that bonds issued by the commission are payable solely from the revenue of the rail facility or system for which the bonds are issued, grants and loans, amounts received under certain credit agreements, and other money available to the department, other than money derived from a rail facility that is not part of the same system, except that surplus revenue may be used.

Sec. 91.074. STATE CREDIT NOT PLEDGED. (a) Provides that bonds issued under this chapter do not constitute a debt of the state or a pledge of the faith and credit of the state.

(b) Provides that the commission and the department may not incur financial obligations under this chapter that cannot be paid from revenue derived from the department's rail facilities and systems and from other revenue provided by law.

Sec. 91.075. GRANTS AND LOANS. Authorizes the department to apply for, accept, and expend money from grants, loans, or reimbursements for any purpose of this chapter.

Sec. 91.076. REVENUE. (a) Authorizes the department to require any person, including any public or private entity, to pay a fee as a condition of using any part of a rail facility or system.

(b) Requires the department to establish and maintain rents or other compensation for the use of rail facilities or systems that is, together with other revenue received under this chapter, sufficient to satisfy payment obligations for bonds issued under this chapter.

(c) Provides that the department may contract with a person for the use of all or part of a rail facility or system or lease or sell all or part of a rail facility or system, including for the purpose of placing on the adjoining right of way certain appurtenant facilities.

(d) Requires all revenue received by the department under this chapter to be deposited to the credit of the state highway fund, and to be used for any purpose authorized by this chapter. Provides that the deposited revenue is exempt from the application of Section 403.095, Government Code.

SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) Authorizes the commission to authorize the department to acquire any right of way, other interest in real property, or property right determined to be necessary or convenient for the department's acquisition, construction, maintenance, or operation of rail facilities.

(b) Provides that the commission may authorize the department to acquire property by any method, including purchase and condemnation.

(c) Provides that property may be purchased along alternative potential routes for a rail facility even if only one of these routes will ultimately be chosen as the final route.

Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL FACILITIES. Defines property that is necessary or convenient for the department's acquisition, construction, maintenance, or operation of rail facilities, including right of way for a rail facility or the future location of a rail facility, land for environmental mitigation and buffer zones, and property that is used to provide revenue for use in acquiring, constructing, maintaining, or operating a rail facility or system.

Sec. 91.093. RIGHT OF ENTRY. (a) Authorizes the department to enter any real property, water, or premises to make a survey, geotechnical evaluation, sounding, or examination needed in order to acquire property for a rail facility.

(b) Provides that an entry is not a trespass or an entry under a pending condemnation procedure.

(c) Requires the department to reimburse any actual damages that result from an activity described in Subsection (a).

Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR PUBLIC AGENCY. Authorizes the governing body of a political subdivision or public agency to, without advertisement, convey property to the department that is determined to be necessary or convenient for a rail facility.

Sec. 91.095. DISPOSAL OF PROPERTY. Authorizes the department to dispose of any rights or interests in real property acquired under this subchapter that the commission determines are no longer needed for department purposes.

SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES. Authorizes the department to contract with a political subdivision of this state to provide rail transportation services in the political subdivision.

Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) Provides that the department may lease rail facilities or systems or any part to, or contract for the use of rail facilities or systems or any part by, any rail operator.

(b) Requires the department to encourage to the maximum extent practical the participation of private enterprise in the operation of rail facilities and systems.

(c) Requires a lease agreement to provide for the department's monitoring of a rail operator's service and performance.

(d) Authorizes the department to enter into agreements with any rail operator to sell all or part of any state-owned rail facility.

Sec. 91.103. JOINT USE OF RAIL FACILITIES. Authorizes the department to enter into agreements with a rail operator, public or private utility, communication system, common carrier, or transportation system for the common use of its facilities or properties, and to establish through routes, joint fares, and divisions of tariffs.

Sec. 91.104. ROUTINGS. Provides that the department may determine routings for rail facilities acquired, constructed, or operated by the department under this chapter.

Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND EQUIPMENT. (a) Provides that a utility has the same right to place its facilities, lines, or equipment in, over, or across right of way that is part of a state-owned rail facility as the utility has with respect to the right of way of a state highway under Chapter 181, Utilities Code. Requires a utility to notify the department of the utility's intention to exercise that authority over right of way that is part of state-owned rail facilities.

(b) Authorizes the department, on receipt of notice under Subsection (a) of this section, to designate the location in the right of way where the utility may place its facilities, lines, or equipment.

(c) Authorizes the department to require a utility to relocate the utility's facilities, lines, or equipment, at

the utility's expense, to allow for the expansion or relocation of state owned rail facilities. Requires the department to pay for the cost of the relocation under certain conditions.

(d) Authorizes a utility to use and operate a facility required to be relocated under this section at the new location for the same period and on the same terms as the utility has the right to do at the previous location of the facility.

SECTION 6.03. Repeals Section 2, Chapter 1244, Acts of the 77th Legislature, Regular Session, 2001 (Article 6550c-2, Vernon's Texas Civil Statutes).

SECTION 6.04. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 7 - DISPOSITION OF DEPARTMENT OF PUBLIC SAFETY FEES

SECTION 7.01. Adds Section 521.058, Transportation Code, to require fees collected under Subchapter D, including those associated with the collection or disclosure of department driver's license records, be deposited to the credit of the mobility fund.

SECTION 7.02. Amends Section 521.313, Transportation Code, by adding Subsection (c) to require that fees collected for the reinstatement or re-issuance of a driver's license suspended or revoked under that subchapter be deposited to the credit of the mobility fund.

SECTION 7.03. Amends Section 521.3466, Transportation Code, by adding Subsection (e) to require that fees collected for re-issuing a driver's license following an automatic revocation under that section be deposited to the credit of the mobility fund.

SECTION 7.04. Adds Section 521.427, Transportation Code, to require that fees collected under Subchapter R, including fees for driver's license examinations, Personal Identification Certificates, and Disability Certificates, be deposited to the credit of the mobility fund. Excepted from this section are certain fees allocated to the Blindness Education, Screening, and Treatment Program, the Anatomical Gift Educational Program, and the motorcycle education fund account.

SECTION 7.05. Amends Section 522.029, Transportation Code, to require that fees collected under Section 522.029 for commercial driver licenses and commercial driver license learner permits be deposited to the credit of the mobility fund. Excepted from this requirement are fees deposited in the motorcycle education fund account.

SECTION 7.06. Amends Section 524.051, Transportation Code, by adding Subsection (c) to require that fees collected for reinstating a driver's license suspended due to an administrative license revocation be deposited in the mobility fund.

SECTION 7.07. Adds Section 548.508, Transportation Code, to require that fees collected under Subchapter H for motor vehicle safety and emissions inspections and inspector certifications be deposited to the credit of the mobility fund. The section excepts from this allocation certain funds allocated by the Health and Safety Code to the clean air account, and certain funds allocated to the motorcycle education fund account.

SECTION 7.08. Amends Section 644.153, Transportation Code, by adding Subsection (i) to require that commercial motor vehicle administrative penalties collected under that section be deposited to the credit of the mobility fund.

SECTION 7.09. Amends Section 724.046, Transportation Code, by adding Subsection (c) to require fees collected under that section for reinstating a suspended driver's license be deposited to the credit

of the mobility fund.

SECTION 7.10. Deletes Section 521.055(d), Transportation Code. Section 521.055 provides for an interactive computer system that allows access to certain driver's license records, and establishes fees for use of the system. Subsection (d) provides that fifty cents of each fee shall be appropriated to DPS for the administration of Chapter 521.

SECTION 7.11. Applies this article only to a fee or penalty collected on or after the effective date of this Act.

ARTICLE 8 - ISSUANCE OF BONDS AND OTHER PUBLIC SECURITIES

SECTION 8.01. Amends Subchapter A, Chapter 222, Transportation Code, by adding Section 222.003, as follows:

Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY FUND. (a)

Authorizes the commission to issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

(b) Prohibits the aggregate principal amount of the bonds and other public securities that are issued from exceeding \$5 billion. Authorizes the commission to issue bonds or other public securities only in an aggregate principal amount of no more than \$1 billion each year.

(c) Requires proceeds from the sale of bonds and other public securities issued under this section to be used to fund highway improvement projects. Requires at least 20 percent of the proceeds from bonds or other public securities to be used to fund highway safety improvement projects that correct or improve hazardous locations on the state highway system.

(d) Requires the commission to prescribe, by rule, criteria for selecting highway safety improvement projects eligible for funding under this section. Requires the commission to consider certain factors in establishing these criteria.

(e) Prohibits the proceeds of bonds and other public securities issued under this section from being used for any purpose other than costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution.

(f) Authorizes the commission to enter into bond enhancement agreements relating to the bonds and other public securities authorized by this section. Authorizes the agreements to be secured by and payable from the same sources as the bonds and other public securities.

(g) Makes all laws affecting the issuance of bonds and other public securities by governmental entities, including Chapters 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, applicable to the issuing of bonds and other public securities and the entering into of bond enhancement agreements under this section.

(h) Authorizes the proceeds of bonds and other public securities issued under this section to be used to finance other funds relating to the public security, including debt service reserve and contingency, and to pay the cost or expense of the issuance of the public security.

(i) Prohibits bonds and other public securities and bond enhancement agreements authorized by this section from having a principal amount or terms that are expected by the commission to cause annual expenditures with respect to the obligations to exceed 10 percent of the amount deposited to the credit of the state highway fund in the immediately preceding year.

(j) Authorizes bonds and other public securities issued under this section to be sold in such a manner

and subject to such terms and provisions as set forth in the order authorizing their issuance; and requires that such bonds and securities mature no later than 20 years after their dates of issuance, subject to any refundings or renewals.

(k) Requires the comptroller to withdraw from the state highway fund and forward at the direction of the commission to another person the amounts as determined by the commission to permit timely payment of certain bond-related expenses and obligations.

SECTION 8.02. Provides that this article takes effect on the effective date of the constitutional amendment proposed by the 78th Legislature that authorizes the legislature to provide for the issuance of bonds and other public securities for improvements to the state highway system. Provides that this article has no effect if that amendment is not approved by the voters.

ARTICLE 9 - SHADOW TOLLS

SECTION 9.01. Amends Chapter 222, Transportation Code, by adding Section 222.104 as follows:

Sec. 222.104. SHADOW TOLLS. (a) Defines "shadow toll."

(b) Authorizes the department to enter into an agreement with a public or private entity that provides for the payment of shadow tolls to the public or private entity as reimbursement for the construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.

(c) Authorizes the department to enter into an agreement with a public or private entity that provides for the payment of shadow tolls to the department as reimbursement for the department's construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the public or private entity.

(d) Authorizes the department to enter into an agreement with a regional tollway authority, regional mobility authority, or a county acting under Chapter 284, Transportation Code, that provides for: (1) the payment of shadow tolls to an authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway converted to a toll facility of the authority or county that the department estimates it would have incurred had the highway not been converted; or (2) the payment by an authority or county of shadow tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, construct, and maintain a state highway or a portion of a state highway converted to a toll facility of the authority or county.

(e) Authorizes the department or another public entity to use any available funds for the purpose of making a shadow toll payment.

(f) Authorizes the commission to adopt rules necessary to implement Section 222.104, including establishing criteria for determining the amount of shadow tolls paid under that section, and allocating traffic risk.

SECTION 9.02. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 10 - TEXAS TURNPIKE AUTHORITY

SECTION 10.01. Amends Section 201.112(a), Transportation Code, to include turnpike improvement contracts and other contracts entered into under Chapter 361, Transportation Code among the contracts for which the commission may adopt rules establishing procedures for the informal resolution

of contract claims.

SECTION 10.02. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 11 - PROPERTY TRANSFER

SECTION 11.01. Amends Section 201.103, Transportation Code, to authorize the commission to designate highways as part of the state highway system and to remove segments from the system when they are no longer needed.

