AN ACT
relating to the continuation and functions of the Texas Department
of Transportation; providing penalties.
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. (a) Section 12.0011, Parks and Wildlife Code,
is amended by adding Subsection (b-l) to read as follows:
(b-l) Recommendations and information submitted by the
department under Subsection (b) in response to a request for
comments from the Texas Department of Transportation must be
submitted not later than the 45th day after the date the department
receives the request.
(b) Subsection (b-l), Section 12.0011, Parks and Wildlife
Code, as added by this section, applies only to a request for
comments from the Texas Department of Transportation received on or
after the effective date of this Act.
SECTION 2. Section 201.001, Transportation Code, is amended
by adding Subsection (c) to read as follows:
(c) In this chapter, "local transportation entity" means an
entity that participates in the transportation planning process,
including:
(1) a regional tollway authority under Chapter 366;
(2) a rapid transportation authority under Chapter
451;
(3) a regional transportation authority under Chapter
1
(4) a rural transit district under Chapter 458;
(5) a coordinated county transportation authority under Chapter 460; or
(6) a metropolitan planning organization under Subchapter D, Chapter 472.

SECTION 3. (a) Section 201.051, Transportation Code, is amended by amending Subsections (b), (d), (f), (g), (h), and (j) and adding Subsection (b-1) to read as follows:

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area and be a registered voter of a county with a population of less than 150,000.

(b-1) A member of the commission may not accept a contribution to a campaign for election to an elected office. If a commissioner accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. The vacancy shall be filled in the manner provided by law.

(d) A person is not eligible to serve as a member of the commission if the person or the person's spouse:
(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;
(2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that
is regulated by or receives funds from the department;
(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or
(4) is registered, certified, or licensed by the department.

(f) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible to serve as [or a Texas trade association of automobile dealers may not be] a member of the commission.

(g) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible to serve as [or a Texas association of automobile dealers may not be] a member of the commission.

(h) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department is not eligible to [may not] serve as a member of the commission.

(j) In this section, "Texas trade association" means a [nonprofit,] cooperative[] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in
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promoting their common interest.

(b) Subsection (b), Section 201.051, Transportation Code, as amended by this section, does not affect the right of a commissioner serving on the effective date of this Act to complete the commissioner's term. The requirement of Subsection (b), Section 201.051, Transportation Code, as amended by this section, applies at the time a vacancy occurs in the position held by the person serving as the rural designee on the effective date of this Act.

SECTION 4. Subsection (a), Section 201.053, Transportation Code, is amended to read as follows:

(a). The governor [periodically] shall designate one commissioner as the chair of the commission, who shall serve as presiding officer of the commission.

SECTION 5. Subsection (a), Section 201.057, Transportation Code, is amended to read as follows:

(a) It is a ground for removal from the commission if a commissioner:

(1) does not have at the time of taking office [appointment] or maintain during service on the commission the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051;

(3) cannot discharge the commissioner's duties for a substantial part of the term for which the commissioner is appointed because of illness or disability; or

(4) is absent from more than half of the regularly
scheduled commission meetings that the commissioner is eligible to
attend during a calendar year, unless the absence is excused by
majority vote of the commission.

SECTION 6. Section 201.058, Transportation Code, is amended
to read as follows:

Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT.
The department shall provide to the members of the commission, as
often as necessary, information concerning the members'
responsibilities under applicable laws relating to standards of
conduct for state officers.

SECTION 7. Subchapter C, Chapter 201, Transportation Code,
is amended by adding Section 201.1075 to read as follows:

Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) The chief
financial officer shall ensure that the department's financial
activities are conducted in a transparent and reliable manner.
(b) The chief financial officer shall certify each month
that any state highway construction and maintenance contracts to be
awarded by the department during that month will not create state
liability that exceeds the department's most recent cash flow
forecast.

SECTION 8. Subchapter C, Chapter 201, Transportation Code,
is amended by adding Sections 201.118 and 201.119 to read as
follows:

Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
RESOLUTION PROCEDURES. (a) The commission shall develop and
implement a policy to encourage the use of:
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(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Sec. 201.119. LEGISLATIVE APPROPRIATIONS REQUEST.

(a) Department staff shall deliver the department's legislative appropriations request to the commission in an open meeting not later than the 30th day before the date the department submits the legislative appropriations request to the Legislative Budget Board.

(b) The commission may adopt the legislative appropriations request in the meeting described by Subsection (a) or in a
subsequent open meeting.

SECTION 9. Subchapter Y, Chapter 201, Transportation Code, is amended by adding Section 201.2002 to read as follows:

Sec. 201.2002. EDMUND P. KUEMPEL REST AREAS. (a) The eastbound and westbound rest areas located on Interstate Highway 10 in Guadalupe County are designated as the Edmund P. Kuempel Rest Areas.

(b) The department shall design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the Edmund P. Kuempel Rest Areas and any other appropriate information.

(c) The department shall erect markers at appropriate locations at the rest areas.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

SECTION 10. Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2015 [2011].

SECTION 11. Subchapter D, Chapter 201, Transportation Code,
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is amended by adding Section 201.2041 to read as follows:

Sec. 201.2041. SUBMISSION OF FINANCIAL AUDIT TO SUNSET COMMISSION. (a) The department shall submit with its agency report under Section 325.007, Government Code, a complete and detailed financial audit conducted by an independent certified public accountant.

(b) Subsection (a) does not apply if the department is subject to sunset review during the previous two-year period.

SECTION 12. Subchapter D, Chapter 201, Transportation Code, is amended by adding Sections 201.210 and 201.211 to read as follows:

Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to Section 556.006, Government Code, the commission or a department employee may not use money under the department's control or engage in an activity to influence the passage or defeat of legislation.

(b) Violation of Subsection (a) is grounds for dismissal of an employee.

(c) This section does not prohibit the commission or department employee from using state resources to:

(1) provide public information or information responsive to a request; or

(2) communicate with officers and employees of the federal government in pursuit of federal appropriations or programs.

(d) The department may not spend from funds appropriated to the department any money for the purpose of selecting, hiring, or retaining a person required to register under Chapter 305,
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Government Code, or the Lobbying Disclosure Act of 1995 (2 U.S.C. Section 1601 et seq.), unless that expenditure is allowed under state law.

Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) A department employee shall annually affirm the employee's adherence to the ethics policy adopted under Section 572.051(c), Government Code.

(b) The department shall establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section 572.051(c), Government Code.

SECTION 13. (a) Subsections (a) and (b), Section 201.401, Transportation Code, are amended to read as follows:

(a) A person may not be an employee of the department who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), exempt from the state's position classification plan or compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule] if the person is:

(1) an officer, employee, or paid consultant of a Texas trade association[4A] in the field of road construction or maintenance or outdoor advertising; or

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[(B) of automobile dealers; or]

(2) the spouse of an officer, manager, or paid consultant described by Subdivision (1).

(b) A person may not act as general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. A person who acts as general counsel to the department must be licensed as an attorney in this state.

(b) The changes in law made by this section to Section 201.401, Transportation Code, in the qualifications of the general counsel of the Texas Department of Transportation do not affect the eligibility of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the person's employment as general counsel. The changes in law apply only to a general counsel hired on or after the effective date of this Act.

SECTION 14. Section 201.404, Transportation Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) If an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position at or above the level of district engineer or division or office director, the commission shall consider whether the employee should be terminated. The annual performance evaluation of a position described by this subsection must include an evaluation of an employee's:

(1) professionalism;
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(2) diligence; and

(3) responsiveness to directives and requests from the commission and the legislature.

(b-2) If an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position that is below the level of district engineer, the department shall consider whether the employee should be terminated. The department shall provide a report to the commission regarding employees whose performances were unsatisfactory but who were not terminated.

SECTION 15. (a) Chapter 201, Transportation Code, is amended by adding Subchapter F-1 to read as follows:

SUBCHAPTER F-1. COMPLIANCE PROGRAM

Sec. 201.451. ESTABLISHMENT AND PURPOSE. The commission shall establish a compliance program, which must include a compliance office to oversee the program. The compliance office is responsible for:

(1) acting to prevent and detect serious breaches of departmental policy, fraud, waste, and abuse of office, including any acts of criminal conduct within the department;

(2) independently and objectively reviewing, investigating, delegating, and overseeing the investigation of:

(A) conduct described by Subdivision (1);

(B) criminal activity in the department;

(C) allegations of wrongdoing by department employees;

(D) crimes committed on department property; and

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(E) serious breaches of department policy;
(3) overseeing the operation of the telephone hotline established under Section 201.211;
(4) ensuring that members of the commission and department employees receive appropriate ethics training; and
(5) performing other duties assigned to the office by the commission.

Sec. 201.452. INVESTIGATION OVERSIGHT. (a) The compliance office has primary jurisdiction for oversight and coordination of all investigations occurring on department property or involving department employees.
(b) The compliance office shall coordinate and provide oversight for an investigation under this subchapter, but the compliance office is not required to conduct the investigation.
(c) The compliance office shall continually monitor an investigation conducted within the department, and shall report to the commission on the status of pending investigations.

Sec. 201.453. INITIATION OF INVESTIGATIONS. The compliance office may only initiate an investigation based on:

(1) authorization from the commission;
(2) approval of the director of the compliance office;
(3) approval of the executive director or deputy executive director of the department; or
(4) commission rules.

Sec. 201.454. REPORTS. (a) The compliance office shall report directly to the commission regarding performance of and activities related to investigations and provide the director with
information regarding investigations as appropriate.

(b) The director of the compliance office shall present to
the commission at each regularly scheduled commission meeting and
at other appropriate times:

(1) reports of investigations; and

(2) a summary of information relating to
investigations conducted under this subchapter that includes
analysis of the number, type, and outcome of investigations, trends
in investigations, and recommendations to avoid future complaints.

Sec. 201.455. COOPERATION WITH LAW ENFORCEMENT OFFICIALS
AND OTHER ENTITIES. (a) The director of the compliance office
shall provide information and evidence relating to criminal acts to
the state auditor’s office and appropriate law enforcement
officials.

(b) The director of the compliance office shall refer
matters for further civil, criminal, and administrative action to
appropriate administrative and prosecutorial agencies, including
the attorney general.

Sec. 201.456. AUTHORITY OF STATE AUDITOR. This subchapter
or other law related to the operation of the department's
compliance program does not preempt the authority of the state
auditor to conduct an audit or investigation under Chapter 321,
Government Code, or other law.

(b) Not later than January 1, 2013, the Texas Department of
Transportation shall submit a report to the legislature on the
effectiveness of the compliance program described by Subchapter
F-1, Chapter 201, Transportation Code, as added by this Act, and any
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1 recommended changes in law to increase the effectiveness of the compliance program.

SECTION 16. Section 201.601, Transportation Code, is amended to read as follows:

Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The department shall develop a statewide transportation plan covering a period of 24 years that contains all modes of transportation, including:

(1) highways and turnpikes;
(2) aviation;
(3) mass transportation;
(4) railroads and high-speed railroads; and
(5) water traffic.

(a-1) The plan must:

(1) contain specific, long-term transportation goals for the state and measurable targets for each goal;
(2) identify priority corridors, projects, or areas of the state that are of particular concern to the department in meeting the goals established under Subdivision (1); and
(3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from:

(A) other state agencies;
(B) political subdivisions;
(C) local transportation entities; and
(D) the general public.

(b) In developing the plan, the department shall seek
opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a). As appropriate, the department and the entities listed in Subsection (a-1)(3) [such as an agency or political subdivision] shall enter into a memorandum of understanding relating to the planning of transportation services.

(c) The plan must include a component that is not financially constrained and identifies transportation improvements designed to relieve congestion. In developing this 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).

(d) [The plan shall include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices measuring delay reductions or travel time improvements.] The department shall consider the goals and measurable targets established under Subsection (a-1)(1) [performance measures] in selecting transportation projects [improvements].

(e) The department annually shall provide to the lieutenant governor, the speaker of the house of representatives, and the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation issues an analysis of the department's progress in attaining the goals under Subsection (a-1)(1). The department shall make the information under this subsection available on its Internet website.