SECTION 11.02. Amends Section 202.021, Transportation Code, to clarify that the department must sell surplus real property other than right of way to the general public, and to codify the common law rule that when selling surplus right of way, the department must give first priority to a governmental entity with the authority to condemn the property. Authorizes the department to waive payment from a governmental entity if the cost of future maintenance would equal or exceed the fair value of the property, and authorizes the executive director to execute the deed when the department disposes of property worth less than \$10,000.

SECTION 11.03. Amends Section 202.030, Transportation Code, to require attorney general approval of the transfer or conveyance of property only when the value of the property transferred or conveyed is \$10,000 or more.

SECTION 11.04. Adds Section 202.033, Transportation Code, to authorize the department to transfer ownership of a historic bridge scheduled for replacement to a public or private entity that assumes full responsibility for the preservation and maintenance of the bridge.

SECTION 11.05. Provides that this article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and that otherwise it takes effect September 1, 2003.

ARTICLE 12 - MISCELLANEOUS PROVISIONS

SECTION 12.01. (a) Recreates the tertiary care account under Section 46.003, Health and Safety Code.

(b) Amends Chapter 542, Transportation Code, by addition section 542.4031 as follows:

Sec. 542.4031. **ADDITIONAL COURT COST.** Imposes an additional court cost of \$30 for traffic violations and allocates \$10 of this court cost to the tertiary care account under Section 46.003, Health and Safety Code.

(c) Amends Section 45.0511, Code of Criminal Procedure, by adding Subsection (r) as follows:

Sec. 45.0511(r). Imposes an administrative fee on the deferred adjudication of certain traffic violations and allocates \$10 of this court cost to the tertiary care account under Section 46.003, Health and Safety Code.

(d) Provides that a change in law made by this section applies only to an offense committed after the effective date of this section.

ARTICLE 11 – GENERAL PROVISIONS; EFFECTIVE DATE

SECTION 13.01. Exempts money deposited in a specific account or fund pursuant to this Act from

EFFECTIVE DATE

September 1, 2003

LIST OF HOUSE FLOOR AMENDMENTS:

SECOND READING:

Floor Amendment Number 1:

(1) On page 3, line 3, strike "includes a note or other obligation" and substitute "has the meaning assigned by Title 9, Government Code".

(2) On page 3, between lines 5 and 6, insert the following and renumber subsequent subdivisions accordingly:

(3) "Credit agreement" has the meaning assigned by Title 9, Government Code.

(3) On page 11, strike lines 15-22 and substitute:

Sec. 227.041. POWERS AND PROCEDURES. (a) Except as otherwise provided by this subchapter, the commission has the same powers and duties relating to the condemnation and acquisition of real property for a facility of the Trans-Texas Corridor that the commission and the department have relating to the condemnation or purchase of real property under Subchapter D, Chapter 361 and Section 361.233 for a turnpike project. The commission may purchase property or an option to purchase property that the commission is considering for possible use as part of the

(4) On page 12, strike line 23 and substitute "single payment, a participation payment under Section 227.042, or both a single payment and a participation payment."

(5) Strike page 13, line 19, to page 16, line 16, and substitute:

Sec. 227.045. POSSESSION OF HOMESTEAD PROPERTY UNDER DECLARATION OF TAKING. If property condemned under this chapter is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, the department may not take possession before the 91st day after the date of service of the declaration of taking.

Sec. 227.046. RIGHT OF ENTRY TO PROPERTY WITH PUBLIC UTILITY FACILITY. To ensure the safety and convenience of the public, the department shall, when entering any real property, water, or premises on which is located a public utility facility:

(1) comply with applicable industry standard safety codes and practices; and

(2) notwithstanding Subsection (a), give the owner or operator of the facility not less than 10 days' notice before entering the real property, water, or premises.

(6) On page 17, line 16, between "facility" and the period, insert "in accordance with industry standard safety codes and practices".

(7) On page 18, line 23, strike "maintenance" and substitute "operation".

(8) On page 21, strike lines 13-16 and substitute "the commission, including fees; and".

(9) On page 22, line 2, between "revenue" and "provided", insert "or money".

(10) On page 24, lines 5 and 6, strike "order authorizing the issuance of the bond" and substitute "applicable bond proceedings".

(11) On page 25, line 8, strike "an authority" and substitute "the commission".

(12) On page 25, line 14, strike "local".

(13) On page 25, at the end of line 23, add "Money borrowed under this section may be evidenced by the issuance of bonds."

(14) On page 32, line 10, between "project" and the semicolon, insert "including the redemption or purchase price of bonds subject to redemption or purchase as provided in the applicable bond proceedings".

(15) On page 37, line 15, strike "plan" and substitute "program".

(16) On page 38, line 27, between "rules" and the semicolon, insert:

"provided that an authority must consider the same factors that the Texas Turnpike Authority division

of the department must consider in altering a prima facie speed limit under Section 545.354".

(17) Strike page 58, line 14, to page 64, line 7, substitute the following sections, and renumber existing sections accordingly:

Sec. 370.163. ACQUISITION OF PROPERTY. (a) Except as otherwise provided by this subchapter, the governing body of an authority has the same powers and duties relating to the condemnation and acquisition of real property for a transportation project that the commission and the department have under Subchapter D, Chapter 361, and Section 361.233 relating to the condemnation or purchase of real property for a turnpike project. Notwithstanding Section 361.135(a), the concurrence of the commission is not a prerequisite to the exercise of the power of condemnation by the governing body of the authority.

(b) An authority's acquisition of any property of the commission under this or another section of this chapter or an authority's relocation, rerouting, disruption, or alteration of a facility of the commission is considered a conversion of a state highway system under Section 370.035 and is subject to each requirement, condition, or limitation provided by that section.

(c) The authority granted under this section does not include the authority to condemn a bridge connecting this state to the United Mexican States that is owned by a county or municipality.

Sec. 370.164. DEPOSIT FOR DECLARATION OF TAKING. (a) A deposit to the registry of the court of an amount equal to the fair market value, as determined by the authority, of the property to be condemned and any damages to the remaining property must accompany the declaration of taking under this chapter.

(b) Instead of the deposit under Subsection (a), at its option the authority may, concurrently with the declaration of a taking, tender in favor of the owner of the property a bond or other security in an amount sufficient to secure the owner for the value of the property taken and damages to remaining property, subject to the approval of the court.

(c) An owner may draw upon the deposit held by the court under Subsection (a) on the same terms and conditions as are applicable to a property owner's withdrawal of a commissioners' award deposited under Section 21.021(a)(1), Property Code.

Sec. 370.165. DOCKET PREFERENCE FOR DECLARATION OF TAKING. A property owner who is a defendant in an eminent domain action filed by an authority under this chapter must give notice to the court in which the action is pending of the property owner's preference that the condemnation petition be placed on the court's docket in the same manner as other cases pending in the court. The notice must be given before the 21st day after the date of service of process of both a condemnation petition and a notice of declaration of taking. On receipt of timely notice from the property owner, the court in which the action is pending shall place the case on its docket in the same manner as other cases pending in the court.

(18) On page 98, line 20, between "to" and "construct", insert "finance, acquire".

(19) On page 112, line 10, strike "may" and substitute "shall".

(20) On page 112, line 17, between the period and "After", insert:

The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section.

(21) On page 115, line 17, strike "TRANSPORTATION" and substitute "TRANSPORTATION".

(22) On page 115, line 25, strike "make an acquisition of" and substitute "acquire or purchase an option to acquire".

(23) On page 116, strike lines 15-18 and substitute:

property acquired by advance acquisition may be managed by the General Land Office on behalf of the department as the department and the General Land Office may agree. Subchapter E, Chapter 31, Natural Resources Code, does not apply to property acquired under this subchapter.

(24) On page 127, line 26, between "Paragraph" and "(B)", insert "(A) or".

Floor Amendment Number 2:

(1) On page 12, line 23, strike "under Section 227.042" and substitute "pursuant to Section 227.042".

or both".

(2) On page 116, strike lines 14-18 and substitute the following:

"Sec. 202.113. MANAGEMENT. If requested by the department, property acquired by advance acquisition may be managed by the General Land Office on behalf of the department upon such terms and conditions as the department and the General Land Office may agree. Subchapter E, Chapter 31, Natural Resources Code, do not apply to property acquired under this subchapter."

Floor Amendment Number 3:

(1) On page 122, between lines 15 and 16, insert the following:

(c) Notwithstanding Subsection (b), in any state fiscal biennium the comptroller shall deposit 49.5 percent of the surcharges collected under Chapter 708, Transportation Code, to the credit of the general revenue fund only until the total amount of the surcharges deposited to the credit of the general revenue fund under Subsection (b), and the court costs deposited to the credit of that fund under Section 542.4031(b)(1), Transportation Code, equals \$250 million for that biennium. If in any state fiscal biennium the amount received by the comptroller under those laws exceeds \$250 million, the comptroller shall deposit 49.5 percent of the additional amount received under Subsection (a) to the account established under this chapter and 49.5 percent of the additional amount to the credit of the Texas mobility fund.

(2) On page 157, between lines 24 and 25, insert the following:

(c) Notwithstanding Subsection (b)(1), the comptroller shall deposit court costs received under that subsection to the credit of the general revenue fund only until the total amount of the court costs deposited to the credit of the general revenue fund under that subsection and the surcharges deposited to the credit of that fund under Section 780.002(b), Health and Safety Code, equals \$250 million for that biennium. If in any state fiscal biennium the amount received by the comptroller under those laws exceeds \$250 million, the comptroller shall deposit the additional amount received under Subsection (b)(1) to the credit of the Texas mobility fund.

Floor Amendment Number 4:

(1) On page 147, line 11, strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(2) On page 147, between lines 23 and 24, insert the following:

(c) The first \$90,500,254 of fees to which Subsection (a) applies that are collected during the state fiscal biennium ending August 31, 2005, shall be deposited to the credit of the general revenue fund. This subsection expires September 1, 2005.

Floor Amendment Number 5:

(1) On page 149, line 5, strike "\$5 billion" and substitute "\$2 billion".

(2) On page 149, strike lines 8-21 and substitute the following:

(c) Proceeds from the sale of bonds and other public securities issued under this section shall be used to fund state highway improvement projects. Proceeds may be used only to fund projects that, as determined by the commission:

(1) allow the department to draw down additional federal-aid highway funds;

(2) are eligible for expedited contracting under Subchapter C, Chapter 223;

(3) facilitate, for the purpose of reducing unemployment or underemployment, the retention of businesses in this state or the ability to provide an incentive for new businesses to locate in this state; or

(4) reduce accidents or correct or improve hazardous locations on the state highway system.

(d) Of the aggregate principal amount of bonds and other public securities that may be issued under this section, the commission shall issue bonds or other public securities in an aggregate principal amount of \$500 million to fund projects eligible under Subsection (c)(4). The commission by rule shall prescribe criteria for selecting projects eligible for funding under this section. In establishing criteria for projects eligible under Subsection (c)(4), the commission shall consider accident data, traffic volume,

pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

Floor Amendment Number 6:

- (1) On page 157, strike lines 9-12 and substitute the following:
"SECTION 12.01. (a) Subchapter D, Chapter 542, Transportation Code, is".
- (2) On page 157, strike line 24 and substitute "designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code."
- (3) On page 157, line 25, strike "(c)" and substitute "(b)".
- (4) On page 158, strike line 8 and substitute "designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code."
- (5) On page 158, line 9, strike "(d)" and substitute "(c)".

Floor Amendment Number 7:

- (1) On page 4, line 19, strike "OF OTHER LAW".
- (2) At the end of page 4, add:
(c) This chapter does not apply to real or personal property, operations, construction, or to a project plan of a transportation authority created under Subchapter O, Chapter 452, unless the commission or its designee has signed a written agreement with the transportation authority specifying the terms and conditions under which the transportation authority may participate in the Trans-Texas Corridor.
- (3) Strike page 82, line 23 through page 83, line 1, and substitute:
Sec. 370.187. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) An authority may not construct, maintain, or operate a transportation project that another governmental entity has determined to be a project under Chapter 284, Chapter 366, or Chapter 452 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken.
(b) An authority may not receive or be paid revenue derived by another governmental entity operating under Chapter 284, Chapter 366, or Chapter 452 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the revenue shall be received by or paid to the authority.
- (4) On page 134, between lines 26 and 27, insert:
Sec. 91.037. CONTRACTS WITH GOVERNMENTAL ENTITIES. This chapter does not apply to real or personal property, operations, construction, or to a project plan of a transportation authority created under Subchapter O, Chapter 452 unless the commission or its designee has signed a written agreement with the transportation authority specifying the terms and conditions under which the transportation authority may participate.
- (5) On page 134, line 27, strike "91.037" and substitute "91.038".

Floor Amendment Number 8:

Amend the Harper-Brown amendment to CSHB 3588 [Second Reading Floor Amendment Number 7] between "Chapter 452, Subchapter O, Transportation Code," and "unless", by inserting "or an authority created under Chapter 451, Transportation Code, the principal municipality of which has a population of 1.5 million or more,"

Floor Amendment Number 9:

Amend CSHB 3588 in Article I, Section 1.03, in the proposed Sec. 227.023(a), Transportation Code, by deleting "in the construction and operation of facilities" and inserting in lieu thereof "in the planning, design, construction, and operation of facilities."

Floor Amendment Number 10: Failed.

Floor Amendment Number 11: Withdrawn.

Floor Amendment Number 12:

(1) On page 46, between lines 19 and 20, insert:

(i) The commission may not transfer a ferry under this section if the ferry is located in a municipality with a population of 5,000 or less unless the city council of the municipality approves the transfer.

(2) On page 84, between lines 9 and 10, insert:

Sec. 370.190. DEPARTMENT MAINTENANCE AND OPERATION. (a) If requested by an authority, the department may agree to assume all or part of the duty to maintain or operate a turnpike project or ferry of the authority.

(b) The authority shall reimburse the department for necessary costs of maintaining or operating the turnpike project or ferry as agreed by the department and the authority.

(c) Money received by the department under Subsection (b) shall be deposited to the credit of the state highway fund and is exempt from the application of Sections 403.095 and 404.071, Government Code.

(d) If the department assumes all of the duty to maintain or operate a turnpike project or ferry under Subsection (a), the authority is not liable for damages resulting from the maintenance or operation of the turnpike project or ferry.

(e) An agreement under this section is not a joint enterprise for purposes of liability.

(2) On page 84, line 10, strike "370.190" and substitute "370.191".

Floor Amendment Number 13: Withdrawn.

Floor Amendment Number 14:

(1) On page 59, add new Section 370.164, Transportation Code and renumber subsequent sections accordingly:

"PARTICIPATION PAYMENT FOR REAL PROPERTY. (a) As an alternative to paying for an interest in real property or a real property right with a single fixed payment, the authority may, with the owner's consent, pay the owner by means of a participation payment.

(b) A right to receive a participation payment under this section is subordinate to any right to receive a fee as payment on the principal of or interest on a bond that is issued for the construction of the applicable segment.

(c) In this section, "participation payment" means an intangible legal right to receive a percentage of one or more identified fees related to a segment constructed by the authority."

Floor Amendment Number 15:

1. On page 84, between lines 9 and 10, insert a new Section 370.190 to read as follows:

"Sec. 370.190 PROPERTY OF RAPID TRANSIT AUTHORITIES. An authority may not condemn or purchase real property of a rapid transit authority operating pursuant to Chapter 451, Transportation Code that was confirmed before July 1, 1985, and in which the principal municipality has a population of less than 750,000, unless the authority has entered into a written agreement with the rapid transit authority specifying the terms and conditions under which the condemnation or the purchase of the real property will take place."

2. On page 84, line 10, strike "370.190" and substitute "370.191".

Floor Amendment Number 16:

Amend CSHB 3588 on page 109, line 22, between "fund" and "during" by inserting "and the Texas mobility fund".

Floor Amendment Number 17:

Amend CSHB 3588 (House committee printing) on page 109, between lines 25 and 26, by inserting:
Sec. 201.9531. EXCLUSION OF EXPENDITURES. Money spent by the department under this chapter is not included in computing the amount required to be spent for engineering and design contracts under Section 223.041 in any fiscal year.

Floor Amendment Number 18: Withdrawn.

Floor Amendment Number 19:

Amend CSHB 3588 in Article 5 of the bill as follows:

(1) Strike page 117, line 23 through page 118, line 1, and substitute the following:

(1) two points for a moving violation of the traffic law of this state or another state that is not described by Subdivision (2); and

(2) three points for a moving violation of the traffic

(2) On page 118, between lines 6 and 7, insert the following:

(d) Notwithstanding Subsection (b), the department may not assign points to a person's driver's license if the offense of which the person was convicted is the offense of speeding and the person was at the time of the offense driving less than 10 percent faster than the posted speed limit. This subsection does not apply to an offense committed in a school crossing zone as defined by Section 541.302.

Floor Amendment Number 20:

Amend CSHB 3588, by striking the language on page 119, lines 5 through 7, proposed Section 708.102(c), Transportation Code, and substituting the following:

"(c) The amount of a surcharge under this section is \$1,000 per year, except that the amount of the surcharge is:

(1) \$1,500 per year for a third or subsequent conviction within a 36-month period; and

(2) \$2,000 for a first or any subsequent conviction if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.16 or more at the time the analysis was performed."

Floor Amendment Number 21:

Amend the Chisum amendment to CSHB 3588 in Article 5 of the bill [Second Reading Floor Amendment Number 19], on page 1, line 6, by striking "third" and substituting "second".

Floor Amendment Number 22: Withdrawn.

Floor Amendment Number 23: Tabled.

Floor Amendment Number 24:

Amend CSHB 3588 as follows:

Amend ARTICLE 5 as follows:

Page 123, line 12 after "department." strike

~~The administrator of a designated facility may request a regional advisory council chairperson to petition the department for disbursement of funds to a designated trauma facility in the chairperson's trauma service area that has provided uncompensated trauma care.~~

Floor Amendment Number 25: Tabled.

Floor Amendment Number 26: Withdrawn.

Floor Amendment Number 27:

On page 125, between lines 18 and 19, insert the following:

(g) In a trauma service area that includes a county with a population of 3.3 million or more, a trauma service area regional advisory council may enter into an agreement with a regional council of governments to execute its responsibilities and functions under this chapter.

Floor Amendment Number 28:

Amend CSHB 3588, in Article 6 of the bill, as follows:

(1) On page 134, line 2, between "PRIVATE ENTITY." and "The department", insert "(a)".

(2) On page 134, between lines 14 and 15, insert the following:

(b) The department shall provide reasonable notice to the owner of the applicable facility of the need for the alteration under Subsection (a)(2) and allow that owner the opportunity to complete or to direct the completion of the alteration. The owner of the facility may require payment before the alteration is completed.

(3) On page 141, at the end of line 25, add "A fee may not be required in connection with the placement, maintenance, or other use of a utility facility."

(4) On page 146, strike lines 2-8 and substitute the following:

utility's facilities, lines, or equipment, if the department considers the relocation to be necessary. The department shall pay for any relocation, raising, rerouting, changing, or altering of a facility, line, or equipment under this section unless otherwise agreed to in writing by the interested persons. If a utility facility is replaced, the cost of replacement is limited to an amount equal to the cost of replacing the facility with a comparable facility, less the net salvage value of the replaced facility.

Floor Amendment Number 29: Failed.

Floor Amendment Number 30:

Amend CSHB 3588 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES appropriately:

ARTICLE ____ . CONVERSION OF NONTOLL STATE HIGHWAY

SECTION____.01. Subchapter A, Chapter 284, Transportation Code, is amended by adding Section 284.009 to read as follows:

Sec. 284.009. CONVEYANCE OF STATE HIGHWAY TO COUNTY. (a) The commission may convey a nontoll state highway or a segment of a nontoll state highway, including real property acquired to construct or operate the highway, to a county for operation and maintenance as a project under this chapter if:

(1) the commission determines that the proposed conveyance will improve overall mobility in the region or is the most feasible and economic means of accomplishing necessary improvements to the highway;

(2) any funds paid by the department for the construction, maintenance, and operation of the conveyed highway are repaid to the department; and

(3) the county agrees to assume all liability and responsibility for the maintenance and operation of the conveyed highway on its conveyance.

(b) A county that receives a nontoll state highway or a segment of a nontoll state highway under Subsection (a) may own, operate, and maintain the highway as a pooled project under Section 284.065.

(c) The commission shall, at the time of a conveyance, remove the highway or segment of highway from the state highway system. After a conveyance, the department has no liability, responsibility, or duty for the maintenance or operation of the highway or segment.

(d) The commission may waive all or a portion of an amount due under Subsection (a)(2) if it finds that the conveyance will result in substantial net benefits to the state, the department, and the traveling public that equal or exceed the amount of payment waived.

(e) Before conveying a nontoll state highway or a segment of a nontoll state highway under this section, the commission shall conduct a public hearing to receive comments from interested persons concerning the proposed conveyance. Notice of the hearing shall be published in the Texas Register and in one or more newspapers of general circulation in any county in which the highway or segment is located.

(f) A county may use toll revenue collected under this section to fund a transportation project or an air quality project.

(g) The commission shall adopt rules implementing this section, including criteria and guidelines for approval of a conveyance of a highway or segment.

(h) Funds received by the department under this section:

(1) shall be deposited to the credit of the state highway fund; and

(2) are exempt from the application of Section 403.095, Government Code.

(i) In this section:

(1) "Air quality project" means a project or program of a county or another governmental entity that the county determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads within the county.

(2) "Transportation project" means the construction, improvement, maintenance, or operation of a transportation facility:

(A) under the jurisdiction of a county or another governmental entity;

(B) located inside or outside the county; and

(C) that the county determines will improve

mobility within the county.

SECTION _____.02. Section 362.0041, Transportation Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (e)-(h) to read as follows:

(a) Except as provided in Subsections [Subsection] (d) and (g), [if] the commission may by order convert [finds that the conversion of] a segment of the free state highway system to a toll facility if it determines that the conversion will improve overall mobility in the region or is the most feasible and economic means to accomplish necessary [expansion] improvements[, or extensions] to that segment or to another segment of the state highway system[, that segment may be converted by order of the commission to a turnpike project under Chapter 361].

(c) The commission shall adopt rules implementing this section, including [such rules to include] criteria and guidelines for the approval of a conversion of a highway.

(d) The commission may not convert the Queen Isabella Causeway in Cameron County to a toll facility [turnpike project].

(e) Subchapter G, Chapter 361, applies to a highway converted to a toll facility under this section.

(f) Toll revenue collected under this section:

(1) shall be deposited in the state highway fund;

(2) may be used by the department for any function performed by the department or to fund an air quality project; and

(3) is exempt from the application of Section 403.095, Government Code.

(g) The commission may not convert a segment of the state highway system under this section unless it obtains the approval of the metropolitan planning organization within whose boundaries the segment is located.

(h) In this section, "air quality project" means a project or program of the department or another governmental entity that the commission determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

SECTION _____.03. Section 366.035, Transportation Code, is amended to read as follows:

Sec. 366.035. CONVEYANCE [CONVERSION] OF STATE HIGHWAY [SYSTEM PROJECTS]. (a) The commission may convey a nontoll state highway or a segment of a nontoll state highway, including real property acquired to construct or operate the highway, to an authority for operation and maintenance as a turnpike project under this chapter if:

(1) the commission determines that the proposed conveyance will improve overall mobility in the region or is the most feasible and economic means to accomplish necessary

improvements to the highway:

(2) any funds paid by the department for the construction, maintenance, and operation of the conveyed highway are repaid to the department; and

(3) the authority agrees to assume all liability and responsibility for the maintenance and operation of the conveyed highway on its conveyance.