(f) The department shall update the plan every four years or
more frequently as necessary.

SECTION 17. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6015 to read as follows:

Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In developing each of its transportation plans and policy efforts, the department must clearly reference the statewide transportation plan under Section 201.601 and specify how the plan or policy effort supports or otherwise relates to the specific goals under that section.

SECTION 18. (a) Section 201.607, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Not later than January 1, 1997, and every fifth year after that date, the department and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archeological resources shall examine and revise their memorandum of understanding that:

(1) describes the responsibilities of each agency entering into the memorandum relating to the review of the potential environmental, historical, or archeological effect of a highway project;

(2) specifies the responsibilities of each agency entering into the memorandum relating to the review of a highway project;

(3) specifies the types of information the department must provide to the reviewing agency and the period during which the department must provide the information;
(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department, as negotiated by the department and the agency but which may not exceed 45 days after the date the agency receives a request for comments from the department; [and]

(5) specifies that comments submitted to the department later than the period specified under Subdivision (4) will be considered by the department to the extent possible; and

(6) includes any other agreement necessary for the effective coordination of the review of the environmental, historical, or archeological effect of a highway project.

(c) The department by rule shall establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

(b) Subsection (a), Section 201.607, Transportation Code, as amended by this section, applies only to a request for comments from the Texas Department of Transportation received by a state agency on or after the effective date of this Act. As necessary, the Texas Department of Transportation and each affected state agency shall promptly revise the memorandum of understanding required by Section 201.607, Transportation Code, to implement the change made by this section to Subsection (a), Section 201.607, Transportation Code.

SECTION 19. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.620 to read as follows:

Sec. 201.620. COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The
1 department shall collaborate with metropolitan planning
2 organizations to develop mutually acceptable assumptions for the
3 purposes of long-range federal and state funding forecasts and use
4 those assumptions to guide long-term planning in the statewide
5 transportation plan under Section 201.601.

6 SECTION 20. Subchapter H, Chapter 201, Transportation Code, 7 is amended by adding Section 201.622 to read as follows:
8 Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE.
9 (a) Notwithstanding Section 418.018, Government Code, in a county
10 with a population of less than 75,000 and with a verifiable history
11 of wildfire, the department may designate an emergency evacuation
12 route for use in the event of a wildfire emergency. The department
13 may establish criteria to determine which areas of a county are
14 subject to a potential wildfire emergency.
15 (b) The department may assist in the improvement of a
16 designated wildfire emergency evacuation route.
17 (c) Criteria for determining a wildfire emergency
18 evacuation route must provide for evacuation of commercial
19 establishments such as motels, hotels, and other businesses with
20 overnight accommodations.
21 (d) A wildfire emergency evacuation route designated under
22 Subsection (a) may include federal or state highways or county
23 roads.

24 SECTION 21. (a) Chapter 201, Transportation Code, is
25 amended by adding Subchapter I-1 to read as follows:
26 SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS
27 Sec. 201.751. DEFINITIONS. In this subchapter:
(1) "Day" means a calendar day.
(2) "Federal Highway Administration" means the United States Department of Transportation Federal Highway Administration.
(3) "Highway project" means a highway or related improvement that is:
   (A) part of the state highway system; or
   (B) not part of the state highway system but funded wholly or partly by federal money.
(4) "Local government sponsor" means a political subdivision of the state that:
   (A) elects to participate in the planning, development, design, funding, or financing of a highway project; and
   (B) is a municipality or a county, a group of adjoining counties, a county acting under Chapter 284, a regional tollway authority operating under Chapter 366, a regional mobility authority operating under Chapter 370, a local government corporation, or a transportation corporation created under Chapter 431.

Sec. 201.752. STANDARDS. (a) The commission by rule shall establish standards for processing an environmental review document for a highway project. The standards must increase efficiency, minimize delays, and encourage cooperation by the department with a local government sponsor, with a goal of prompt approval of legally sufficient documents.
(b) The standards apply regardless of whether the
The standards must address, for each type of environmental review document:

(1) the issues and subject matter to be included in the project scope prepared under Section 201.754;
(2) the required content of a draft environmental review document;
(3) the process to be followed in considering each type of environmental review document; and
(4) review deadlines, including the deadlines in Section 201.759.

The standards must include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

For highway projects described in Section 201.753(a), the standards may provide a process and criteria for the prioritization of environmental review documents in the event the department makes a finding that it lacks adequate resources to timely process all documents it receives. Standards established pursuant to this subsection must provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and must ensure that the environmental review document for each highway project
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will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS. (a) A local government sponsor or the department may prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by the commission as being eligible for participation under this subchapter.

(b) Notwithstanding Subsection (a), a local government sponsor may prepare an environmental review document for a highway project that is not identified by the commission or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by commission rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) A fee received by the department under Subsection (b) must be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Sec. 201.754. SCOPE OF PROJECT. If an environmental review document is prepared by a local government sponsor, the local
government sponsor must prepare a detailed scope of the project in collaboration with the department before the department may process the environmental review document.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local government sponsor may submit notice to the department proposing that the local government sponsor prepare the environmental review document for a highway project.

(b) The notice must include:

(1) the project scope prepared under Section 201.754;

and

(2) a request for classification of the project.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for:

(1) project scope determination;

(2) environmental reports;

(3) the environmental review document;

(4) environmental permits and conditions;

(5) coordination with resource agencies; and

(6) public participation.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's submission of an environmental review document must include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Not later than the 20th day after the date the
department receives a local government sponsor's environmental review document, the department shall either:

(1) issue a letter confirming that the document is administratively complete and ready for technical review; or

(2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if the department sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by the department to be missing from the document.

(b) If the department provides notice under Subsection (a), the department shall undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) The local government sponsor may resubmit any environmental review document determined by the department under Section 201.757 not to be administratively complete, and the department shall issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sec. 201.759. REVIEW DEADLINES. (a) The following deadlines must be included in the standards adopted under Section
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201.752:

(1) the department shall issue a classification letter not later than the 30th day after the date the department receives notice from a local government sponsor under Section 201.755;

(2) for a project classified as a programmatic categorical exclusion, the environmental decision must be rendered not later than the 60th day after the date the supporting documentation is received by the department;

(3) for a project classified as a categorical exclusion, the environmental decision must be rendered not later than the 90th day after the date the supporting documentation is received by the department;

(4) for a project that requires the preparation of an environmental assessment:

(A) the department must provide all department comments on a draft environmental assessment not later than the 90th day after the date the draft is received by the department; and

(B) the department must render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to the department; or

(ii) the date the public involvement process concludes;

(5) the department must render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by the department;
(6) for a project that requires the preparation of an environmental impact statement, the department shall render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Review deadlines under this section specify the date by which the department will render the environmental decision on a project or the time frames by which the department will make a recommendation to the Federal Highway Administration, as applicable.

(c) A deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to department comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for the department concerning compliance with applicable law.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Notwithstanding any provision of this subchapter

and
or any other law, a local government sponsor and the department may enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. For a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and the department under this section.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE. (a) Not later than June 30 and December 31 of each year, the department shall submit a report to the commission at a regularly scheduled commission meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

1. how the project was classified for environmental review;
2. the current status of the environmental review;
3. the date on which the department is required to make an environmental decision under applicable deadlines;
4. an explanation of any delays; and
5. any deadline under Section 201.759 missed by the department.

(b) Not later than December 1 of each year, the department shall submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter.
including a status report for the preceding 12-month period that
contains the information described in Subsection (a).

(c) The department shall post copies of the reports required
under this section on its Internet website and shall provide a copy
of the report required by Subsection (b) to each member of the
legislature who has at least one project covered by the report in
the member's district.

(d) The department shall make available on its Internet
website and update regularly the status of projects being processed
under this subchapter.

(b) The Texas Transportation Commission shall adopt rules
to implement Subchapter I-1, Chapter 201, Transportation Code, as
added by this section, not later than March 1, 2012.

(c) Subchapter I-1, Chapter 201, Transportation Code, as
added by this section, applies only to a notice of a local
government sponsor proposing the sponsor's preparation of an
environmental review document that is received by the Texas
Department of Transportation on or after the effective date of this
Act. Submissions to the Texas Department of Transportation
received before the effective date of this Act are governed by the
law in effect on the date the submission was received, and that law
is continued in effect for that purpose.

SECTION 22. (a) Section 201.801, Transportation Code, is
amended to read as follows:

Sec. 201.801. [INFORMATION ABOUT DEPARTMENT +] COMPLAINTS.
(a) The department shall maintain a system to promptly and
efficiently act on complaints filed with the department. The
department shall maintain information about the parties to and the
subject matter of a complaint and a summary of the results of the
review or investigation of the complaint and the disposition of the
complaint.

(b) The department shall make information available
describing its procedures for complaint investigation and
resolution [prepare information of public interest describing the
functions of the department and the department's procedures by
which a complaint is filed with the department and resolved by the
department. The department shall make the information available to
the public and appropriate state agencies].

[(b) The commission by rule shall establish methods by which
consumers and service recipients are notified of the department's
name, mailing address, and telephone number for directing
complaints to the department. The commission may provide for that
notification:

[(1) on each registration form, application, or
written contract for services of an individual or entity regulated
by the department;

[(2) on a sign prominently displayed in the place of
business of each individual or entity regulated by the department;

or

[(3) in a bill for service provided by an individual or
entity regulated by the department.]

(c) The department shall

[(1) keep an information file about each written
complaint filed with the department that the department has the
authority to resolve, and

[(2) provide the person who filed the complaint, and

each person or entity that is the subject of the complaint,

information about the department's policies and procedures
relating to complaint investigation and resolution.

[(d)] The department[, at least quarterly and until final
disposition of a written complaint that is filed with the
department and that the department has the authority to resolve,]
shall periodically notify the parties to the complaint of its
status until final disposition unless the notice would jeopardize
an undercover investigation.

(d) The commission shall adopt rules applicable to each
division and district to establish a process to act on complaints
filed with the department [(e) With regard to each complaint filed
with the department, the department shall keep the following
information:]

[(1) the date the complaint is filed,
(2) the name of the person filing the complaint,
(3) the subject matter of the complaint,
(4) a record of each person contacted in relation to
the complaint,
(5) a summary of the results of the review or
investigation of the complaint, and
(6) if the department takes no action on the
complaint, an explanation of the reasons that no action was taken].

(e) The department shall develop a standard form for
submitting a complaint and make the form available on its Internet
The department shall establish a method to submit complaints electronically.

(f) The department shall develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. The department shall use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(g) The department shall:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including:

(i) the nature of the complaints;

(ii) their disposition; and

(iii) the length of time to resolve complaints;

(B) complaint information on a district and a divisional basis; and

(C) the number of similar complaints filed, and the number of persons who filed each complaint; and

(2) report the information on a monthly basis to the division directors, office directors, and district engineers and on a quarterly basis to the commission.

(b) The Texas Transportation Commission shall adopt rules under Section 201.801, Transportation Code, as amended by this section, not later than March 1, 2012.

SECTION 23. Subsection (a), Section 201.802, Transportation Code, is amended to read as follows:
(a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the department.

SECTION 24. (a) Subchapter J, Chapter 201, Transportation Code, is amended by adding Sections 201.807, 201.808, 201.809, 201.810, and 201.811 to read as follows:

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM.

(a) In this section, "department project" means a highway project under the jurisdiction of the department, including a grouped rehabilitation and preventive maintenance project, that:

1. is being developed or is under construction; and
2. is identified in the work program required under Section 201.998.

(b) The department shall establish a project information reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding all of the department's transportation plans and programs, including the unified transportation program required by Section 201.991. The department shall post information on its Internet website as required by this subsection as the information becomes available to the department and in a manner that is not cost prohibitive. The project information reporting system shall contain information about:

1. each department project, including:
   (A) the status of the project;
   (B) each source of funding for the project;
(C) benchmarks for evaluating the progress of the project;

(D) timelines for completing the project;

(E) a list of the department employees responsible for the project, including information to contact each person on that list; and

(F) the results of the annual review required under Subsection (e); and

(2) the department's funds, including each source for the department's funds, and the amount and general type or purpose of each expenditure as described in the comptroller's statewide accounting system, reported by each:

(A) department district;

(B) program funding category as required by section 201.991(b)(2); and

(C) type of revenue, including revenue from a comprehensive development agreement or a toll project.