~~(b) [Except as provided under Subsection (g), if the commission determines that the most feasible and economic means to accomplish necessary expansion, improvements, or extensions to the state highway system is the conversion to a turnpike project of a segment of the free state highway system, any segment located in a county of an authority or a county in which an authority operates a turnpike project or in any county adjacent to those counties may, on approval of the governor and the affected authority, be transferred by order of the commission to that authority.] An authority that receives the segment or [of] highway may own, operate, and maintain the segment or highway as a turnpike project or system or a part of a turnpike project or system under this chapter.~~

(c) The commission may waive all or a portion of an amount due under Subsection (a)(2) if it finds that the conveyance will result in substantial net benefits to the state, the department, and the traveling public that equal or exceed the amount of payment waived.

~~(d) [(b) An authority shall reimburse the commission for the cost of a transferred highway, unless the commission determines that the transfer will result in substantial net benefits to the state, the department, and the traveling public that exceed that cost. The cost includes the total amount expended by the department for the original construction of the highway, including all costs associated with the preliminary engineering and design engineering for plans, specifications, and estimates, the acquisition of necessary rights-of-way, and actual construction of the highway and all necessary appurtenant facilities. Costs anticipated to be expended to expand, improve, or extend the highway shall be deducted from the costs to be reimbursed to the commission.~~

~~[(e)] The commission shall, at the time of a conveyance [transfer], remove the segment or [of] highway from the state highway system. After a conveyance, [transfer] the commission has no liability, responsibility, or duty for the maintenance or operation of the segment or highway.~~

(e) [(d)] Before conveying [transferring] a segment or [of the state] highway [system] under this section, the commission shall conduct a public hearing to receive comments from interested persons concerning the proposed conveyance [transfer]. Notice of the hearing must be published in the Texas Register, one or more newspapers of general circulation in the counties in which the segment or highway is located, and a newspaper, if any, published in the counties of the applicable authority.

(f) An authority may use toll revenue collected under this section to fund a transportation project or an air quality project.

~~(g) [(e)] The commission shall adopt rules implementing this section. The rules shall include criteria and guidelines for the approval of a conveyance [transfer] of a highway.~~

~~(h) [(f)] An authority shall adopt rules providing criteria and guidelines for approving the acceptance of a highway under this section.~~

~~(i) [(g)] The commission may not transfer the Queen Isabella Causeway in Cameron County to an authority under this section.~~

(j) Funds received by the department under this section:

(1) shall be deposited to the credit of the state highway fund; and

(2) are exempt from the application of Section 403.095, Government Code.

(k) In this section:

(1) "Air quality project" means a project or program of an authority or another governmental entity that the authority determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads within the counties of the authority.

(2) "Transportation project" means the construction, improvement, maintenance, or operation of a transportation facility:

(A) under the jurisdiction of an authority or another governmental entity;

(B) located inside or outside the counties of the authority; and

(C) that the authority determines will improve mobility within the counties of the authority.

Floor Amendment Number 31: Withdrawn.

Floor Amendment Number 32:

Amend CSHB 3588 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES appropriately:

ARTICLE __. TRANSFER OF POWER AND AUTHORITY OVER RAILROADS
SECTION __.01. Article 6445, Revised Statutes, is amended to read as follows:

Art. 6445. POWER AND AUTHORITY. (a) Power and authority are hereby conferred upon the Texas Department of Transportation [~~Railroad Commission of Texas~~] over all railroads, and suburban, belt and terminal railroads, and over all public wharves, docks, piers, elevators, warehouses, sheds, tracks and other property used in connection therewith in this State, and over all persons, associations and corporations, private or municipal, owning or operating such railroad, wharf, dock, pier, elevator, warehouse, shed, track or other property to fix, and it is hereby made the duty of the said department [~~Commission~~] to adopt all necessary rates, charges and regulations, to govern and regulate such railroads, persons, associations and corporations, and to correct abuses and prevent unjust discrimination in the rates, charges and tolls of such railroads, persons, associations and corporations, and to fix division of rates, charges and regulations between railroads and other utilities and common carriers where a division is proper and correct, and to prevent any and all other abuses in the conduct of their business and to do and perform such other duties and details in connection therewith as may be provided by law.

(b) All powers and duties of the Railroad Commission of Texas that relate to railroads are transferred to the Texas Department of Transportation.

(c) All personnel, property, assets, contracts, and obligations of the Railroad Commission of Texas, including funds appropriated by the legislature, that relate to railroads are transferred to the Texas Department of Transportation. The validity of a prior action of the commission that relates to railroads is not affected by the transfer.

(d) All rules and forms of the Railroad Commission of Texas that relate to railroads remain in effect as rules or forms of the Texas Department of Transportation until amended or repealed by the department.

(e) A reference in law to the Railroad Commission of Texas that relates to railroads means the Texas Department of Transportation.

(f) A complaint, investigation, or contested case pending before the Railroad Commission of Texas that is related to railroads is transferred without change in status to the Texas Department of Transportation.

SECTION __.02. (a) On September 1, 2003, the Texas Department of Transportation replaces the Railroad Commission of Texas as the governmental entity with power and authority over railroads.

(b) Before September 1, 2003, the Texas Department of Transportation shall determine:

(1) which actions of the Railroad Commission of Texas relate to the commission's power and authority over railroads;

(2) which property of the Railroad Commission of Texas relates to the commission's power and authority over railroads;

(3) which employees of the Railroad Commission of Texas primarily perform duties that relate to railroads and whether an employee who performs duties that relate to railroads:

(A) shall become an employee of the Texas Department of Transportation;

(B) must reapply with the Texas Department of Transportation for a comparable employment position; or

(C) shall be terminated; and

(4) which funds and obligations of the Railroad Commission of Texas relate to the commission's power and authority over railroads.

Floor Amendment Number 33: Withdrawn.

Floor Amendment Number 34:

Amend CSHB 3588 by adding the following appropriately numbered ARTICLE and SECTION to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE ____ . TEXAS-MEXICO BORDER TRADE CORRIDOR PLAN

SECTION ____ .01. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6011 to read as follows:

Sec. 201.6011. TEXAS-MEXICO BORDER TRADE CORRIDOR PLAN. The department shall implement an integrated trade transportation corridor plan for cross-border traffic. The plan must:

(1) include strategies and projects to aid the exchange of international trade using the system of multiple transportation modes in this state; and

(2) assign priorities based on the amount of international trade, measured by weight and value, using the transportation systems of this state, including:

(A) border ports of entry;

(B) commercial ports;

(C) inland ports;

(D) highways;

(E) pipelines;

(F) railroads; and

(G) deepwater gulf ports.

Floor Amendment Number 35:

Amend the Chavez amendment to CSHB 3588 [Second Reading Floor Amendment Number 34] on line 8 by striking "implement" and substituting "coordinate".

Floor Amendment Number 36:

Amend CSHB 3588 by adding the following appropriately numbered article and sections and renumbering subsequent articles accordingly:

ARTICLE ____ . STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION
SECTION ____ . 01. Subtitle K, Title 6, Transportation Code, is amended by adding Chapter 461 to read as follows:

CHAPTER 461. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

Sec. 461.001. LEGISLATIVE INTENT AND CONSTRUCTION. (a) Public transportation services are provided in this state by many different entities, both public and private. The multiplicity of public transportation providers and services, coupled with a lack of coordination between state oversight agencies, has generated inefficiencies, overlaps in service, and confusion for consumers. It is the intent of this chapter:

(1) to eliminate waste in the provision of public transportation services;

(2) to generate efficiencies that will permit increased levels of service; and

(3) to further the state's efforts to reduce air pollution.

(b) This chapter shall be liberally construed to achieve its purposes.

Sec. 461.002. DEFINITIONS. In this chapter:

(1) "Public transportation provider" means any entity that provides public transportation services if it is a governmental entity or if it receives financial assistance from a governmental entity, whether state, local, or federal. The term does not include private carriers that do not receive financial assistance from a governmental entity. It also does not include a person who provides intercity rail or bus service, commercial air transportation, water transportation, or nonstop service to or from a point located outside this state. If a person provides both public transportation services and services that are not public transportation services, that person is included within the term only with regard to the provision of public transportation services and to the extent of those public transportation services.

(2) "Public transportation services" means any conveyance of passengers and their hand-carried baggage by a governmental entity or by a private entity if the private entity receives financial assistance for that conveyance from any governmental entity. It does not include intercity rail or bus service, commercial air transportation, water transportation, or nonstop service to or from a point located outside this state.

Sec. 461.003. RULES OF TEXAS TRANSPORTATION COMMISSION. (a) The commission by rule may:

(1) require a state agency that is responsible for ensuring the provision of public transportation services to contract with the department for the department to assume the responsibilities of that agency relating to the provision of public transportation services; and

(2) require a public transportation provider to provide detailed information on its provision of public transportation services, including revenues, routes, maps, categories of passengers served, number of passengers served, and equipment use and condition.

(b) Except with regard to health and human services programs funded by this state, the commission may not direct the planning or operations of an authority created or operating under Chapter 451, 452, or 453.

(c) The commission shall adopt other rules, including rules defining terms, necessary to implement this chapter.

Sec. 461.004. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION. (a) The department shall identify:

(1) overlaps and gaps in the provision of public transportation services, including services that could be more effectively provided by existing, privately funded transportation resources;

(2) underused equipment owned by public transportation providers; and

(3) inefficiencies in the provision of public transportation services by any public transportation provider.

(b) The department may contract with any public or private transportation provider for the department to arrange for the provision of public transportation services.

Sec. 461.005. ELIMINATION OF OVERLAPPING SERVICE. (a) To eliminate waste and maximize efficiency, the department shall encourage public transportation providers to agree on the allocation of specific services and service areas among the providers. The department may incorporate these discussions in planning processes such as the development of the statewide transportation improvement program or a local transportation improvement plan.

(b) If public transportation providers do not reach an agreement on a service plan under Subsection (a), the department may develop an interim service plan for that area.

(c) The department may require that all or a percentage of the vehicles used to provide public transportation services comply with specified emissions standards. The standards may vary among geographic areas based on the need of each area to reduce levels of air pollution. This subsection does not apply to an authority created under Chapter 451, 452, or 453, Transportation Code.

Sec. 461.006. DUTIES OF PUBLIC TRANSPORTATION PROVIDERS. Each public transportation provider shall cooperate with the department in eliminating waste and ensuring efficiency and maximum coverage in the provision of public transportation services.

Sec. 461.007. INCENTIVES FOR EFFICIENCY. (a) Notwithstanding any other law, including a law establishing a formula for the allocation of public transportation grants, the commission may increase or reduce the amount of a grant made to a public transportation provider based on whether the public transportation provider is complying fully with this chapter.

(b) Notwithstanding any other law, the commission may consider whether a public transportation provider in a geographic area of this state is complying fully with this chapter in executing the commission's other responsibilities relating to that area.

SECTION _____.02. Section 455.0015, Transportation Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) It is the intent of the legislature that, whenever possible, and to the maximum extent feasible, the existing network of transportation providers, and in particular the fixed route components of the existing networks, be used to meet the client transportation requirements of the state's social service agencies and their agents. The legislature recognizes the contributions of nonprofit entities dedicated to providing social services and related activities and encourages the continued community involvement of those entities in this area. The legislature likewise recognizes the potential cost savings and other benefits for utilizing existing private sector transportation resources. The department will contract with and promote the use of private sector transportation resources to the maximum extent feasible consistent with goals of this subsection.

(c) Each health and human services agency of this state shall contract with the department for

the department to assume all responsibilities of the health and human services agency relating to the provision of transportation services for clients of eligible programs.

(d) The department may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

SECTION _____.03. Section 455.004, Transportation Code, is amended to read as follows:

Sec. 455.004. PUBLIC TRANSPORTATION ADVISORY COMMITTEE. (a) A public transportation advisory committee consisting of nine members shall:

(1) advise the committee on the needs and problems of the state's public transportation providers, including the methods for allocating state public transportation money;

(2) comment on rules involving public transportation during development of the rules and before the commission finally adopts the rules unless an emergency requires immediate commission action; ~~and~~

(3) advise the commission on the implementation of Chapter 461; and

(4) perform any other duty determined by the commission.

(b) The commission shall appoint members of the advisory committee. The membership of the committee shall ~~[governor, the lieutenant governor, and the speaker of the house of representatives each shall appoint three members of the committee. The appointing officers shall allocate among themselves the authority for appointment of members with different types of qualifications. The committee must]~~ include:

(1) four members who ~~[one member to]~~ represent a diverse cross-section of public transportation providers ~~[in rural areas];~~

(2) three members who ~~[one member to]~~ represent a diverse cross-section of transportation users ~~[municipal transit systems in urban areas with population of less than 200,000]; and~~

(3) two members who ~~[one member to represent metropolitan transit authorities in urban areas with populations of 200,000 or more;~~

~~[(4) one member to represent transportation providers for persons with disabilities and the elderly; and~~

~~[(5) five members who have a knowledge of and interest in public transportation to] represent the general public.~~

(c) A member serves at the pleasure of the commission ~~[officer appointing the member]~~. A member is not entitled to compensation for service on the committee but is entitled to reimbursement for reasonable expenses the member incurs in performing committee duties.

(d) The public transportation advisory committee shall meet ~~[quarterly or]~~ as requested by the commission.

(e) The commission may adopt rules to govern the operation of the advisory committee.

SECTION _____.04. Section 461.012, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION _____.05. Section 533.012, Health and Safety Code, is amended to read as follows:

Sec. 533.012. COOPERATION OF STATE AGENCIES. (a) At the department's request, all state departments, agencies, officers, and employees shall cooperate with the department in activities that are consistent with their functions.

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION _____.06. Section 22.001, Human Resources Code, is amended by adding Subsection (e) to read as follows:

(e) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION _____.07. Section 40.002, Human Resources Code, is amended by adding Subsection (f) to read as follows:

(f) The department may contract with the Texas Department of Transportation for the Texas

Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION _____.08. Section 91.021, Human Resources Code, is amended by adding Subsection (g) to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION _____.09. Section 101.0256, Human Resources Code, is amended to read as follows:

Sec. 101.0256. COORDINATED ACCESS TO LOCAL SERVICES. (a) The department and the Texas Department of Human Services shall develop standardized assessment procedures to share information on common clients served in a similar service region.

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the department relating to the provision of transportation services for clients of eligible programs.

SECTION _____.10. Section 111.0525, Human Resources Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION _____.11. Section 301.063, Labor Code, is amended by adding Subsection (f) to read as follows:

(f) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to assume all responsibilities of the commission relating to the provision of transportation services for clients of eligible programs.

SECTION _____.12. LEGISLATIVE INTENT REGARDING PROVISION OF HEALTH AND HUMAN SERVICE TRANSPORTATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION. It is the intent of the legislature that the provision of health and human service transportation through the Texas Department of Transportation will improve the delivery of transportation services to clients and enhance their access to transportation services. Furthermore, it is the intent of the legislature that these services be provided in a manner that will generate efficiencies in operation, control costs, and permit increased levels of service. The Texas Department of Transportation shall encourage cooperation and coordination among transportation providers, regional transportation brokers, and actual and potential clients in an effort to achieve the stated legislative goals.

SECTION _____.13. Any funds that are used by the Texas Department of Transportation to implement the transportation services provided in Sections _____.02, _____.04, _____.05, _____.06, _____.07, _____.08, _____.09, _____.10, and _____.11 shall be accounted for and budgeted separately from other funds appropriated to the Texas Department of Transportation for any other public transportation program or budget strategy.

Floor Amendment Number 37:

Amend CSHB 3588 by adding the following section to Article 12 of the bill and renumbering subsequent sections as follows:

SECTION _____. Chapter 551, Transportation Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. NEIGHBORHOOD ELECTRIC VEHICLES

Sec. 551.301. DEFINITION. (a) In this subchapter, "neighborhood electric vehicle" means a vehicle subject to Federal Motor Vehicle Safety Standard 500 (49 CFR 571.500).

Sec. 551.302. OPERATION ON ROADWAY. (a) A neighborhood electric vehicle may be operated only on a street or highway for which the posted speed limit is 35 miles per hour or less. The vehicle may cross a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(b) A county or municipality may prohibit the operation of a neighborhood electric vehicle on any street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(c) The department may prohibit the operation of a neighborhood electric vehicle on a highway if it determines that the prohibition is necessary in the interest of safety.

Floor Amendment Number 38: Withdrawn.

Floor Amendment Number 39:

- (1) On page 35, line 1, through page 36, line 19, strike SECTION ___.07 of the amendment and renumber subsequent SECTIONS of the amendment accordingly.
- (2) On page 37, line 8, strike "fewer than three" and substitute "not more than five".

Floor Amendment Number 40:

Amend the Gutierrez amendment [Second Reading Floor Amendment Number 35] to CSHB 3588 as follows:

- (1) On page 5, strike lines 14 and 15 and substitute the following:
[~~(12) "Out-of-state buyer" means a person licensed in an automotive~~
- (2) On page 5, strike line 22 and substitute "~~state or jurisdiction.~~".
- (3) On page 35, line 1, through page 36, line 19, strike SECTION ___.07 of the amendment and renumber subsequent SECTIONS of ARTICLE __ of the amendment accordingly.
- (4) On page 37, line 8, strike "fewer than three" and substitute "not more than five".
- (5) On page 37, line 10, strike "at auction".
- (6) On page 41, line 22, strike "2005" and substitute "2007".

Floor Amendment Number 41: Withdrawn.

Floor Amendment Number 42:

Amend CSHB 3588, in ARTICLE 12 of the bill, by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION __. (a) Section 456.022, Transportation Code, is amended to read as follows:

Sec. 456.022. FORMULA ALLOCATION [BY CATEGORIES]. The commission shall adopt rules establishing a formula to allocate funds to eligible public transportation providers. The formula may take into account:

- (1) the provider's performance;
- (2) the number of passengers served by the provider;
- (3) the need for public transportation by residents of the provider's service area;
- (4) the population, population density, and land area of the provider's service area; and
- (5) other factors established by the commission [Under the formula program the

commission shall allocate:

[(1) 50 percent of the money to municipalities that are:

[(A) designated recipients in urbanized areas or transit providers eligible under Section 456.003 and not served by a transit authority; and

[(B) designated recipients that are not included in a transit authority but are located in urbanized areas that include one or more transit authorities and received state transit funding during the biennium that ended August 31, 1997; and

[(2) 50 percent of the money to designated recipients in nonurbanized areas].

(b) Section 456.024, Transportation Code, is repealed.

(c) This section takes effect September 1, 2004.

Floor Amendment Number 43:

Amend CSHB 3588 by adding the following appropriately numbered section and renumbering subsequent sections accordingly:

SECTION __. Subchapter B, Chapter 391, Transportation Code, is amended by adding Section 391.0331 to read as follows:

Sec. 391.0331. RELOCATION BECAUSE OF HIGHWAY CONSTRUCTION. (a) If any outdoor advertising use, structure, or permit may not be continued because of widening, construction, or reconstruction of a highway, the owner of the outdoor advertising is entitled to relocate the use, structure, or permit to another location in accordance with applicable administrative rules and policies of the department.

(b) Subject to federal and state regulations, any governmental entity, quasi-governmental entity, or public utility that acquires outdoor advertising by eminent domain or causes the need for the outdoor advertising to be relocated under this section shall pay the costs related to the acquisition or relocation.

(c) If a governmental entity prohibits the relocation of outdoor advertising as provided under this section, the governmental entity shall pay fair compensation.

Floor Amendment Number 44:

Amend CSHB 3588 by adding appropriately numbered SECTIONS to read as follows and renumbering SECTIONS of the bill accordingly:

SECTION __. (a) Subchapter H, Chapter 545, Transportation Code, is amended by adding Section 545.3571 to read as follows:

Sec. 545.3571. DESIGNATION OF SCHOOL CROSSING ZONES AND SCHOOL CROSSWALKS AND INSTALLATION OF OFFICIAL TRAFFIC CONTROL DEVICES. (a) Except as provided by Subsection (b), not later than the 30th day before the date the construction of a new public elementary or secondary school is scheduled to be completed or the date students are scheduled to begin attending a newly constructed public elementary or secondary school, whichever is earlier, the Texas Department of Transportation or the appropriate local authority, as applicable, shall designate each necessary school crossing zone and school crosswalk for the school and install the appropriate official traffic control devices for each designated school crossing zone.

(b) If the Texas Department of Transportation or the appropriate local authority does not receive timely notice required by Section 11.168, Education Code, the department or local authority must comply with Subsection (a) of this section not later than the 30th day after receiving notice that the construction of a new public elementary or secondary school is or is about to be completed or that students are or are scheduled to begin attending a newly constructed public elementary or secondary school.

(b) Section 545.3571, Transportation Code, as added by Subsection (a) of this section, applies to:

(1) construction of a new public elementary or secondary school scheduled to be completed on or after October 31, 2003; or

(2) a newly constructed public elementary or secondary school to which students are scheduled to begin attending on or after October 31, 2003.

SECTION __. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.168 to read as follows:

Sec. 11.168. NOTICE CONCERNING NEWLY CONSTRUCTED SCHOOL. Not later than the 60th day before the date construction of a new elementary or secondary school is scheduled to be completed or students are scheduled to begin attending a newly constructed elementary or secondary school, whichever is earlier, the board of trustees of the independent school district in which the new school is located shall provide notice of that scheduled date to the Texas Department of Transportation or the county, municipality, or other local entity that is responsible under Section 545.3571, Transportation Code, for designating crossing zones and school crosswalks for the school and installing official traffic control devices for the designated school crossing zones.

Floor Amendment Number 45:

Amend CSHB 3588 by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES appropriately:

ARTICLE __. RAIL LINES

SECTION __. Section 5, Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), is amended by adding Subsection (s) to read as follows:

(s) A district may not sell a rail line of the district unless the sale is approved by the Texas Transportation Commission as being consistent with the policies of this Act. The commission by rule shall adopt procedures for applying for and obtaining approval under this subsection.

Floor Amendment Number 46:

On page , line add a new Section to read as follows and renumber accordingly:

SECTION . Section 25.07(3), Tax Code, is amended to read as follows:

(3) the property is part of a public transportation facility owned by an incorporated city or town or rural rail transportation [sic] district and :

Floor Amendment Number 47:

Amend CSHB 3588 by adding the following ARTICLE to the bill and renumbering existing ARTICLES of the bill accordingly:

ARTICLE _____. DRIVER'S LICENSES

SECTION _____.01. (a) Section 521.142(a), Transportation Code, is amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department. The department shall accept as proof of the applicant's identity an identity document that is issued by the government of another country, if that document bears the applicant's photograph, full name, and date of birth and the government of the other country has established reasonable mechanisms by which the department can verify the identity document. For purposes of this section, an identity document includes a passport, a consular identity document, and a national identity document.

(b) Subsection (a) of this section takes effect September 1, 2003.

Floor Amendment Number 48:

Amend the Wise amendment to CSHB 3588 [Second Reading House Floor Amendment Number 47] at the end of line 17 by adding the following:

On the reverse side of a driver's license, the department shall print the license holder's country of citizenship and indicate the country of citizenship by a uniform symbol or code on the face of the license in the space where the department indicates a restriction or endorsement.