(c) In developing the project information reporting system, the department shall collaborate with:

(1) the legislature;

(2) local transportation entities; and

(3) members of the public.

(d) The department shall make the statistical information provided under this section available on the department's Internet website in more than one downloadable electronic format.

(e) As a component of the project information reporting system required by this section, the department shall conduct an
annual review of the benchmarks and timelines of each project included in the department's transportation plans, including the unified transportation program, to determine the completion rates of the projects and whether the projects were completed on time.

(f) The department shall update the information contained in the project information reporting system on a regular basis, as specified by commission rule.

Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES.
(a) The department shall develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan required by Section 201.601.

(b) The department shall establish a transportation expenditure reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

(c) The department shall include in the transportation expenditure reporting system:

(1) reports prepared by the department or an institution of higher education that evaluate the effectiveness of the department's expenditures on transportation projects to achieve the transportation goal;

(2) information about the condition of the pavement for each highway under the jurisdiction of the department,
including the percentage of pavement that the department determines
to be in good or better condition;

(3) the condition of bridges, including information
about bridge condition scores;

(4) information about peak-hour travel congestion in
the eight largest metropolitan areas of the state; and

(5) information about the number of traffic fatalities
per 100 million miles traveled.

(d) The department shall provide the information made
available under Subsection (c) in a format that allows a person to
conduct electronic searches for information regarding a specific
county, highway under the jurisdiction of the department, or type
of road.

(e) The department shall establish criteria to prioritize
the transportation needs for the state that are consistent with the
statewide transportation plan.

(f) Each department district shall enter information into
the transportation expenditure reporting system, including
information about:

(1) each district transportation project; and

(2) the category to which the project has been
assigned and the priority of the project in the category under
Section 201.995.

(g) The transportation expenditure reporting system shall
allow a person to compare information produced by that system to
information produced by the project information reporting system.

(h) To provide a means of verifying the accuracy of
information being made available through the transportation expenditure reporting system, the department shall retain and archive appropriate documentation supporting the expenditure information or data summary that is detailed in the reporting system, by archiving copies of the original supporting documentation in a digital, electronic, or other appropriate format of storage or imaging that allows departmental management and retrieval of the records. Supporting documentation may include contract or transactional documents, letter agreements, invoices, statements, payment vouchers, requests for object of expenditure payments to be made by or on behalf of the department, and other items establishing the purpose and payment of the expenditure. The documentation shall be retained for the applicable period as set forth in rules for records retention and destruction promulgated by the Texas State Library and Archives Commission.

Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The department annually shall evaluate and publish a report about the status of each transportation goal for this state. The report must include:

(1) information about the progress of each long-term transportation goal that is identified by the statewide transportation plan;

(2) the status of each project identified as a major priority;

(3) a summary of the number of statewide project implementation benchmarks that have been completed; and

(4) information about the accuracy of previous
department financial forecasts.

(b) The department shall disaggregate the information in the report by department district.

(c) The department shall provide a copy of the district report to each member of the legislature for each department district located in the member's legislative district, and at the request of a member, a department employee shall meet with the member to explain the report.

(d) The department shall provide a copy of each district report to the political subdivisions located in the department district that is the subject of the report, including:

(1) a municipality;

(2) a county; and

(3) a local transportation entity.

Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION.

(a) To the extent practicable and to avoid duplication of reporting requirements, the department may combine the reports required under this subchapter with reports required under other provisions of this code.

(b) The department shall develop a central location on the department's Internet website that provides easily accessible and searchable information to the public contained in the reports required under this subchapter and other provisions of this code.

Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The department shall develop and implement a policy for public involvement that guides and encourages public involvement with the department. The policy must:
1 (1) provide for the use of public involvement techniques that target different groups and individuals;
2 (2) encourage continuous contact between the department and persons outside the department throughout the transportation decision-making process;
3 (3) require the department to make efforts toward:
4 (A) clearly tying public involvement to decisions made by the department; and
5 (B) providing clear information to the public about specific outcomes of public input;
6 (4) apply to all public input with the department, including input:
7 (A) on statewide transportation policy-making;
8 (B) in connection with the environmental process relating to specific projects; and
9 (C) into the commission's rulemaking procedures; and
10 (5) require a person who makes or submits a public comment, at the time the comment is made or disclosed, to disclose in writing on a witness card whether the person:
11 (A) does business with the department;
12 (B) may benefit monetarily from a project; or
13 (C) is an employee of the department.

(b) The department shall document the number of positive, negative, or neutral public comments received regarding all environmental impact statements as expressed by the public through the department's public involvement process. The department shall:
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(1) present this information to the commission in an open meeting; and

(2) report this information on the department's Internet website in a timely manner.

(b) Not later than September 1, 2011, the Texas Department of Transportation shall establish the central location on the department's Internet website required by Section 201.810, Transportation Code, as added by this section.

SECTION 25. Chapter 201, Transportation Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

Sec. 201.991. UNIFIED TRANSPORTATION PROGRAM. (a) The department shall develop a unified transportation program covering a period of 10 years to guide the development of and authorize construction of transportation projects. The program must:

(1) annually identify target funding levels; and

(2) list all projects that the department intends to develop or begin construction of during the program period.

(b) The commission shall adopt rules that:

(1) specify the criteria for selecting projects to be included in the program;

(2) define program funding categories, including categories for safety, maintenance, and mobility; and

(3) define each phase of a major transportation project, including the planning, programming, implementation, and construction phases.

(c) The department shall publish the entire unified...
transportation program and summary documents highlighting project benchmarks, priorities, and forecasts in appropriate media and on the department's Internet website in a format that is easily understandable by the public.

(d) In developing the rules required by this section, the commission shall collaborate with local transportation entities.

Sec. 201.992. ANNUAL UPDATE TO UNIFIED TRANSPORTATION PROGRAM. (a) The department shall annually update the unified transportation program.

(b) The annual update must include:

(1) the annual funding forecast required by Section 201.993;

(2) the list of major transportation projects required by Section 201.994(b); and

(3) the category to which the project has been assigned and the priority of the project in the category under Section 201.995.

(c) The department shall collaborate with local transportation entities to develop the annual update to the unified transportation program.

Sec. 201.993. ANNUAL FUNDING AND CASH FLOW FORECASTS.

(a) The department annually shall:

(1) develop and publish a forecast of all funds the department expects to receive, including funds from this state and the federal government; and

(2) use that forecast to guide planning for the unified transportation program.
(b) The department shall collaborate with local transportation entities to develop scenarios for the forecast required by Subsection (a) based on mutually acceptable funding assumptions.

(c) Not later than September 1 of each year, the department shall prepare and publish a cash flow forecast for a period of 20 years.

Sec. 201.994. MAJOR TRANSPORTATION PROJECTS. (a) The commission by rule shall:

(1) establish criteria for designating a project as a major transportation project;

(2) develop benchmarks for evaluating the progress of a major transportation project and timelines for implementation and construction of a major transportation project; and

(3) determine which critical benchmarks must be met before a major transportation project may enter the implementation phase of the unified transportation program.

(b) The department annually shall update the list of projects that are designated as major transportation projects.

(c) In adopting rules required by this section, the commission shall collaborate with local transportation entities.

Sec. 201.995. PRIORITY PROJECTS IN PROGRAM CATEGORIES. (a) The commission by rule shall:

(1) establish categories in the unified transportation program;

(2) assign each project identified in the program to a category; and
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(3) designate the priority ranking of each project within each category.

(b) The department shall collaborate with local transportation entities when assigning each project included in the unified transportation program to a category established under Subsection (a).

(c) The highest priority projects within an applicable category of the unified transportation program must be projects designated as major transportation projects.

Sec. 201.996. FUNDING ALLOCATION.  (a) For each funding category established under Section 201.991(b)(2), the commission by rule shall specify the formulas for allocating funds to districts and metropolitan planning organizations for:

1. preventive maintenance and rehabilitation of the state highway system in all districts;
2. mobility and added capacity projects in metropolitan and urban areas;
3. mobility and added capacity projects on major state highways that provide statewide connectivity between urban areas and highway system corridors;
4. congestion mitigation and air quality improvement projects in nonattainment areas;
5. metropolitan mobility and added capacity projects within the boundaries of designated metropolitan planning areas of metropolitan planning organizations located in a transportation management area;
6. transportation enhancements project funding; and
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(7) projects eligible for federal or state funding, as determined by the applicable district engineer.

(b) Subject to applicable state and federal law, the commission shall determine the allocation of funds in all of the other categories established under Section 201.991(b)(2), including a category for projects of specific importance to the state, including projects that:

1. promote economic opportunity;
2. increase efficiency on military deployment routes or that retain military assets; and
3. maintain the ability of appropriate entities to respond to emergencies.

(c) The commission shall update the formulas established under this section at least every four years.

Sec. 201.997. FUND DISTRIBUTION. (a) The department shall allocate funds to the department districts based on the formulas adopted under Section 201.996.

(b) In distributing funds to department districts, the department may not exceed the cash flow forecast prepared and published under Section 201.993(c).

Sec. 201.998. WORK PROGRAM. (a) Each department district shall develop a consistently formatted work program based on the unified transportation program covering a period of four years that contains all projects that the district proposes to implement during that period.

(b) The work program must contain:

1. information regarding the progress of projects
designated as major transportation projects, according to project implementation benchmarks and timelines established under Section 201.994; and

(2) a summary of the progress on other district projects.

(c) The department shall use the work program to:

(1) monitor the performance of the district; and

(2) evaluate the performance of district employees.

(d) The department shall publish the work program in appropriate media and on the department's Internet website.

SECTION 26. Section 202.021, Transportation Code, is amended by amending Subsection (e) and adding Subsection (e-l) to read as follows:

(e) The commission may waive payment for real property transferred to a governmental entity under this section if:

(1) the estimated cost of future maintenance on the property equals or exceeds the fair value of the property; or

(2) the property is a highway right-of-way and the governmental entity assumes or has assumed jurisdiction, control, and maintenance of the right-of-way for public road purposes.

(e-l) A grant transferring real property under Subsection (e)(2) must contain a reservation providing that if property described by that subsection ceases to be used for public road purposes, that real property shall immediately and automatically revert to this state.

SECTION 27. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.005 and 222.006 to read as
Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.
Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS.

The department by rule shall establish a process to certify department district environmental specialists to work on all documents related to state and federal environmental review processes. The certification process must:

(1) be available to department employees; and
(2) require continuing education for recertification.

SECTION 28. Subsection (i), Section 222.106, Transportation Code, is amended to read as follows:

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality. A municipality may issue bonds to pay all or part of the cost of the transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure repayment of those bonds. [Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section.]

SECTION 29. Section 222.107, Transportation Code, is amended by amending Subsections (f) and (h) and adding Subsections (h-1) and (i-1) to read as follows:

(f) The order or resolution designating an area as a transportation reinvestment zone must:
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(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of [name of county]," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the county; and

(5) establish an ad valorem tax increment account for the zone.

(h) The commissioners court may:

(1) from taxes collected on property in a zone, pay into a tax increment account for the zone an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code;

(2) by order or resolution enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes imposed by the county on the owner's property;

(3) by order or resolution elect to abate all or a
portion of the ad valorem taxes imposed by the county on all real
property in a zone; or

(4) grant other relief from ad valorem taxes on
property in a zone.

(h-1) All abatements or other relief granted by the
commissioners court in a transportation reinvestment zone must be
equal in rate. [In the alternative, the commissioners court by
order or resolution may elect to abate a portion of the ad valorem
taxes imposed by the county on all real property located in the
zone.] In any ad valorem tax year, the total amount of the taxes
abated or the total amount of relief granted under this section may
not exceed the amount calculated under Subsection (a)(1) for that
year, less any amounts allocated under previous agreements,
including agreements under Section 381.004, Local Government Code,
or Chapter 312, Tax Code.

(i-1) In the event a county collects a tax increment, it may
issue bonds to pay all or part of the cost of a transportation
project and may pledge and assign all or a specified amount of money
in the tax increment account to secure those bonds.

SECTION 30. Section 223.002, Transportation Code, is
amended to read as follows:

Sec. 223.002. NOTICE OF BIDS [BY PUBLICATION]. [(a)] The
department shall give [publish] notice regarding [of] the time and
place at which bids on a contract will be opened and the contract
awarded. The commission by rule shall determine the most effective
method for providing the notice required by this section.

[(b)] The notice must be published in a newspaper published
in the county in which the improvement is to be made once a week for at least two weeks before the time set for awarding the contract and in two other newspapers that the department may designate.

[(c) Instead of the notice required by Subsection (b), if the department estimates that the contract involves an amount less than $300,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.

[(d) If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper published in the county nearest the county seat of the county in which the improvement is to be made, and

[(e) in which a newspaper is published.]]

SECTION 31. Section 223.201, Transportation Code, is amended by amending Subsections (f) and (i) and adding Subsections (j), (k), (l), and (m) to read as follows:

(f) The department may [Except as provided by Subsections (h) and (i), the authority to] enter into a comprehensive development agreement only for all or part of:

(1) the State Highway 99 (Grand Parkway) project;

(2) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380;

(3) the North Tarrant Express project in Tarrant and Dallas Counties, including:

(A) on State Highway 183 from State Highway 121
to State Highway 161 (Segment 2E);

(B) on Interstate Highway 35W from Interstate Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and

(C) on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4);

(4) the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E;

(5) the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774;

(6) the State Highway 288 project in Brazoria County and Harris County; and

(7) the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99 [agreements provided by this section expires on August 31, 2009].

(i) The authority to enter into a comprehensive development agreement for a project described by Subsection (f), other than the State Highway 99 (Grand Parkway) project [exempted from Subsection (f) or Section 223.210(b)] expires August 31, 2015 [2011].

(j) Before the department may enter into a comprehensive development agreement under Subsection (f), the department must:

(1) obtain, not later than August 31, 2013, the appropriate environmental clearance for any project other than the State Highway 99 (Grand Parkway) project; and

(2) present to the commission a full financial plan for the project, including costing methodology and cost proposals.
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(k) Not later than December 1, 2012, the department shall present a report to the commission on the status of a project described by Subsection (f). The report must include:

(1) the status of the project's environmental clearance;

(2) an explanation of any project delays; and

(3) if the procurement is not completed, the anticipated date for the completion of the procurement.

(1) In this section, "environmental clearance" means:

(1) a finding of no significant impact has been issued for the project; or

(2) for a project for which an environmental impact statement is prepared, a record of decision has been issued for that project.

(m) The department may not develop a project under this section as a project under Chapter 227.

SECTION 32. Subchapter E, Chapter 223, Transportation Code, is amended by adding Sections 223.2011 and 223.2012 to read as follows:

Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding Sections 223.201(f) and 370.305(c), the department or an authority under Section 370.003 may enter into a comprehensive development agreement relating to improvements to, or construction of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street;

(2) the U.S. 183 (Bergstrom Expressway) project from
Springdale Road to Patton Avenue; or

(3) a project consisting of the construction of:

(A) the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847; and

(B) the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100.

(b) Before the department or an authority may enter into a comprehensive development agreement under this section, the department or the authority, as applicable, must meet the requirements under Section 223.201(j).

(c) Not later than December 1, 2012, the department or the authority, as applicable, shall present a report to the commission on the status of a project described by Subsection (a). The report must include:

(1) the status of the project's environmental clearance;

(2) an explanation of any project delays; and

(3) if the procurement is not completed, the anticipated date for the completion of the procurement.

(d) The department may not provide any financial assistance to an authority to pay for the costs of procuring an agreement under this section.

(e) In this section, "environmental clearance" means:

(1) a finding of no significant impact has been issued for the project; or

(2) for a project for which an environmental impact statement is prepared, a record of decision has been issued for that
(f) The authority to enter into a comprehensive development agreement under this section expires August 31, 2015.

Sec. 223.2012. NORTH TARRANT EXPRESS PROJECT PROVISIONS.
(a) In this section, the North Tarrant Express project is the project described by Section 223.201(f)(3) entered into on June 23, 2009.

(b) The comprehensive development agreement for the North Tarrant Express project may provide for negotiating and entering into facility agreements for future phases or segments of the project at the times that the department considers advantageous to the department.

(c) The department is not required to use any further competitive procurement process to enter into one or more related facility agreements with the developer or an entity controlled by, to be controlled by, or to be under common control with the developer under the comprehensive development agreement for the North Tarrant Express project.

(d) A facility agreement for the North Tarrant Express project must terminate on or before June 22, 2061. A facility agreement may not be extended or renewed beyond that date.

(e) The department may include or negotiate any matter in a comprehensive development agreement for the North Tarrant Express project that the department considers advantageous to the department.

(f) The comprehensive development agreement for the North Tarrant Express project may provide the developer or an entity...
controlled by, to be controlled by, or to be under common control
with the developer with a right of first negotiation under which the
developer may elect to negotiate with the department and enter into
one or more related facility agreements for future phases or
segments of the project.

SECTION 33. Section 223.203, Transportation Code, is
amended by adding Subsections (f-2), (1-1), (1-2), and (p) and
amending Subsection (g) to read as follows:

(f-2) A private entity responding to a request for detailed
proposals issued under Subsection (f) must identify:

(1) companies that will fill key project roles,
including project management, lead design firm, quality control
management, and quality assurance management; and

(2) entities that will serve as key task leaders for
genechnical, hydraulics and hydrology, structural, environmental,
utility, and right-of-way issues.

(g) In issuing a request for detailed proposals under
Subsection (f), the department may solicit input from entities
qualified under Subsection (e) or any other person. The department
may also solicit input regarding alternative technical concepts
after issuing a request under Subsection (f). A technical solution
presented with a proposal must be fully responsive to, and have
demonstrated resources to be able to fulfill, all technical
requirements for the project, including specified quality
assurance and quality control program requirements, safety program
requirements, and environmental program requirements. A proposal
that includes a technical solution that does not meet those
requirements is ineligible for further consideration.

(1-1) A private entity selected for a comprehensive development agreement may not make changes to the companies or entities identified under Subsection (f-2) unless the original company or entity:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the private entity;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(1-2) If the private entity makes team changes in violation of Subsection (1-1), any cost savings resulting from the change accrue to the state and not to the private entity.

(p) All teaming agreements and subconsultant agreements must be executed and provided to the department before the execution of the comprehensive development agreement.

SECTION 34. Chapter 223, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DESIGN-BUILD CONTRACTS

Sec. 223.241. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an
engineering firm and a construction contractor qualified to engage
in the construction of highway projects in this state.

(2) "Design-build method" means a project delivery
method by which an entity contracts with a single entity to provide
both design and construction services for the construction,
rehabilitation, alteration, or repair of a facility.

Sec. 223.242. SCOPE OF AND LIMITATIONS ON CONTRACTS.
(a) Notwithstanding the requirements of Subchapter A and Chapter
2254, Government Code, the department may use the design-build
method for the design, construction, expansion, extension, related
capital maintenance, rehabilitation, alteration, or repair of a
highway project.

(b) A design-build contract under this subchapter may not
grant to a private entity:

(1) a leasehold interest in the highway project; or
(2) the right to operate or retain revenue from the
operation of a toll project.

(c) In using the design-build method and in entering into a
contract for the services of a design-build contractor, the
department and the design-build contractor shall follow the
procedures and requirements of this subchapter.

(d) The department may enter into a design-build contract
for a highway project with a construction cost estimate of $50
million or more to the department.

(d-1) The department may not enter into more than three
contracts under this section in each fiscal year. This subsection
expires August 31, 2015.
(e) Money disbursed by the department to pay engineering costs for the design of a project incurred by the design-build contractor under a design-build contract may not be included in the amounts under Section 223.041:

(1) required to be spent in a state fiscal biennium for engineering-related services; or


Sec. 223.243. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as the department's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a highway project, the department shall select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, who is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by the department and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 223.244. OTHER PROFESSIONAL SERVICES. (a) The department shall provide or contract for, independently of the design-build contractor, the following services as necessary for the acceptance of the highway project by the department:
(1) inspection services;
(2) construction materials engineering and testing; and
(3) verification testing services.

(b) The department shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude a design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 223.245. REQUEST FOR QUALIFICATIONS. (a) For any highway project to be delivered through the design-build method, the department must prepare and issue a request for qualifications. A request for qualifications must include:

(1) information regarding the proposed project's location, scope, and limits;
(2) information regarding funding that may be available for the project;
(3) criteria that will be used to evaluate the qualifications statements, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;
(4) the relative weight to be given to the criteria; and
(5) the deadline by which qualifications statements must be received by the department.

(b) The department shall publish notice advertising the
issuance of a request for qualifications in the Texas Register and on the department's Internet website.

(c) The department shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. The department may interview responding proposers. Based on the department's evaluation of qualifications statements and interviews, if any, the department shall qualify or short-list proposers to submit proposals.

(d) The department shall qualify or short-list at least two private entities to submit proposals under Section 223.246, but may not qualify or short-list more private entities than the number of private entities designated on the request for qualifications.

(e) The department may withdraw a request for qualifications or request for proposals at any time.

Sec. 223.246. REQUEST FOR PROPOSALS. (a) The department shall issue a request for proposals to proposers short-listed under Section 223.245. A request for proposals must include:

1. information on the overall project goals;
2. publicly available cost estimates for the design-build portion of the project;
3. materials specifications;
4. special material requirements;
5. a schematic design approximately 30 percent complete;
6. known utilities, provided that the department is not required to undertake an effort to locate utilities;
(7) quality assurance and quality control requirements;
(8) the location of relevant structures;
(9) notice of any rules or goals adopted by the department relating to awarding contracts to disadvantaged business enterprises or small business enterprises;
(10) available geotechnical or other information related to the project;
(11) the status of any environmental review of the project;
(12) detailed instructions for preparing the technical proposal required under Subsection (d), including a description of the form and level of completeness of drawings expected;
(13) the relative weighting of the technical and cost proposals required under Subsection (d) and the formula by which the proposals will be evaluated and ranked; and
(14) the criteria to be used in evaluating the technical proposals, and the relative weighting of those criteria.
(b) The formula used to evaluate proposals under Subsection (a)(13) must allocate at least 70 percent of the weighting to the cost proposal.
(c) A request for proposals must also include a general form of the design-build contract that the department proposes and that may be modified as a result of negotiations prior to contract execution.
(d) Each response to a request for proposals must include a
The technical proposal must address:

1. The proposer's qualifications and demonstrated technical competence, unless that information was submitted to the department and evaluated by the department under Section 223.245;

2. The feasibility of developing the project as proposed, including identification of anticipated problems;

3. The proposed solutions to anticipated problems;

4. The ability of the proposer to meet schedules;

5. The conceptual engineering design proposed; and

6. Any other information requested by the department.

The department may provide for the submission of alternative technical concepts by a proposer. If the department provides for the submission of alternative technical concepts, the department must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

The cost proposal must include:

1. The cost of delivering the project; and

2. The estimated number of days required to complete the project.

A response to a request for proposals shall be due not later than the 180th day after the final request for proposals is issued by the department. This subsection does not preclude the release by the department of a draft request for proposals for

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sealed technical proposal and a separate sealed cost proposal submitted to the department by the date specified in the request for proposals.

(e) The technical proposal must address:

(f) The department may provide for the submission of alternative technical concepts by a proposer. If the department provides for the submission of alternative technical concepts, the department must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(g) The cost proposal must include:

(h) A response to a request for proposals shall be due not later than the 180th day after the final request for proposals is issued by the department. This subsection does not preclude the release by the department of a draft request for proposals for
purposes of receiving input from short-listed proposers.

(i) The department shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The department may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the department as provided in the request for proposals. The department shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The department shall rank the proposers in accordance with the formula provided in the request for proposals.