Floor Amendment Number 49:

Amend CSHB 3588 by adding the following appropriately numbered ARTICLE and SECTIONS to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE _____. MEMBERSHIP OF TEXAS TRANSPORTATION COMMISSION

SECTION _____.01. Section 201.051(a), Transportation Code, is amended to read as follows:

(a) The Texas Transportation Commission consists of five [~~three~~] members appointed by the governor with the advice and consent of the senate.

SECTION _____.02. Section 201.052, Transportation Code, is amended to read as follows:

Sec. 201.052. TERMS. Members of the commission serve staggered six-year terms, with the terms of either one or two members [~~one member's term~~] expiring February 1 of each odd-numbered year.

SECTION _____.03. Promptly after this article takes effect, the governor shall appoint two additional members to the Texas Transportation Commission. Of those members, the governor shall designate one to serve a term expiring February 1, 2007, and one to serve a term expiring February 1, 2009.

Floor Amendment Number 50:

(1) In Article I, on page 19, between lines 5 and 6, insert the following:

(c) The commission may not disburse money out of the state highway fund for the initial construction of a facility of the Trans-Texas Corridor unless the commission finds that the disbursement will reduce traffic congestion to an extent that is comparable to the reduction in traffic congestion that would likely be achieved by spending the same amount of money on the project that is the most reasonable alternative.

(2) In Article 12, add the following appropriately numbered SECTION and renumber subsequent SECTIONS of that article appropriately:

SECTION 12.____. Section 201.601, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The plan must include a component that is not financially constrained and identifies projects designed to relieve congestion. In developing that component of the plan, the department shall seek opinions and assistance from officials who have local responsibility for modes of transportation listed in Subsection (a).

Floor Amendment Number 51:

(1) On page 3, between lines 20 and 21, by inserting:

(3-a) "Facility" does not include a border inspection facility that serves a bridge system that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002.

(2) On page 33, strike lines 13-21 and substitute:

(E) a ferry;

(F) an airport;

(G) a pedestrian or bicycle facility;

(H) an air quality improvement initiative;

(I) a public utility facility; and

(J) if applicable, projects and programs listed in the most recently approved state implementation plan for the area covered by the authority, including an early action compact.

(14-a) "Transportation project" does not include a border inspection facility that serves a bridge system that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002.

Floor Amendment Number 52:

(1) On page 57, line 16, strike "or".

(2) On page 57, line 17, between "county" and "that", insert "in this state".

(3) On page 57, line 27, between "county" and the period, insert:

; or

(3) a county in another state or the United Mexican States if:

(A) each governing body of a political subdivision in which the project will be located agrees to the proposed acquisition, construction, operation, maintenance, expansion, or extension; and

(B) the project will bring significant benefits to the counties in this state that are part of the authority

Floor Amendment Number 53:

Amend CSHB 3588 by adding the following appropriately numbered sections in Article 12 and renumbering subsequent sections accordingly:

SECTION 12.____. Section 545.066(c), Transportation Code, is amended to read as follows:

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000, except that the offense is:

(1) a Class A misdemeanor if the person causes serious bodily injury to another; or

(2) a state jail felony if the person has been previously convicted under Subdivision (1).

SECTION 12.____. (a) The change in law made by Section 545.066(c), Transportation Code, as amended by this article, applies only to an offense committed on or after the effective date of this Act.

For purposes of this section, an offense is committed before the effective date of this Act if any element

of the offense occurs before the date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

Floor Amendment Number 54: Tabled.

Floor Amendment Number 55:

(1) On page 101, line 11, strike "amount of the final contract price" and substitute "amount, not the exceed one-third of the final contract price.".

(2) On page 136, line 27, and page 137, line 1, strike "amount of the final contract price" and substitute "amount, not to exceed one-third of the final contract price.".

Floor Amendment Number 56:

Amend CSHB 3588 by adding the following appropriately numbered article and sections and renumbering subsequent articles and sections accordingly:

ARTICLE ____ . BORDER REGION HIGH-SPEED RAIL AUTHORITIES

SECTION __.01. Chapter 13, Title 112, Revised Statutes, is amended by adding Article 6550c-4 to read as follows:

Art. 6550c-4. BORDER REGION HIGH-SPEED RAIL AUTHORITIES

Sec. 1. DEFINITIONS. In this article:

(1) "Authority" means a border region high-speed rail authority created under this article.

(2) "Authority property" means all property an authority owns or leases under a long-term lease.

(3) "Border region" means the Texas-Louisiana border region or the Texas-Mexico border region, as defined by Section 2056.002, Government Code.

(4) "Commission" means the Texas Transportation Commission.

(5) "Department" means the Texas Department of Transportation.

(6) "High-speed rail" means the rail technology that permits the operation of rolling stock between scheduled stops at speeds greater than 80 miles per hour.

(7) "High-speed rail facility" means any property necessary for the transportation of passengers and baggage between points in a border region by high-speed rail. The term includes rolling stock, locomotives, stations, parking areas, and rail lines.

(8) "System" means all of the high-speed rail and intermodal facilities leased or owned by or operated on behalf of an authority.

Sec. 2. CREATION OF AUTHORITIES. The commission by order may authorize the creation of an authority in each border region for the purposes of financing, acquiring property for, constructing, maintaining, and operating a high-speed rail system in each border region.

Sec. 3. GOVERNING BODY. (a) The governing body of an authority is a board of directors consisting of representatives of each county in the border region for which the authority is created. The board is composed of 11 members appointed by the governor.

(b) The members of the board shall elect one member as presiding officer. The presiding officer may select another member to preside in the absence of the presiding officer.

(c) The presiding officer shall call at least one meeting of the board each year and may call other meetings as the presiding officer determines are appropriate.

(d) A member of the board is not entitled to compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred while serving as a member.

(e) The board shall adopt rules for its proceedings and appoint an executive committee. The board may employ and compensate persons to carry out the powers and duties of the authority.

(f) Chapter 171, Local Government Code, applies to a member of the board.

Sec. 4. POWERS AND DUTIES OF AUTHORITY. (a) An authority is a public body and a political subdivision of the state exercising public and essential governmental functions and has all the powers necessary or convenient to carry out the purposes of this article.

An authority, in the exercise of powers under this article, is performing only governmental functions and is a governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code.

(b) An authority is subject every 12th year to review under Chapter 325, Government Code (Texas Sunset Act).

(c) An authority may sue and be sued in all courts, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving a supersedeas or cost bond. An action at law or in equity against an authority must be brought in the county in which a principal office of the authority is located, except that in an eminent domain proceeding involving an interest in land, suit must be brought in the county in which the land is located.

(d) An authority may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of its powers.

(e) An authority may acquire, construct, develop, own, operate, and maintain intermodal and high-speed rail facilities to connect political subdivisions in the applicable border region. For this purpose and with the consent of a municipality, county, or other political subdivision, an authority may use streets, alleys, roads, highways, and other public ways of the municipality, county, or other political subdivision and may relocate, raise, reroute, change the grade of, or alter, at the expense of the authority, the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system. An authority may not use or alter a road or highway that is part of the state highway system without the permission of the commission or a railroad without permission of the railroad. An authority may acquire by purchase any interest in real property for the acquisition, construction, or operation of a high-speed rail facility on terms and at a price as agreed to between the authority and the owner. The governing body of a municipality, county, other political subdivision, or public agency may convey title or rights and easements to any property needed by an authority to effect its purposes in connection with the acquisition, construction, or operation of the system.

(f) An authority has the right of eminent domain to acquire real property in fee simple or an interest in real property less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space. The power of eminent domain under this section does not apply to land under the jurisdiction of the department or a rail line owned by a common carrier or municipality. An authority shall, to the extent possible, use existing rail or intermodal transportation corridors for the alignment of its system. A proceeding for the exercise of the power of eminent domain is begun by the adoption by the board of a resolution declaring the public necessity for the acquisition by an authority of the property or interest described in the resolution and that the acquisition is necessary and proper for the construction, extension, improvement, or development of high-speed rail facilities and is in the public interest. The resolution of an authority is conclusive evidence of the public necessity of the proposed acquisition and that the real or personal property or interest in property is necessary for public use.

(g) With the consent of the property owner, instead of paying for real property with a single fixed payment, an authority may pay the owner in the form of:

(1) an intangible legal right to receive a percentage of identified fees related to the applicable segment of the system; or

(2) an exclusive or nonexclusive right to use or operate a part of the system.

(h) An authority may make agreements with a public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties inside or outside the border region and establish through routes and joint fares.

(i) An authority may adopt rules to govern the operation of the authority, its employees, the system, service provided by the authority, and any other necessary matter concerning its purposes, including rules relating to health, safety, alcohol or beverage service, food service, and telephone and utility services, to protect the health, safety, and general welfare of residents of the border region and people who use the authority's services.

(j) An authority may enter into a joint ownership agreement with any person.

(k) An authority shall establish and maintain rates or other compensation for the use of the

facilities of the system acquired, constructed, operated, regulated, or maintained by the authority that is reasonable and nondiscriminatory and, together with grants received by the authority, is sufficient to produce revenues adequate:

(1) to pay all expenses necessary for the operation and maintenance of the properties and facilities of the authority;

(2) to pay the interest on and principal of bonds issued by the authority and payable in whole or in part from the revenues, as they become due and payable; and

(3) to comply with the terms of an agreement made with the holders of bonds or with any person in their behalf.

(l) An authority may make contracts, leases, and agreements with, and accept grants and loans from, the United States, this state, agencies and political subdivisions of this state, and other persons and entities and may perform any act necessary for the full exercise of the powers vested in it. The commission may enter into an interlocal agreement with an authority under which the authority may exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the border region. An authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. A revenue bond indenture may limit the exercise of the powers granted by this section, and a limit applies as long as the revenue bonds issued under the indenture are outstanding and unpaid.

(m) An authority by resolution may adopt rules governing the use, operation, and maintenance of the system and may determine or change a routing as the board considers advisable.

(n) An authority may lease all or part of the high-speed rail facilities to, or contract for the use or operation of all or part of the high-speed rail facilities by, an operator. An authority shall encourage to the maximum extent practicable the participation of private enterprise in the operation of high-speed rail facilities. The term of an operating contract under this subsection may not exceed 20 years.

(o) An authority may contract with a county or other political subdivision of this state for the authority to provide high-speed rail transportation services to an area outside the border region on the terms and conditions agreed to by the parties.

(p) An authority may purchase an additional insured provision to any liability insurance contract.

(q) Before beginning the operation of high-speed rail facilities, the board shall adopt an annual operating budget specifying the anticipated revenues and expenses of the authority for the remainder of the fiscal year. Each year the board shall adopt an operating budget for the authority. The fiscal year of an authority ends September 30 unless changed by the board. The board shall hold a public hearing before adopting a budget other than the initial budget. Notice of each hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in each county in the applicable border region. A budget may be amended at any time if notice of the proposed amendment is given in the notice of the meeting at which the amendment will be considered. An expenditure that is not budgeted may not be made.

(r) An authority is eligible to participate in the Texas County and District Retirement System.

(s) The board shall by resolution name one or more banks for the deposit of authority funds. Authority funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code. To the extent funds of an authority are not insured by the Federal Deposit Insurance Corporation or its successor, they shall be collateralized in the manner provided for county funds.

(t) To provide tax benefits to another party that are available with respect to property under the laws of a foreign country or to encourage private investment with a transportation authority in the United States, and notwithstanding any other provision of this article, an authority may enter into and execute, as it considers appropriate, contracts, agreements, notes, security agreements, conveyances, bills of sale, deeds, leases as lessee or lessor, and currency hedges, swap transactions, or agreements relating to foreign and domestic currency. The agreements or instruments may have the terms, maturities, duration, provisions as to governing law, indemnities, and other provisions that are approved by the board. In connection with any transaction authorized by this subsection, the authority shall deposit in trust, escrow, or similar arrangement cash or lawful investments or securities, or shall enter into one or more payment agreements, financial guarantees, or insurance contracts with counterparties having either a corporate credit or debt rating in any form, a claims-paying ability, or a rating for financial strength of "AA" or better by Moody's Investors Service, Inc., or by Standard & Poor's

Corporation or "A-" or better by Best's rating system that, by their terms, including interest to be earned on any cash or securities, are sufficient in amount to pay when due all amounts required to be paid by the authority as rent over the full term of the transaction plus any optional purchase price due under the transaction. A certification in advance by an independent financial expert, banker, or certified public accountant, who is not an employee of the authority, certifying compliance with this requirement constitutes conclusive evidence of compliance. Property sold, acquired, or otherwise transferred under this subsection is considered for all purposes to be property owned and held by the authority and used for public purposes.