(j) If the department receives only one response to a request for proposals, an independent bid evaluation by the department must confirm and validate that:

(1) the project procurement delivered value for the public investment; and

(2) no anticompetitive practices were involved in the procurement.

Sec. 223.247. NEGOTIATION. (a) After ranking the proposers under Section 223.246(i), the department shall first attempt to negotiate a contract with the highest-ranked proposer. The department may include in the negotiations alternative technical concepts proposed by other proposers, subject to Section
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223.249.

(b) If the department is unable to negotiate a satisfactory contract with the highest-ranked proposer, the department shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 223.248. ASSUMPTION OF RISKS AND COSTS. (a) Except as provided by Subsection (b), the department shall assume:

(1) all risks and costs associated with:

(A) changes and modifications to the scope of the project requested by the department;

(B) unknown or differing conditions at the site of the project;

(C) applicable environmental clearance and other regulatory permitting necessary for the project; and

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, other than costs associated with acquiring a temporary easement or work area used for staging or constructing the project.

(b) A design-build contractor may assume some or all of the risks or costs described by Subsection (a) if the terms of the assumption are reflected in the final request for proposals, including all supplements to the request.

Sec. 223.249. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

(a) The department shall pay an unsuccessful proposer that submits
a responsive proposal a stipend for the work product contained in
the proposal that the department determines can be used by the
department in the performance of the department's functions. The
stipend must be a minimum of twenty-five hundredths of one percent
of the contract amount and must be specified in the initial request
for proposals, but may not exceed the value of the work product
contained in the proposal that the department determines can be
used by the department in the performance of the department's
functions. If the department determines that the value of the work
product is less than the stipend amount, the department shall
provide the proposer with a detailed explanation of the valuation,
including the methodology and assumptions used by the department in
determining the value of the work product. After payment of the
stipend, the department may make use of any work product contained
in the unsuccessful proposal, including the techniques, methods,
processes, and information contained in the proposal. 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 stipend under this
subsection.

(b) In a request for proposals, the department shall provide
for the payment of a partial stipend in the event that a procurement
is terminated before the execution of a design-build contract.

Sec. 223.250. PERFORMANCE OR PAYMENT BOND. (a) The
department shall require a design-build contractor to provide:

(1) a performance and payment bond;

(2) an alternative form of security; or
(3) a combination of the forms of security described
by Subdivisions (1) and (2).

(b) Except as provided by Subsection (c), a performance and
payment bond, alternative form of security, or combination of the
forms shall be in an amount equal to the cost of constructing or
maintaining the project.

(c) If the department determines that it is impracticable
for a private entity to provide security in the amount described by
Subsection (b), the department shall set the amount of the
security.

(d) A performance and payment bond is not required for the
portion of a design-build contract under this section that includes
design services only.

(e) The department may require one or more of the following
alternative forms of security:

(1) a cashier's check drawn on a financial entity
specified by the department;
(2) a United States bond or note;
(3) an irrevocable bank letter of credit provided by a
bank meeting the requirements specified in the request for
proposals; or
(4) any other form of security determined suitable by
the department.

(f) Section 223.006 of this code and Chapter 2253,
Government Code, do not apply to a bond or alternative form of
security required under this section.
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Transportation Code, is amended to read as follows:

(b) The department shall hold money in a subaccount in trust for the benefit of the region in which a project or system is located and may assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located for projects approved by the department. Except as provided by Subsection (c), at the time the project is approved by the department money shall be allocated and distributed to projects authorized by Section 228.0055 or Section 228.006, as applicable.

SECTION 36. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.013 to read as follows:

Sec. 228.013. DETERMINATION OF FINANCIAL TERMS FOR CERTAIN TOLL PROJECTS. (a) This section applies only to a proposed department toll project in which a private entity has a financial interest in the project's performance and for which:

(1) funds dedicated to or controlled by a region will be used;

(2) right-of-way is provided by a municipality or county; or

(3) revenues dedicated to or controlled by a municipality or county will be used.

(b) The distribution of a project's financial risk, the method of financing for a project, and the tolling structure and methodology must be determined by a committee consisting of the following members:

(1) a representative of the department;
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(2) a representative of any local toll project entity, as defined by Section 371.001, for the area in which the project is located;

(3) a representative of the applicable metropolitan planning organization; and

(4) a representative of each municipality or county that has provided revenue or right-of-way as described by Subsection (a).

SECTION 37. Section 370.305, Transportation Code, is amended to read as follows:

Sec. 370.305. COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) An authority may use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project.

A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project, that may provide for the financing, acquisition, maintenance, or operation of a transportation project, and that entitles the private entity to:

(1) a leasehold interest in the transportation project; or

(2) the right to operate or retain revenue from the operation of the transportation project.

(b) An authority may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.
(c) Except as provided by this chapter, an authority's authority to enter into a comprehensive development agreement expires on August 31, 2011.

(e) Subsection (d) does not apply to a comprehensive development agreement that does not grant a private entity a right to finance a toll project or a comprehensive development agreement in connection with a project that includes one or more managed lane facilities to be added to an existing controlled-access highway, the major portion of which is located in a nonattainment or near-nonattainment air quality area as designated by the United States Environmental Protection Agency, and for which the department has issued a request for qualifications before the effective date of this subsection.

(f) The authority to enter into a comprehensive development agreement for a project exempted from Subsection (d) or Section 223.210(b) expires August 31, 2011.

SECTION 38. Chapter 370, Transportation Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DESIGN-BUILD CONTRACTS

Sec. 370.401. SCOPE OF AND LIMITATIONS ON CONTRACTS.

(a) Notwithstanding the requirements of Chapter 2254, Government Code, an authority may use the design-build method for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project.
(b) A design-build contract under this subchapter may not grant to a private entity:

1. a leasehold interest in the transportation project; or
2. the right to operate or retain revenue from the operation of the transportation project.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the authority and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) An authority may enter into not more than two design-build contracts for transportation projects in any fiscal year.

Sec. 370.402. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of transportation projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Sec. 370.403. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as an authority's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a transportation project, an authority shall select or designate:
(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, that is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by an authority and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 370.404. OTHER PROFESSIONAL SERVICES. (a) An authority shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the transportation project by the authority:

(1) inspection services;

(2) construction materials engineering and testing;

and

(3) verification testing services.

(b) An authority shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude the design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 370.405. REQUEST FOR QUALIFICATIONS. (a) For any transportation project to be delivered through the design-build method, an authority must prepare and issue a request for qualifications. A request for qualifications must include:
(1) information regarding the proposed project's location, scope, and limits;

(2) information regarding funding that may be available for the project and a description of the financing to be requested from the design-build contractor, as applicable;

(3) criteria that will be used to evaluate the proposals, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;

(4) the relative weight to be given to the criteria; and

(5) the deadline by which proposals must be received by the authority.

(b) An authority shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on an Internet website maintained by the authority.

(c) An authority shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. An authority may interview responding proposers. Based on the authority's evaluation of qualifications statements and interviews, if any, an authority shall qualify or short-list proposers to submit detailed proposals.

(d) An authority shall qualify or short-list at least two, but no more than five, firms to submit detailed proposals under Section 370.406. If an authority receives only one responsive proposal to a request for qualifications, the authority shall
terminate the procurement.

e) An authority may withdraw a request for qualifications or request for detailed proposals at any time.

Sec. 370.406. REQUEST FOR DETAILED PROPOSALS. (a) An authority shall issue a request for detailed proposals to proposers qualified or short-listed under Section 370.405. A request for detailed proposals must include:

(1) information on the overall project goals;
(2) the authority's cost estimates for the design-build portion of the work;
(3) materials specifications;
(4) special material requirements;
(5) a schematic design approximately 30 percent complete;
(6) known utilities, provided that an authority is not required to undertake an effort to locate utilities;
(7) quality assurance and quality control requirements;
(8) the location of relevant structures;
(9) notice of any rules or goals adopted by the authority pursuant to Section 370.183 relating to awarding contracts to disadvantaged businesses;
(10) available geotechnical or other information related to the project;
(11) the status of any environmental review of the project;
(12) detailed instructions for preparing the project.
technical proposal required under Subsection (c), including a
description of the form and level of completeness of drawings
expected;

(13) the relative weighting of the technical and cost
proposals required under Subsection (c) and the formula by which
the proposals will be evaluated and ranked, provided that the
formula shall allocate at least 70 percent of the weighting to the
cost proposal; and

(14) the criteria and weighting for each element of
the technical proposal.

(b) A request for detailed proposals shall also include a
general form of the design-build contract that the authority
proposes if the terms of the contract may be modified as a result of
negotiations prior to contract execution.

(c) Each response to a request for detailed proposals must
include a sealed technical proposal and a separate sealed cost
proposal.

(d) The technical proposal must address:

(1) the proposer's qualifications and demonstrated
technical competence, provided that the proposer shall not be
requested to resubmit any information that was submitted and
evaluated pursuant to Section 370.405(a)(3);

(2) the feasibility of developing the project as
proposed, including identification of anticipated problems;

(3) the proposed solutions to anticipated problems;

(4) the ability of the proposer to meet schedules;

(5) the conceptual engineering design proposed; and
(6) any other information requested by the authority.

(e) An authority may provide for the submission of alternative technical concepts by a proposer. If an authority provides for the submission of alternative technical concepts, the authority must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(f) The cost proposal must include:

(1) the cost of delivering the project;

(2) the estimated number of days required to complete the project; and

(3) any terms for financing for the project that the proposer plans to provide.

(g) A response to a request for detailed proposals shall be due not later than the 180th day after the final request for detailed proposals is issued by the authority. This subsection does not preclude the release by the authority of a draft request for detailed proposals for purposes of receiving input from short-listed proposers.

(h) An authority shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for detailed proposals and assign points on the basis of the weighting specified in the request for detailed proposals. The authority may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the authority as provided in the request for detailed proposals.
The authority shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for detailed proposals. The authority shall rank the proposers in accordance with the formula provided in the request for detailed proposals.

Sec. 370.407. NEGOTIATION. (a) After ranking the proposers under Section 370.406(h), an authority shall first attempt to negotiate a contract with the highest-ranked proposer. If an authority has committed to paying a stipend to unsuccessful proposers in accordance with Section 370.409, an authority may include in the negotiations alternative technical concepts proposed by other proposers.

(b) If an authority is unable to negotiate a satisfactory contract with the highest-ranked proposer, the authority shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 370.408. ASSUMPTION OF RISKS. (a) Unless otherwise provided in the final request for detailed proposals, including all addenda and supplements to that request, the authority shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the authority;

(B) unknown or differing site conditions;
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(C) environmental clearance and other regulatory permitting for the project; and

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

(b) Nothing herein shall prevent the parties from agreeing that the design-build contractor should assume some or all of the risks or costs set forth in Subsection (a) provided that such agreement is reflected in the final request for detailed proposals, including all addenda and supplements to the agreement.

Sec. 370.409. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS.

(a) Pursuant to the provisions of the request for detailed proposals, an authority shall pay an unsuccessful proposer that submits a responsive proposal to the request for detailed proposals a stipend for work product contained in the proposal. The stipend must be specified in the initial request for detailed proposals in an amount of at least two-tenths of one percent of the contract amount, but may not exceed the value of the work product contained in the proposal to the authority. In the event the authority determines that the value of the work product is less than the stipend amount, the authority must provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used in determining value. After payment of the stipend, the authority may make use of any work product contained in the unsuccessful proposal, including the techniques, methods,
processes, and information contained in the proposal. The use by
the authority of any design element contained in an unsuccessful
proposal is at the sole risk and discretion of the authority and
does not confer liability on the recipient of the stipend under this
subsection.

(b) An authority may provide in a request for detailed
proposals for the payment of a partial stipend in the event a
procurement is terminated prior to securing project financing and
execution of a design-build contract.

Sec. 370.410. PERFORMANCE AND PAYMENT BOND. (a) An
authority shall require a design-build contractor to provide:

(1) a performance and payment bond;

(2) an alternative form of security; or

(3) a combination of the forms of security described
by Subdivisions (1) and (2).