Sec. 5. BONDS AND NOTES. (a) An authority may issue revenue bonds and notes in amounts the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of the authority's high-speed rail facilities. A bond or note is fully negotiable and may be made redeemable before maturity, at the option of the authority and at the price and under the terms the board determines in the resolution authorizing the bond or note and may be sold at public or private sale, as the board determines.

(b) An authority shall submit all bonds and notes and the record of proceedings relating to their issuance to the attorney general for examination before delivery. If the attorney general determines that they have been issued in accordance with the constitution and this article and that they will be binding obligations of the authority, the attorney general shall approve them, and the comptroller shall register them. A bond or note issued under this article is incontestable after approval, registration, and sale and delivery of the bond or note to the purchaser.

(c) To secure the payment of the bond or note, an authority may encumber and pledge all or any part of the revenues of its high-speed rail facilities, may mortgage and encumber all or part of the property of the high-speed rail facilities and any thing pertaining to them that is acquired or to be acquired, and may prescribe the terms and provisions of the bond or note in any manner not inconsistent with this article. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, an authority may encumber separately any item of real or personal property.

(d) A bond or note is a legal and authorized investment for banks, trust companies, savings and loan associations, and insurance companies. The bond or note is eligible to secure the deposit of public funds of this state or a municipality, county, school district, or other political corporation or subdivision of this state. The bond or note is lawful and sufficient security for the deposits to the extent of the principal amount or market value of the bond or note, whichever is less.

Sec. 6. COMPETITIVE BIDS. A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property other than real property may be let only on competitive bids after notice published, at least 15 days before the date set for receiving bids, in a newspaper of general circulation in each county in the applicable border region. The board may adopt rules governing the taking of bids and the awarding of contracts. This section does not apply to:

- (1) personal or professional services;
- (2) the acquisition of an existing rail transportation system; or
- (3) a contract with a common carrier to construct lines or to operate high-speed rail service on lines owned in whole or in part by the carrier.

Sec. 7. EXEMPTION FROM TAXES. The property, material purchases, revenues, and income of an authority and the interest on a bond or note issued by an authority are exempt from all taxes imposed by this state or a political subdivision of this state.

(b) The comptroller shall administer, collect, and enforce a tax imposed under this article. Chapter 321, Tax Code, governs the computation, administration, governance, and use of the tax except as inconsistent with this article.

(c) An authority shall notify the comptroller in writing by registered or certified mail of the authority's creation and of its intent to impose the sales and use tax under this article. The authority shall provide to the comptroller all information required to implement the tax, including:

- (1) an adequate map showing the property boundaries of the authority; and
- (2) a certified copy of the resolution of the authority board adopting the tax.

(d) Not later than the 30th day after the date the comptroller receives the notice, map, and other information, the comptroller shall inform the authority of whether the comptroller is prepared to administer the tax.

(e) At the same time an authority notifies the comptroller under Subsection (c) of this section,

the authority shall notify each affected local governmental unit of the authority's creation and provide each with an adequate map showing the property boundaries of the authority.

(f) Not later than the 30th day after the date an authority adds territory to the authority, the authority shall notify the comptroller and each affected local governmental unit of the addition. The authority must include with each notification an adequate map showing the new boundaries of the authority and the date the additional territory was added. Not later than the 30th day after the date the comptroller receives the notice under this subsection, the comptroller shall inform the authority of whether the comptroller is prepared to administer the tax in the additional territory.

(g) tax imposed under this section or the abolition of a tax under Subsection (a) of this section takes effect on the first day of the first complete calendar quarter that occurs after the expiration of the first complete calendar quarter that occurs after the date the comptroller receives a notice of the action as required by this section.

SECTION __.02. Not later than September 1, 2004, the Texas Transportation Commission shall create the border region high-speed rail authorities as required by this Act.

Floor Amendment Number 57:

Amend CSHB 3588 by adding the following ARTICLES and SECTIONS to read as follows and renumbering existing ARTICLES accordingly:

ARTICLE __. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION OF CERTAIN OFFENSES

SECTION __.01. Article 45.051, Code of Criminal Procedure, is amended to read as follows:

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge [justice] may, at the judge's discretion, defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

(b) During the deferral period, the judge [justice] may, at the judge's discretion, require the defendant to:

- (1) post a bond in the amount of the fine assessed to secure payment of the fine;
- (2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;
- (3) submit to professional counseling;
- (4) submit to diagnostic testing for alcohol or a controlled substance or drug;
- (5) submit to a psychosocial assessment;
- (6) participate in an alcohol or drug abuse treatment or education program;
- (7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs; ~~[and]~~
- (8) complete a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) or another course as directed by the judge;
- (9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and
- (10) comply with any other reasonable condition.

(c) On determining that [At the conclusion of the deferral period, if] the defendant [presents satisfactory evidence that he] has complied with the requirements imposed by the judge under this article, the judge [justice] shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. [Otherwise, the justice may proceed with an adjudication of guilt. After an adjudication of guilt, the justice may reduce the fine assessed or may then impose the fine assessed, less any portion of the assessed fine that has been paid.] If the complaint is dismissed, a special expense not to exceed the amount of the fine assessed may be imposed. Other than an offense under Section 545.413, Transportation Code, this subsection does not apply to an offense involving the operation of a motor vehicle.

(c-1) This subsection applies only to an offense involving the operation of a motor vehicle, other than an offense under Section 545.413, Transportation Code. At the conclusion of the deferral period,

if the defendant presents satisfactory evidence that the defendant has complied with the requirements imposed, the justice shall proceed with an adjudication of guilt but may not impose the fine assessed or a reduced fine.

(d) If ~~by [at]~~ the conclusion of the deferral period the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, the judge [justice] may impose the fine assessed or impose a lesser fine. The imposition of the fine or lesser fine constitutes a final conviction of the defendant.

(e) Records relating to a complaint dismissed as provided by this article may be expunged under Article 55.01 ~~[of this code]~~. If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.

(f) This article does not apply to:

(1) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies;

or

(2) a traffic offense committed by a person who holds a commercial driver's license.

SECTION __.02. Article 45.0511, Code of Criminal Procedure, is amended to read as follows:

Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL ~~[DEFERRED DISPOSITION]~~ PROCEDURES ~~[APPLICABLE TO TRAFFIC OFFENSES]~~. (a) This article applies only to an alleged offense that:

(1) is within the jurisdiction of a justice court or a municipal court;

(2) involves [involving] the operation of a motor vehicle; and

(3) is [other than a commercial motor vehicle, as] defined by:

(A) Section 472.022 [522.003], Transportation Code;

(B) Subtitle C, Title 7, Transportation Code; or

(C) Section 729.001(a)(3), Transportation Code[; and supplements Article 45.051].

(b) The judge [During the deferral period under Article 45.051, the justice:

[+] shall require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662, Transportation Code, if:

(1) the defendant elects driving safety course or motorcycle operator training course dismissal under this article;

(2) [deferred disposition and] the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the [preceding] 12 months preceding the date of the offense;

(3) [and

[2] may require the defendant to successfully complete a driving safety course approved by the Texas Education Agency if the defendant has completed an approved driving safety course within the preceding 12 months:

[(c) Subsection (b)(1) applies only if:

[+] the defendant [person] enters a plea under Article 45.021 in person or in writing of no contest or guilty on or [and;] before the answer date on the notice to appear and:

(A) presents in person or by counsel to the court a [an oral or written] request to take a course; or

(B) sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course;

(4) [(2) the court enters judgment on the person's plea of no contest or guilty at the time the plea is made but defers imposition of the judgment for 180 days;

[(3) the defendant [person] has a valid Texas driver's license or permit;

(5) [(4) the defendant [person] is charged with an offense to which this article applies, other than speeding 25 miles per hour or more over the posted speed limit; and

(6) [(5) the defendant [person] provides evidence of financial responsibility as required by Chapter 601, Transportation Code[;

[(6) the defendant's driving record as maintained by the Texas Department of Public Safety shows the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense; and

~~[(7) the defendant files an affidavit with the court stating that the person is not taking a course under this section and has not completed a course that is not shown on the person's driving record within the 12 months preceding the date of the offense].~~

(c) The court shall enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court:

(1) a uniform certificate of completion of the driving safety course or a verification of completion of the motorcycle operator training course;

(2) the defendant's driving record as maintained by the Department of Public Safety showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense; and

(3) an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as applicable, under this article on the date the request to take the course was made and had not completed such a course that is not shown on the defendant's driving record within the 12 months preceding the date of the offense.

(d) Notwithstanding Subsections (b)(2) and (3), ~~[Subsection (c)(1), on a written motion submitted to the court]~~ before the final disposition of the case, the court may grant a request to take a driving safety course or a motorcycle operator training course under this article.

(e) A request to take a driving safety course made at or before the time and at the place at which a defendant [person] is required to appear in court is an appearance in compliance with the defendant's [person's] promise to appear.

(f) In addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, the [The] court may:

(1) require a defendant [person] requesting a [driving safety] course under Subsection (b) to pay an administrative [a] fee set by the court to cover the cost of administering this article at an amount of not more than \$10; or

(2) require a defendant requesting a course under Subsection (d) to pay a fee set by the court at an amount not to exceed the maximum amount of the fine for the offense committed by the defendant [- including any other fee authorized by statute or municipal ordinance, to cover the cost of administering this article].

(g) A defendant [person] who requests but does not take a course is not entitled to a refund of the fee.

(h) Fees collected by a municipal court shall be deposited in the municipal treasury. Fees collected by another court shall be deposited in the county treasury of the county in which the court is located.

(i) If a defendant [person] requesting a [driving safety] course under this article fails to comply with Subsection (c) [furnish evidence of the successful completion of the course to the court], the court shall:

(1) notify the defendant [person] in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and

(2) require the defendant [person] to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(j) If the defendant [A person who] fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), the court shall enter an adjudication of guilt and impose sentence [commits a misdemeanor punishable as provided by Section 543.009; Transportation Code].

(k) On a defendant's [person's] showing of good cause for failure to furnish evidence to the court, the court may allow an extension of time during which the defendant [person] may present:

(1) a uniform certificate of course completion as evidence that the defendant [person] successfully completed the driving safety course; or

(2) a verification of course completion as evidence that the defendant successfully completed the motorcycle operator training course.

(l) When a defendant [person] complies with Subsection (c) [(b) and a uniform certificate of course completion is accepted by the court], the court shall:

(1) proceed with an adjudication of guilt, but may not impose the fine assessed or a reduced fine ~~[remove the judgment and dismiss the charge];~~

(2) report the fact that the defendant ~~[person]~~ successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and

(3) state in that ~~[this]~~ report whether the course was taken under ~~[the procedure provided by]~~ this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).

(m) If the defendant is charged with more than one offense, the defendant may complete a driving safety course in connection with only one of the charges ~~[The court may dismiss only one charge for each completion of a course].~~

(n) ~~[A charge that is dismissed under this article may not be part of a person's driving record or used for any purpose.]~~

~~[(t)]~~ An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged an insured under the policy because the court proceeded with an adjudication of guilt under Subsection(1)(1) or because the insured completed a driving safety course or a motorcycle operator training course, ~~[or had a charge dismissed]~~ under this article.