(b) Except as provided by Subsection (c), a performance and
payment bond, alternative form of security, or combination of the
forms of security shall be in an amount equal to the cost of
constructing or maintaining the project.

(c) If the authority determines that it is impracticable for
a private entity to provide security in the amount described by
Subsection (b), the authority shall set the amount of the security.

(d) A performance and payment bond is not required for the
portion of a design-build contract under this section that includes
design services only.

(e) An authority may require one or more of the following
alternative forms of security:
(1) a cashier's check drawn on a financial entity specified by the authority;
(2) a United States bond or note;
(3) an irrevocable bank letter of credit drawn from a federal or Texas chartered bank; or
(4) any other form of security determined suitable by the authority.

(f) Chapter 2253, Government Code, does not apply to a bond or alternative form of security required under this section.

SECTION 39. Section 391.004, Transportation Code, is amended to read as follows:

Sec. 391.004. DISPOSITION OF FEES [TEXAS HIGHWAY BEAUTIFICATION FUND ACCOUNT]. [The Texas highway beautification fund account is an account in the general revenue fund.] Money the commission receives under this chapter shall be deposited to the credit of the state [Texas] highway [beautification] fund [account]. The commission shall use money in the state [Texas] highway [beautification] fund [account] to administer this chapter and Chapter 394.

SECTION 40. (a) Subchapter A, Chapter 391, Transportation Code, is amended by adding Section 391.006 to read as follows:

Sec. 391.006. COMPLAINTS; RECORDS. (a) The commission by rule shall establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. The rules must include:

(1) a process to make information available describing the department's procedures for complaint investigation and
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1 resolution, including making information about the procedures available on the department's Internet website;
2 (2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and
3 (3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall develop and provide a simple form for filing complaints with the department.

(c) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(d) The department shall keep, in accordance with the department's approved records retention schedule, an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

(1) the date the complaint is filed;
(2) the name of the person filing the complaint;
(3) the subject matter of the complaint;
(4) each person contacted in relation to the complaint;
(5) a summary of the results of the review or investigation of the complaint; and
(6) if the department does not take action on the
If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Transportation Commission shall adopt rules under Section 391.006, Transportation Code, as added by this section, not later than September 1, 2012.

SECTION 41. Subchapter B, Chapter 391, Transportation Code, is amended by adding Section 391.0355 to read as follows:

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 391.035.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule.

(e) An administrative penalty collected under this section shall be deposited to the credit of the state highway fund.
SECTION 42. Section 391.063, Transportation Code, is amended to read as follows:

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and the number of off-premise signs under Chapter 394 owned by a license applicant.

SECTION 43. Subsection (b), Section 391.065, Transportation Code, is amended to read as follows:

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

SECTION 44. Section 391.066, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The commission may deny the renewal of a license holder's license if the license holder has not complied with the permit requirements of this chapter or Chapter 394.

SECTION 45. Subchapter C, Chapter 391, Transportation Code, is amended by adding Section 391.0661 to read as follows:

Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain outdoor advertising, a license issued under this chapter authorizes a person to erect or maintain an off-premise sign under Chapter 394.
SECTION 46. Section 394.005, Transportation Code, is amended to read as follows:

Sec. 394.005. DISPOSITION OF FEES. Money the commission receives [A registration fee collected] under this chapter [Section 394.048 by the commission] shall be deposited to the credit of the state highway fund.

SECTION 47. (a) Subchapter A, Chapter 394, Transportation Code, is amended by adding Section 394.006 to read as follows:

Sec. 394.006. COMPLAINTS; RECORDS. (a) The commission by rule shall establish procedures for accepting and resolving written complaints related to signs under this chapter. The rules must include:

(1) a process to make information available describing the department's procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and

(3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall develop and provide a simple form for filing complaints with the department.

(c) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.
(d) The department shall keep, pursuant to the department's approved records retention schedule, an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

1. the date the complaint is filed;
2. the name of the person filing the complaint;
3. the subject matter of the complaint;
4. each person contacted in relation to the complaint;
5. a summary of the results of the review or investigation of the complaint; and
6. if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(e) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

(b) The Texas Transportation Commission shall adopt rules under Section 394.006, Transportation Code, as added by this section, not later than September 1, 2012.

SECTION 48. The heading to Subchapter B, Chapter 394, Transportation Code, is amended to read as follows:
SUBCHAPTER B.  LICENSE AND PERMIT FOR OFF-PREMISE SIGN

SECTION 49. (a) Subchapter B, Chapter 394, Transportation Code, is amended by adding Sections 394.0201, 394.0202, 394.0203, 394.0204, 394.0205, 394.0206, 394.0207, 394.0207, 394.0208, and 394.0209 to read as follows:

Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains an off-premise sign on a rural road without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain an on-premise sign.

Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

(1) files with the commission a completed application form within the time specified by the commission;

(2) pays the appropriate license fee; and

(3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Sec. 394.0203. LICENSE FEE. The commission may set the
amount of a license fee according to a scale graduated by the number
of off-premise signs and units of outdoor advertising under Chapter
391 owned by a license applicant.

Sec. 394.0204. SURETY BOND. (a) The surety bond required
of an applicant for a license under Section 394.0202 must be:

(1) in the amount of $2,500 for each county in the
state in which the person erects or maintains an off-premise sign;
and

(2) payable to the commission for reimbursement for
removal costs of an off-premise sign that the license holder
unlawfully erects or maintains.

(b) A person may not be required to provide more than
$10,000 in surety bonds.

Sec. 394.0205. RULES; FORMS. (a) The commission may adopt
rules to implement Sections 394.0201(a), 394.0202, 394.0203,
394.0204, and 394.0206.

(b) For the efficient management and administration of this
chapter and to reduce the number of employees required to enforce
this chapter, the commission shall adopt rules for issuing
standardized forms that are for submission by license holders and
applicants and that provide for an accurate showing of the number,
location, or other information required by the commission for each
license holder's or applicant's off-premise signs or outdoor
advertising under Chapter 391.

(c) The commission may not adopt a rule under this chapter
that restricts competitive bidding or advertising by the holder of
a license issued under this chapter other than a rule to prohibit
false, misleading, or deceptive practices. The limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect the commission's power to regulate the orderly and effective display of an off-premise sign under this chapter. A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any legal medium for an advertisement;
(B) the license holder's advertisement under a trade name; or
(C) the license holder's personal appearance or voice in an advertisement, if the license holder is an individual;

or

(2) relate to the size or duration of an advertisement by the license holder.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

(a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a
revoked or suspended license and may set fees for the reissuance.
(d) The commission may deny the renewal of a license holder's existing license if the license holder has not complied with the permit requirements of this chapter or Chapter 391.

Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain an off-premise sign, a license issued under this chapter authorizes a person to erect or maintain outdoor advertising under Chapter 391.

Sec. 394.027. DENIAL OF PERMIT; APPEAL. The commission may create a process by which an applicant may appeal a denial of a permit under this subchapter.

Sec. 394.028. FEE AMOUNTS. The license and permit fees required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Sec. 394.029. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS. (a) The combined license and permit fees under this subchapter may not exceed $10 for an off-premise sign erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

(b) The change in law made by Section 394.0201, Transportation Code, as added by this section, applies only to an
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off-premise sign erected or for which the permit expires on or after the effective date of this Act. An off-premise sign for which a permit is issued before the effective date of this Act is covered by the law in effect when the permit was issued, and the former law is continued in effect for that purpose.

SECTION 50. Section 394.050, Transportation Code, is amended to read as follows:

Sec. 394.050. [BOARD-OF] VARIANCE. The commission or a person designated by the commission [shall provide for a board of variance that], in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road.

SECTION 51. Subsections (a) and (d), Section 394.082, Transportation Code, are amended to read as follows:

(a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who [intentionally] violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule [by trial de novo].

SECTION 52. Subchapter D, Chapter 472, Transportation Code, is amended by adding Section 472.035 to read as follows:

Sec. 472.035. COORDINATION WITH DEPARTMENT TO DEVELOP
LONG-TERM PLANNING ASSUMPTIONS. Each metropolitan planning organization shall work with the department to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the organization's long-range transportation plan.

SECTION 53. Chapter 544, Transportation Code, is amended by adding Section 544.013 to read as follows:

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this section, "changeable message sign" means a sign that conforms to the manual and specifications adopted under Section 544.001. The term includes a dynamic message sign.

(b) The Texas Department of Transportation in cooperation with local governments shall actively manage a system of changeable message signs located on highways under the jurisdiction of the department to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes when applicable.

SECTION 54. Section 621.001, Transportation Code, is amended by amending Subdivisions (3) and (4) and adding Subdivision (13) to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [Transportation].

(4) "Director" means the executive director of the Texas Department of Motor Vehicles [Transportation].

(13) "Board" means the board of the Texas Department
of Motor Vehicles.

SECTION 55. Subsection (a), Section 621.003, Transportation Code, is amended to read as follows:

(a) The board [commission] by rule may authorize the director to enter into with the proper authority of another state an agreement that authorizes:

(1) the authority of the other state to issue on behalf of the department to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits allowed by this state a permit that authorizes the operation or transportation on a highway in this state of the vehicle or combination of vehicles; and

(2) the department to issue on behalf of the authority of the other state to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits allowed by that state a permit that authorizes the operation or transportation on a highway of that state of the vehicle or combination of vehicles.

SECTION 56. Section 621.004, Transportation Code, is amended to read as follows:

Sec. 621.004. ADMISSIBILITY OF CERTIFICATE OF VERTICAL CLEARANCE. In each civil or criminal proceeding in which a violation of this chapter may be an issue, a certificate of the vertical clearance of a structure, including a bridge or underpass, signed by the executive director of the Texas Department of Transportation is admissible in evidence for all purposes.

SECTION 57. Section 621.006, Transportation Code, is
amended to read as follows:

Sec. 621.006. RESTRICTED OPERATION ON CERTAIN HOLIDAYS. The commission [department] by rule may impose restrictions on the weight and size of vehicles to be operated on state highways on the following holidays only:

(1) New Year's Day;
(2) Memorial Day;
(3) Independence Day;
(4) Labor Day;
(5) Thanksgiving Day; and
(6) Christmas Day.

SECTION 58. Subchapter A, Chapter 621, Transportation Code, is amended by adding Section 621.008 to read as follows:

Sec. 621.008. RULEMAKING AUTHORITY. The board may adopt rules necessary to implement and enforce this chapter.

SECTION 59. Section 621.102, Transportation Code, is amended to read as follows:

Sec. 621.102. [COMMISSION'S] AUTHORITY TO SET MAXIMUM WEIGHTS. (a) The executive director of the Texas Department of Transportation [commission] may set the maximum single axle weight, tandem axle weight, or gross weight of a vehicle, or maximum single axle weight, tandem axle weight, or gross weight of a combination of vehicles and loads, that may be moved over a state highway or a farm or ranch road if the executive director [commission] finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. A maximum weight set under this subsection may not exceed the maximum set by statute for
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1 that weight.

(b) [The commission must set a maximum weight under this section by order entered in its minutes.]

(c) [The executive director of the Texas Department of Transportation must make the finding under this section on an engineering and traffic investigation and in making the finding shall consider the width, condition, and type of pavement structures and other circumstances on the road.]

(d) [A maximum weight or load set under this section becomes effective on a highway or road when appropriate signs giving notice of the maximum weight or load are erected on the highway or road by the Texas Department of Transportation under order of the commission.]

(e) [A vehicle operating under a permit issued under Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, or 623.212 may operate under the conditions authorized by the permit over a road for which the executive director of the Texas Department of Transportation has set a maximum weight under this section.]

(f) [For the purpose of this section, a farm or ranch road is a state highway that is shown in the records of the commission to be a farm-to-market or ranch-to-market road.]

This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

SECTION 60. Subsections (a) and (b), Section 621.202, Transportation Code, are amended to read as follows:

(a) To comply with safety and operational requirements of
federal law, the commission by order may set the maximum width of a
vehicle, including the load on the vehicle, at eight feet for a
designated highway or segment of a highway if the results of an
engineering and traffic study, conducted by the Texas Department of
Transportation, that includes an analysis of structural capacity of
bridges and pavements, traffic volume, unique climatic conditions,
and width of traffic lanes support the change.

(b) An order under this section becomes effective on the
designated highway or segment when appropriate signs giving notice
of the limitations are erected by the Texas Department of
Transportation.

SECTION 61. Subsections (a) and (d), Section 621.301,
Transportation Code, are amended to read as follows:

(a) The commissioners court of a county may establish load
limits for any county road or bridge only with the concurrence of
the Texas Department of Transportation [department]. A load limit
shall be deemed concurred with by the Texas Department of
Transportation [department] 30 days after the county submits to the
Texas Department of Transportation [department] the load limit
accompanied by supporting documentation and calculations reviewed
and sealed by an engineer licensed in this state, though the Texas
Department of Transportation [department] may review the load limit
and withdraw concurrence at any time after the 30-day period.

(d) A maximum weight set under this section becomes
effective on a road when appropriate signs giving notice of the
maximum weight are erected by the Texas Department of
Transportation on the road under order of the commissioners court.
SECTION 62. Subsection (a), Section 621.352, Transportation Code, is amended to read as follows:

(a) The board [commission] by rule may establish fees for the administration of Section 621.003 in an amount that, when added to the other fees collected by the department, does not exceed the amount sufficient to recover the actual cost to the department of administering that section. An administrative fee collected under this section shall be sent to the comptroller for deposit to the credit of the state highway fund and may be appropriated only to the department for the administration of Section 621.003.

SECTION 63. Section 621.356, Transportation Code, is amended to read as follows:

Sec. 621.356. FORM OF PAYMENT. The board [commission] may adopt rules prescribing the method for payment of a fee for a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations. The rules may:

(1) authorize the use of electronic funds transfer or a credit card issued by:

(A) a financial institution chartered by a state or the federal government; or

(B) a nationally recognized credit organization approved by the board [commission]; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

SECTION 64. Section 621.504, Transportation Code, is amended to read as follows:
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Sec. 621.504. BRIDGE OR UNDERPASS CLEARANCE. A person may not operate or attempt to operate a vehicle over or on a bridge or through an underpass or similar structure unless the height of the vehicle, including load, is less than the vertical clearance of the structure as shown by the records of the Texas Department of Transportation.

SECTION 65. Section 622.001, Transportation Code, is amended to read as follows:

Sec. 622.001. DEFINITIONS. In this chapter:

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

(2) "Department" means the Texas Department of Motor Vehicles.

SECTION 66. Subchapter A, Chapter 622, Transportation Code, is amended by adding Section 622.002 to read as follows:

Sec. 622.002. RULEMAKING AUTHORITY. The board of the department may adopt rules necessary to implement and enforce this chapter.

SECTION 67. Subsections (a) and (b), Section 622.013, Transportation Code, are amended to read as follows:

(a) The owner of a ready-mixed concrete truck with a tandem axle weight heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation in the principal amount set by the Texas Department of Transportation not to exceed $15,000 for each truck.
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(b) The bond must be conditioned that the owner of the truck will pay to the Texas Department of Transportation [state], within the limit of the bond, any damage to a highway caused by the operation of the truck.

SECTION 68. Subsections (a) and (b), Section 622.134, Transportation Code, are amended to read as follows:

(a) Except as provided by Subsection (c), the owner of a vehicle covered by this subchapter with a tandem axle weight heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation [department] in the principal amount set by the Texas Department of Transportation [department] not to exceed $15,000 for each vehicle.

(b) The bond must be conditioned that the owner of the vehicle will pay, within the limits of the bond, to the Texas Department of Transportation [state] any damage to a highway, to a county any damage to a county road, and to a municipality any damage to a municipal street caused by the operation of the vehicle.

SECTION 69. Section 623.001, Transportation Code, is amended by amending Subdivision (1) and adding Subdivisions (4) and (5) to read as follows:

(1) "Department" means the Texas Department of Motor Vehicles [Transportation].

(4) "Board" means the board of the Texas Department of Motor Vehicles.

(5) "Commission" means the Texas Transportation Commission.
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SECTION 70. Subchapter A, Chapter 623, Transportation Code, is amended by adding Sections 623.002 and 623.003 to read as follows:

Sec. 623.002. RULEMAKING AUTHORITY. The board may adopt rules necessary to implement and enforce this chapter.

Sec. 623.003. ROUTE DETERMINATION. (a) To the extent the department is required to determine a route under this chapter, the department shall base the department's routing decision on information provided by the Texas Department of Transportation.

(b) The Texas Department of Transportation shall provide the department with all routing information necessary to complete a permit issued under Section 623.071, 623.121, 623.142, or 623.192.

SECTION 71. Section 623.0112, Transportation Code, is amended to read as follows:

Sec. 623.0112. ADDITIONAL ADMINISTRATIVE FEE. When a person applies for a permit under Section 623.011, the person must pay in addition to other fees an administrative fee adopted by board [department] rule in an amount not to exceed the direct and indirect cost to the department of:

(1) issuing a sticker under Section 623.011(d);
(2) distributing fees under Section 621.353; and
(3) notifying counties under Section 623.013.

SECTION 72. Subsection (b), Section 623.012, Transportation Code, is amended to read as follows:

(b) The bond or letter of credit must:

(1) be in the amount of $15,000 payable to the Texas Department of Transportation [department] and the counties of this
(2) be conditioned that the applicant will pay the Texas Department of Transportation for any damage to a state highway, and a county for any damage to a road or bridge of the county, caused by the operation of the vehicle for which the permit is issued at a heavier weight than the maximum weights authorized by Subchapter B of Chapter 621 or Section 621.301; and

(3) provide that the issuer is to notify the Texas Department of Transportation and the applicant in writing promptly after a payment is made by the issuer on the bond or letter of credit.

SECTION 73. Subsections (a) and (b), Section 623.016, Transportation Code, are amended to read as follows:

(a) The Texas Department of Transportation or a county may recover on the bond or letter of credit required for a permit issued under Section 623.011 only by a suit against the permit holder and the issuer of the bond or letter of credit.

(b) Venue for a suit by the Texas Department of Transportation is in a district court in:

(1) the county in which the defendant resides;

(2) the county in which the defendant has its principal place of business in this state if the defendant is a corporation or partnership; or

(3) Travis County if the defendant is a corporation or partnership that does not have a principal place of business in this state.

SECTION 74. Subsection (a), Section 623.051,
Transportation Code, is amended to read as follows:

(a) A person may operate a vehicle that cannot comply with one or more of the restrictions of Subchapter C of Chapter 621 or Section 621.101 to cross the width of any road or highway under the jurisdiction of the Texas Department of Transportation, other than a controlled access highway as defined by Section 203.001, from private property to other private property if the person contracts with the commission to indemnify the Texas Department of Transportation for the cost of maintenance and repair of the part of the highway crossed by the vehicle.

SECTION 75. Subsection (b), Section 623.052, Transportation Code, is amended to read as follows:

(b) Before a person may operate a vehicle under this section, the person must:

(1) contract with the Texas Department of Transportation to indemnify the Texas Department of Transportation for the cost of the maintenance and repair for damage caused by a vehicle crossing that part of the highway; and

(2) execute an adequate surety bond to compensate for the cost of maintenance and repair, approved by the comptroller and the attorney general, with a corporate surety authorized to do business in this state, conditioned on the person fulfilling each obligation of the agreement.

SECTION 76. Subsection (a), Section 623.075, Transportation Code, is amended to read as follows:
(a) Before the department may issue a permit under this subchapter, the applicant shall file with the department a bond in an amount set by the Texas Department of Transportation, payable to the Texas Department of Transportation, and conditioned that the applicant will pay to the Texas Department of Transportation any damage that might be sustained to the highway because of the operation of the equipment for which a permit is issued.

SECTION 77. Subsections (b) and (c), Section 623.076, Transportation Code, are amended to read as follows:

(b) The board may adopt rules for the payment of a fee under Subsection (a). The rules may:

(1) authorize the use of electronic funds transfer;
(2) authorize the use of a credit card issued by:
   (A) a financial institution chartered by a state or the United States; or
   (B) a nationally recognized credit organization approved by the board; and
(3) require the payment of a discount or service charge for a credit card payment in addition to the fee prescribed by Subsection (a).

(c) An application for a permit under Section 623.071(c)(3) or (d) must be accompanied by the permit fee established by the board, in consultation with the commission, for the permit, not to exceed $7,000. Of each fee collected under this subsection, the department shall send:

(1) the first $1,000 to the comptroller for deposit to
the credit of the general revenue fund; and

                      (2) any amount in excess of $1,000 to the comptroller for deposit to the credit of the state highway fund.

SECTION 78. Section 623.078, Transportation Code, is amended to read as follows:

Sec. 623.078. VEHICLE SUPERVISION FEE. (a) Each applicant for a permit under this subchapter for a vehicle that is heavier than 200,000 pounds must also pay a vehicle supervision fee in an amount determined by the Texas Department of Transportation and designed to recover the direct cost of providing safe transportation of the vehicle over the state highway system, including the cost of:

                      (1) bridge structural analysis;
                      (2) the monitoring of the trip process; and
                      (3) moving traffic control devices.

(b) The board shall send each fee collected under Subsection (a) to the comptroller for deposit to the credit of the state highway fund.

SECTION 79. Subsection (a), Section 623.080, Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a permit under this subchapter must include:

                      (1) the name of the applicant;
                      (2) the date of issuance;
                      (3) the signature of the director of the department or of a division engineer;
                      (4) a statement of the kind of equipment to be
transported over the highway, the weight and dimensions of the
equipment, and the kind and weight of each commodity to be
transported; and

(5) a statement of any condition on which the permit is
issued.

SECTION 80. Subsection (f), Section 623.093,
Transportation Code, is amended to read as follows:

(f) If an application for a permit to move a manufactured
house is accompanied by a copy of a writ of possession issued by a
court of competent jurisdiction, the applicant is not required to
submit the written statement from the chief appraiser [set forth in
Subsection (d)].

SECTION 81. Subsection (b), Section 623.096,
Transportation Code, is amended to read as follows:

(b) The board, in consultation with the Texas Department of
Transportation, [department] shall adopt rules concerning fees for
each annual permit issued under Section 623.095(c) at a cost not to
exceed $3,000.

SECTION 82. Subsection (e), Section 623.099,
Transportation Code, is amended to read as follows:

(e) The Texas Department of Transportation [department]
shall publish and annually revise a map or list of the bridges or
overpasses that because of height or width require an escort flag
vehicle to stop oncoming traffic while a manufactured house crosses
the bridge or overpass.

SECTION 83. Subsections (b) and (c), Section 623.100,
Transportation Code, are amended to read as follows:
(b) The Texas Department of Transportation [department] may limit the hours for travel on certain routes because of heavy traffic conditions.

(c) The Texas Department of Transportation [department] shall publish the limitation on movements prescribed by this section and the limitations adopted under Subsection (b) and shall make the publications available to the public. Each limitation adopted by the Texas Department of Transportation [department] must be made available to the public before it takes effect.

SECTION 84. Subsection (a), Section 623.126, Transportation Code, is amended to read as follows:

(a) A permit issued under this subchapter must:

(1) contain the name of the applicant;

(2) be dated and signed by the director of the department[—a division engineer] or a designated agent;

(3) state the make and model of the portable building unit or units to be transported over the highways;

(4) state the make and model of the towing vehicle;

(5) state the combined length and width of the portable building unit or units and towing vehicle; and

(6) state each highway over which the portable building unit or units are to be moved.

SECTION 85. Subsection (a), Section 623.142, Transportation Code, is amended to read as follows:

(a) The department may, on application, issue a permit for the movement over a road or highway under the jurisdiction of the Texas Department of Transportation [department] of a vehicle that:
(1) is a piece of fixed-load mobile machinery or equipment used to service, clean out, or drill an oil well; and
(2) cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101.