(o) ~~[(p)]~~ The court shall advise a defendant ~~[person]~~ charged with a misdemeanor under Section 472.022, Transportation Code, Subtitle C, Title 7, Transportation Code, or Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's ~~[person's]~~ right under this article to successfully complete a driving safety course or, if the offense was committed while operating a motorcycle, a motorcycle operator training course. The right to complete a course does not apply to a defendant ~~[person]~~ charged with:

(1) a violation of Section 545.066, ~~[545.401, 545.421,]~~ 550.022, or 550.023, Transportation Code; or

(2) an offense to which ~~[serious traffic violation as defined by]~~ Section 542.404 or 729.004(b) ~~[522.003]~~, Transportation Code, applies.

~~[(q)]~~ A notice to appear issued for an offense to which this article applies must inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense under Subtitle C, Title 7, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of the defendant's right to complete a motorcycle operator training course. The notice required by this subsection must read substantially as follows:

"You may be able to require that this charge be dismissed by successfully completing a driving safety course or a motorcycle operator training course. You will lose that right if, on or before your appearance date, you do not provide the court with notice of your request to take the course."

(q) If the notice required by Subsection (p) is not provided to the defendant charged with the offense, the defendant may continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (p) is provided to the defendant or there is a final disposition of the case.

(r) This article does not apply to an offense committed by a person who holds a commercial driver's license.

(s) An order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge. ~~[Nothing in this article shall prevent a court from assessing a special expense for deferred disposition in the same manner as provided by Article 45.051. For a deferred disposition under Subsection (b)(1), the court may only collect a fee of not more than \$10 in addition to any applicable court cost.]~~

SECTION __.03. Subsection (f), Section 472.022, Transportation Code, is amended to read as follows:

(f) Articles 45.051 and 45.0511 ~~[Article 45.54]~~, Code of Criminal Procedure, do ~~[does]~~ not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

SECTION __.04. The following laws are repealed:

(1) Section 543.101, Transportation Code; and

(2) Section 543.117, Transportation Code.

SECTION __.05. (a) This article takes effect September 1, 2003.

(b) Articles 45.051 and 45.0511, Code of Criminal Procedure, as amended by this article, apply only to an offense committed on or after September 1, 2003.

(c) An offense committed before September 1, 2003, is covered by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

ARTICLE __. DRIVER'S LICENSES

SECTION __.01. Section 521.292, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsections (a)(3), (7), or (9), and (b), an adjudication of guilt under Article 45.051(c-1), Code of Criminal Procedure, is not a conviction.

ARTICLE __. COMMERCIAL DRIVER'S LICENSES

SECTION __.01. Section 522.003(25), Transportation Code, is amended to read as follows:

(25) "Serious traffic violation" means:

(A) a conviction arising from the driving of a [commercial] motor vehicle, other than a parking, vehicle weight, or vehicle defect violation, for:

(i) [~~(A)~~] excessive speeding, involving a single charge of driving 15 miles per hour or more above the posted speed limit;

(ii) [~~(B)~~] reckless driving, as defined by state or local law;

(iii) [~~(C)~~] a violation of a state or local law related to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, arising in connection with a fatal accident;

(iv) [~~(D)~~] improper or erratic traffic lane change;

(v) [~~(E)~~] following the vehicle ahead too closely; or

(vi) [~~(F)~~ operating] a [commercial motor vehicle in] violation of Section 522.011; or

(B) a violation of Section [~~or~~] 522.015.

SECTION __.02. Section 522.081, Transportation Code, is amended to read as follows:

Sec. 522.081. DISQUALIFICATION. (a) This subsection applies [~~only~~] to a violation committed while operating any motor vehicle, including a commercial motor vehicle. A person who holds a commercial driver's license is disqualified from driving a commercial motor vehicle for:

(1) 60 days if convicted of:

(A) two serious traffic violations that occur within a three-year period; or

(B) one violation of a law that regulates the operation of a motor vehicle at a railroad grade crossing; or

(2) 120 days if convicted of:

(A) three serious traffic violations arising from separate incidents occurring within a three-year period; or

(B) two violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period[; or

~~(3) one year if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period].~~

(b) This subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle, except as provided by this subsection. A person who holds a commercial driver's license is disqualified from driving a commercial motor vehicle for one year:

(1) if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period;

(2) on first conviction of:

(A) [~~(1)~~] driving a [commercial] motor vehicle under the influence of alcohol or a controlled substance, including a violation of Section 49.04 or 49.07, Penal Code;

(B) [~~(2)~~] driving a commercial motor vehicle while the person's alcohol concentration was 0.04 or more;

(3) intentionally leaving the scene of an accident involving a [commercial] motor vehicle driven by the person;

(C) [~~(4)~~] using a [commercial] motor vehicle in the commission of a felony, other than a felony described by Subsection (d)(2);

~~(D) [(5) refusing to submit to a test to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while driving a commercial motor vehicle;~~

~~[(6)] causing the death of another person through the negligent or criminal operation of a [commercial] motor vehicle; or~~

~~(E) [(7)] driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or while the person is disqualified from driving a commercial motor vehicle, for an action or conduct that occurred while operating a commercial motor vehicle;~~

(3) for refusing to submit to a test under Chapter 724 to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating a motor vehicle in a public place; or

(4) if an analysis of the person's blood, breath, or urine under Chapter 724 determines that the person:

(A) had an alcohol concentration of 0.04 or more, or that a controlled substance or drug was present in the person's body, while operating a commercial motor vehicle in a public place; or

(B) had an alcohol concentration of 0.08 or more while operating a motor vehicle, other than a commercial motor vehicle, in a public place.

(c) A person who holds a commercial driver's license is disqualified from operating a commercial motor vehicle for three years if:

(1) the person:

(A) is convicted of an offense [If a violation] listed in Subsection (b)(2) and the vehicle being operated by the person was transporting a hazardous material required to be placarded; or

(B) refuses to submit to a test under Chapter 724 to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating a motor vehicle in a public place and the vehicle being operated by the person was transporting a hazardous material required to be placarded; or

(2) an analysis of the person's blood, breath, or urine under Chapter 724 determines that while transporting a hazardous material required to be placarded the person:

(A) while operating a commercial motor vehicle in a public place had an alcohol concentration of 0.04 or more, or a controlled substance or drug present in the person's body; or

(B) while operating a motor vehicle, other than a commercial motor vehicle, in a public place had an alcohol concentration of 0.08 or more [(b) occurred while the person was transporting a hazardous material required to be placarded, the person is disqualified for three years].

(d) A person is disqualified from driving a commercial motor vehicle for life:

(1) if the person [:

[(+) is convicted [of] two or more times [violations] of an offense specified by Subsection (b)(2) [(b)], or a combination of those offenses, arising from two or more separate incidents; [or]

(2) if the person uses a [commercial] motor vehicle in the commission of a felony involving:

(A) the manufacture, distribution, or dispensing of a controlled substance; or

(B) possession with intent to manufacture, distribute, or dispense a controlled substance; or

(3) for any combination of two or more of the following, arising from two or more separate incidents:

(A) a conviction of the person for an offense described by Subsection (b)(2);

(B) a refusal by the person described by Subsection (b)(3); and

(C) an analysis of the person's blood, breath, or urine described by Subsection (b)(4).

(e) A person may not be issued a commercial driver's license if, in connection with the person's operation of a commercial motor vehicle, the person commits an offense or engages in conduct that would disqualify the holder of a commercial driver's license from operating a commercial

motor vehicle, or is determined to have had an alcohol concentration of 0.04 or more or to have had a controlled substance or drug present in the person's body. The period of prohibition under this subsection is equal to the appropriate period of disqualification required by Subsections (a)-(d).

(f) In this section, "felony" means an offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

SECTION __.03. Section 522.087, Transportation Code, is amended to read as follows:

Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION. (a) A person is automatically disqualified under Section 522.081(a)(1)(B), Section 522.081(b)(2) [522.081(b)(1), (3), (4), (6), or (7)], or Section 522.081(d)(2). An appeal may not be taken from the disqualification.

(b) Disqualifying a person under Section 522.081(a), other than under Subdivision (1)(B) of that subsection, Section 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the notice and hearing procedures of Sections 521.295-521.303. An appeal of the disqualification is subject to Section 521.308.

SECTION __.04. (a) This article takes effect September 1, 2003.

(b) Sections 522.081 and 522.087, Transportation Code, as amended by this article, apply only to conduct that is engaged in or to an offense that is committed on or after the effective date of this article. Conduct that is engaged in or an offense committed before the effective date of this article is governed by Sections 522.081 and 522.087, Transportation Code, as those sections existed immediately before the effective date of this article, and the former law is continued in effect for that purpose.

Floor Amendment Number 58:

Amend CSHB 3588 in Article 5 of the bill, on page 118, between lines 6 and 7, by inserting the following:

(d) Notwithstanding Subsection (b), the department may not assign points to a person's license if the offense committed by the person was adjudicated under Article 45.051(c-1) or 45.0511(1) (1), Code of Criminal Procedure.

Floor Amendment Number 59:

Amend CSHB 3588 by adding the following appropriately numbered article and sections and renumber subsequent articles appropriately:

ARTICLE _____. HIGHWAY BEAUTIFICATION FEE

SECTION _____. Section 391.063, Transportation Code, is amended to read as follows:

Sec. 391.063. LICENSE FEE AND HIGHWAY BEAUTIFICATION FEE. (a) The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising owned by a license applicant.

(b) In addition to the fee under Subsection (a), the department shall collect from each license applicant an additional fee of \$11, of which:

(1) \$9 shall be used by the department only to assist owners of outdoor advertising in relocating outdoor advertising required to be removed or relocated under this chapter; and

(2) \$2 shall be used by the department for landscaping highways that are part of the interstate or primary system.

SECTION _____. Section 394.025, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to the fee under Subsection (a), the department shall collect from each permit applicant an additional fee of \$11, of which:

(1) \$9 shall be used by the department only to assist owners of off-premise signs in relocating signs required to be relocated or removed under this chapter; and

(2) \$2 shall be used by the department for landscaping rural roads as defined by Section 394.002 that are under the jurisdiction of this state.

SECTION _____. This article applies only to an application for a permit or permit renewal for outdoor advertising or an off-premise sign received by the Texas Department of Transportation on or after the effective date of this Act. An application received before the effective date of this Act is covered by the law in effect on the date the application was received, and the former law is continued in effect for that

purpose.

THIRD READING:

Floor Amendment Number 1:

- (1) Amend Section 227.021, page 6, line 27, by inserting a new subsection (c), to read as follows: "(c) The department may not directly provide telecommunications or information services or facilities to the public."
- (2) Amend Section 227.051, page 17, lines 3-4, by striking the words "Subject to the department's reasonable regulations pertaining to public health, safety, and welfare, a" and inserting "A"
- (3) Amend Section 227.051, page 17, line 17, by inserting a new subsection (d), to read as follows: "(d) Relocation of facilities pursuant to this section is subject to the department's reasonable regulations pertaining to public health, safety, and welfare."
- (4) Amend Section 227.071, page 27, line 7, by inserting a new subsection (f), to read as follows: "(f) The department may not require the owner of a public utility facility to pay a fee as a condition of crossing the Trans-Texas Corridor."
- (5) Renumber subsections accordingly
- (6) Amend Section 370.173, page 72, line 8, by inserting a new subsection (h), to read as follows: "(h) An authority may not require the owner of a public utility facility to pay a fee as a condition of placing a facility across the rights-of-way."

Floor Amendment Number 2:

Amend HB 3588 on third reading on page 115, line 7, by striking "Section 222.103(j), Transportation Code, is" and substituting "Sections 222.103(h) and (j), Transportation Code, are".

Floor Amendment Number 3:

Amend the Keel amendment No. 57 to HB 3588 [Second Reading House Floor Amendment Number 57] on third reading by striking Section _____. 04 (a) of the amendment (Page 19, lines 21 and 22) and substituting the following:
SECTION _____. 04 (a) This article takes effect June 1, 2005.