SECTION 86. Sections 623.145 and 623.146, Transportation Code, are amended to read as follows:

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The board, in consultation with the commission, [Texas Transportation Commission] by rule shall provide for the issuance of permits under this subchapter. The rules must include each matter the board and commission [determine] necessary to implement this subchapter and:

(1) requirements for forms and procedures used in applying for a permit;
(2) conditions with regard to route and time of movement;
(3) requirements for flags, flaggers, and warning devices;
(4) the fee for a permit; and
(5) standards to determine whether a permit is to be issued for one trip only or for a period established by the commission.

(b) In adopting a rule or establishing a fee, the board and commission shall consider and be guided by:

(1) the state's investment in its highway system;
(2) the safety and convenience of the general traveling public;
the registration or license fee paid on the
vehicle for which the permit is requested;

(4) the fees paid by vehicles operating within legal
limits;

(5) the suitability of roadways and subgrades on the
various classes of highways of the system;

(6) the variation in soil grade prevalent in the
different regions of the state;

(7) the seasonal effects on highway load capacity;

(8) the highway shoulder design and other highway
geometrics;

(9) the load capacity of the highway bridges;

(10) administrative costs;

(11) added wear on highways; and

(12) compensation for inconvenience and necessary
delays to highway users.

Sec. 623.146. VIOLATION OF RULE. A permit under this
subchapter is void on the failure of an owner or the owner's
representative to comply with a rule of the [board] [commission] or
with a condition placed on the permit, and immediately on the
violation, further movement over the highway of an oversize or
overweight vehicle violates the law regulating the size or weight
of a vehicle on a public highway.

SECTION 87. Subsections (a) and (b), Section 623.163,
Transportation Code, are amended to read as follows:

(a) The owner of a vehicle used exclusively to transport
solid waste with a tandem axle load heavier than 34,000 pounds shall
before operating the vehicle on a public highway of this state file
with the department a surety bond subject to the approval of the
Texas Department of Transportation [department] in the principal
amount set by the Texas Department of Transportation [department]
not to exceed $15,000 for each vehicle.

(b) The bond must be conditioned that the owner of the
vehicle will pay to the Texas Department of Transportation [state]
and to any municipality in which the vehicle is operated on a
municipal street, within the limit of the bond, any damages to a
highway or municipal street caused by the operation of the vehicle.

SECTION 88. Subsection (a), Section 623.192,
Transportation Code, is amended to read as follows:

(a) The department may, on application, issue a permit to a
person to move over a road or highway under the jurisdiction of the
Texas Department of Transportation [department] an unladen lift
equipment motor vehicle that cannot comply with the restrictions
set out in Subchapter C of Chapter 621 and Section 621.101.

SECTION 89. Sections 623.195 and 623.196, Transportation
Code, are amended to read as follows:

Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The
board, in consultation with the commission, [Texas Transportation
Commission] by rule shall provide for the issuance of a permit under
this subchapter. The rules must include each matter the board and
the commission determine [determine] necessary to implement this
subchapter and:

(1) requirements for forms and procedures used in
applying for a permit;
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(2) conditions with regard to route and time of
movement;

(3) requirements for flags, flaggers, and warning
devices;

(4) the fee for a permit; and

(5) standards to determine whether a permit is to be
issued for one trip only or for a period established by the
commission.

(b) In adopting a rule or establishing a fee, the board and
the commission shall consider and be guided by:

(1) the state's investment in its highway system;

(2) the safety and convenience of the general
traveling public;

(3) the registration or license fee paid on the
vehicle for which the permit is requested;

(4) the fees paid by vehicles operating within legal
limits;

(5) the suitability of roadways and subgrades on the
various classes of highways of the system;

(6) the variation in soil grade prevalent in the
different regions of the state;

(7) the seasonal effects on highway load capacity;

(8) the highway shoulder design and other highway
geometrics;

(9) the load capacity of highway bridges;

(10) administrative costs;

(11) added wear on highways; and
(12) compensation for inconvenience and necessary delays to highway users.

Sec. 623.196. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board [commission] or with a condition placed on the permit, and immediately on the violation, further movement over a highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

SECTION 90. Section 623.212, Transportation Code, is amended to read as follows:

Sec. 623.212. PERMITS BY PORT AUTHORITY. The commission [department] may authorize a port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and bordering the United Mexican States.

SECTION 91. Subsection (b), Section 623.215, Transportation Code, is amended to read as follows:

(b) A port authority shall report to the Texas Department of Transportation [department] all permits issued under this subchapter.

SECTION 92. Section 623.233, Transportation Code, is amended to read as follows:

Sec. 623.233. MAINTENANCE CONTRACTS. The district shall make payments to the Texas Department of Transportation [department] to provide funds for the maintenance of state highways.
subject to this subchapter.

SECTION 93. Subsection (b), Section 623.235, Transportation Code, is amended to read as follows:

(b) The district shall report to the Texas Department of Transportation all permits issued under this subchapter.

SECTION 94. Section 623.253, Transportation Code, is amended to read as follows:

Sec. 623.253. MAINTENANCE CONTRACTS. The county shall make payments to the Texas Department of Transportation to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 95. Section 623.304, Transportation Code, is amended to read as follows:

Sec. 623.304. MAINTENANCE CONTRACTS. The port authority shall make payments to the Texas Department of Transportation to provide funds for the maintenance of state highways subject to this subchapter.

SECTION 96. Subsection (c), Section 547.304, Transportation Code, is amended to read as follows:

(c) Except for Sections 547.323 and 547.324, a provision of this chapter that requires a vehicle to be equipped with lamps, reflectors, and lighting equipment does not apply to a mobile home if the mobile home:

(1) is moved under a permit issued by the Texas Department of Motor Vehicles under Subchapter D, Chapter 623; and
(2) is not moved at a time or under a condition specified by Section 547.302(a).

SECTION 97. Subsection (b), Section 1001.002, Transportation Code, is amended to read as follows:

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and enforce:

(1) Subtitle A;

(2) Chapters 621, 622, 623, 642, 643, 645, 646, and 648; and

(3) Chapters 2301 and 2302, Occupations Code.

SECTION 98. Subsections (a), (b), and (c), Section 1201.161, Occupations Code, are amended to read as follows:

(a) Notwithstanding any other statute or rule or ordinance, a licensed retailer or licensed installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by the Texas Department of Motor Vehicles [Transportation] under Subchapter E, Chapter 623, Transportation Code.

(b) The department shall cooperate with the Texas Department of Motor Vehicles [Transportation] by providing current lists of licensed manufacturers, retailers, and installers.

(c) The Texas Department of Motor Vehicles [Transportation] shall send the department monthly:

(1) a copy of each permit issued in the preceding month for the movement of manufactured housing on the highways; or

(2) a list of the permits issued in the preceding month
and the information on the permits.

SECTION 99. Section 201.0545, Subsection (h), Section 223.201, and Section 370.314, Transportation Code, are repealed.

SECTION 100. (a) A governmental act taken or a decision made by the Texas Department of Transportation and the Texas Transportation Commission under Subchapter E, Chapter 223, Transportation Code, before the effective date of this Act, to negotiate, execute, or otherwise enter into a comprehensive development agreement or facility agreement relating to the North Tarrant Express project is conclusively presumed, as of the date the act or decision occurred, to be valid and to have occurred in accordance with all applicable law.

(b) This Act does not validate any governmental act or decision that:

(1) is inconsistent with Section 223.201, Transportation Code, as amended by this Act, and Section 223.2012, Transportation Code, as added by this Act, relating to the North Tarrant Express project;

(2) was void at the time the act or decision occurred;

(3) violates the terms of federal law or a federal waiver; or

(4) was a misdemeanor or a felony under a statute of this state or the United States at the time the act or decision occurred.

(c) This Act does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation
ultimately results in the matter being held invalid by a final court judgment; or

(2) has been held invalid by a final court judgment.

SECTION 101. This section and the sections of this Act that amend Section 223.201, Transportation Code, add Sections 223.2011 and 223.2012, Transportation Code, repeal Subsection (h), Section 223.201, Transportation Code, and provide transitional information related to those sections take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those provisions take effect September 1, 2011.

SECTION 102. (a) Except as otherwise provided by this Act, not later than January 1, 2012, the following are transferred from the Texas Department of Transportation to the Texas Department of Motor Vehicles:

(1) the powers, duties, functions, programs, activities, and rights of action of the Texas Department of Transportation relating to oversize and overweight vehicles under Chapters 621, 622, and 623, Transportation Code;

(2) any obligations, funds, negotiations, grants, memoranda of understanding, leases, rights, and contracts of the Texas Department of Transportation that are directly related to implementing a power, duty, function, program, activity, or right of action transferred under this subsection; and

(3) all personnel, furniture, computers, equipment, other property, records, and related materials in the custody of
the Texas Department of Transportation that are related to a power, duty, function, program, activity, or right of action transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, activity, or right of action.

(b) The Texas Department of Motor Vehicles shall continue any case or proceeding relating to oversize and overweight vehicles under Chapters 621, 622, and 623, Transportation Code, that was brought before the effective date of this Act in accordance with the law in effect on the date the case or proceeding was brought, and the former law is continued in effect for that purpose.

(c) A certificate, license, document, permit, registration, or other authorization issued by the Texas Department of Transportation relating to oversize and overweight vehicles under Chapters 621, 622, and 623, Transportation Code, that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Texas Department of Motor Vehicles.

(d) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to oversize and overweight vehicles under Chapter 621, 622, or 623, Transportation Code, for the state fiscal biennium ending August 31, 2011, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department.

(e) The Texas Department of Transportation shall continue,
as necessary, to perform the duties and functions that are being transferred to the Texas Department of Motor Vehicles under this Act until the transfer of agency duties and functions is complete.

(f) A rule or form adopted by the Texas Department of Transportation that relates to a power, duty, function, program, activity, or right of action transferred under Subsection (a) of this section is a rule or form of the Texas Department of Motor Vehicles and remains in effect until altered by the Texas Department of Motor Vehicles.

(g) A reference in law to the Texas Department of Transportation that relates to a power, duty, function, program, activity, or right of action transferred under Subsection (a) of this section means the Texas Department of Motor Vehicles.

SECTION 103. (a) The Texas Department of Motor Vehicles may enter into a memorandum of understanding with a state agency, including the Texas Department of Transportation, if the board of the Texas Department of Motor Vehicles determines the memorandum is necessary or appropriate to implement the changes made by this Act to Chapters 621, 622, and 623, Transportation Code.

(b) The memorandum of understanding described by Subsection (a) of this section may:

(1) coordinate the Texas Department of Motor Vehicles' and the Texas Department of Transportation's information systems to allow for the sharing of information so each department may effectively and efficiently perform the functions and duties assigned to the department;

(2) provide for implementing the memorandum using
existing personnel and resources from the Texas Department of Motor Vehicles and the Texas Department of Transportation;

(3) allow for the sharing of otherwise confidential information subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the agency that originally obtained or collected the information;

(4) allow for the sharing of information without the consent of the person who is the subject of the information; and

(5) include an agreement for:

(A) the provision of office space, utilities, and other facility services;

(B) the need for full-time equivalent positions of the Texas Department of Transportation to provide support services in addition to the positions transferred to the Texas Department of Motor Vehicles under Subdivision (3), Subsection (a), Section 102 of this Act;

(C) support services; and

(D) the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles.

(c) The Texas Department of Motor Vehicles and the Texas Department of Transportation may not impose, collect, or charge a fee in connection with the sharing of information under a memorandum of understanding entered into or revised under this section.
SECTION 104. Except as otherwise provided by this Act, this Act takes effect September 1, 2011.
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President of the Senate  Speaker of the House

I hereby certify that S.B. No. 1420 passed the Senate on April 18, 2011, by the following vote: Yeas 31, Nays 0; May 6, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 17, 2011, House granted request of the Senate; May 28, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1420 passed the House, with amendments, on May 2, 2011, by the following vote: Yeas 121, Nays 24, one present not voting; May 17, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 118, Nays 26, one present not voting.

Chief Clerk of the House

Approved:

17 Jun '11

Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4PM O'CLOCK
JUN 17 2011

Secretary of State