

80th Texas Legislature – Regular Session Legislation Passed

HB 1: General Appropriations Bill

This is the two-year budget bill that specifies revenues and appropriations for Fiscal Years 2008-2009.

DEPARTMENT OF TRANSPORTATION

Total funding for the Department of Transportation (TxDOT) is approximately \$16.4 billion over the biennium. This represents an increase of nearly \$1 billion over the previous biennium.

New requirements:

- Requires TxDOT to submit a monthly revenue report to the Legislature as well as a project status update to all members of the Texas Legislature related to projects in their districts.
- Requires TxDOT to create a report detailing the needs for each mode of transportation in each segment of the Trans-Texas Corridor.
- Requires TxDOT to expand the Green Ribbon Project. This includes a mandatory requirement to use 0.5 percent to 1 percent of a project's total cost for landscaping improvements in a non-attainment area.
- Requires TxDOT to notify the Legislature of any increases or decreases in federal funding.
- Requires TxDOT to submit a report to the Legislature regarding any Comprehensive Development Agreement (CDA) and receive approval to spend funds received from a CDA.
- Requires TxDOT to submit a report to the legislature concerning any concessions from a CDA before they can be spent.
- Requires TxDOT to report annually on toll road revenues.

Earmarks:

- Earmarks \$10 million in federal Transportation Enhancement Program funds for the Woodall Rodgers Highway Enhancement Park.

COMMISSION ON ENVIRONMENTAL QUALITY

Total funding for the Commission on Environmental Quality is approximately \$1 billion over the biennium. This represents a slight increase in funding over the previous biennium.

Earmarks:

- Appropriates \$90 million for the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program over the biennium. This program is known as AirCheck Texas in the Dallas-Fort Worth region.
- Appropriates \$10 million over the biennium for enhanced air quality programs including AirCheck Texas expansion, remote emissions sensing, and the Smoking Vehicle Program.
- Appropriates \$336 million to the Texas Emissions Reduction Plan over the biennium.

DIVERSIONS

All previous diversions of State Highway Funds remain in the Appropriations Bill.

HB 84: Relating to issuance and renewal of a driver's license of an elderly person

This bill will cause a person's driver's license to expire on their 90th birthday. Any license issued or renewed to a person over the age of 90 will expire every two years. A test must be administered, including a vision test, in order for a person over the age of 90 to receive a renewal of their license. They cannot renew their licenses through the mail or online, but must appear in person at the appropriate office. This law applies to commercial driver's licenses as well. This bill is effective on September 1, 2007.

HB 160: Relating to rail relocation and improvement in the State

This bill commissions a study by TxDOT to determine the feasibility of relocating freight trains that carry hazardous materials away from residential areas in cities with populations larger than 1.2 million. Based on the 2000 U.S. Census, this would only include Houston. The report is due to the Governor and the Legislature by March 1, 2008. This bill will also allow Texas Emissions Reduction Program funds to be used on rail relocation in nonattainment areas as well as on Tower 55. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 210: Relating to the designation of a portion of Interstate Highway 20 as the Ronald Reagan Memorial Highway

This bill will designate I.H. 20 east of Dallas County to the state line as The Ronald Reagan Memorial Highway. Currently, only the portion of I.H. 20 in Tarrant County, excluding the portion in Grand Prairie, is designated with this name. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 323: Relating to three-point seat belts on buses that transport school children

This bill will require any school bus purchased after September 1, 2010, and any bus contracted to carry school children after September 1, 2011 to have three-point seat belts for all passengers and operators. It also will direct the State Board of Education to create best practices for how school districts will deal with their current fleet of school buses that were purchased without seat belts. The law does not require seat belts to be added to buses that were originally purchased without seat belts, but does allow for donations by individuals to add them. The bill also requires school districts to report annually any accidents involving school buses and for these reports to be made public. This bill is effective on September 1, 2007.

HB 484: Relating to the designation of a portion of United States Highway 287 as the Martin Luther King, Jr. Freeway

This bill will designate the portion of U.S. 287 that lies in the municipal boundaries of Fort Worth as the Martin Luther King, Jr. Freeway. This bill is effective on September 1, 2007.

HB 570: Relating to the use of motor vehicle registration or license plate information collected by a toll project entity

This bill prohibits the use of license plate information collected by a toll agency, either public or private, to be used for any purpose other than the collection of tolls and law enforcement. This bill is effective immediately.

HB 922: Relating to the power of a municipality to enforce compliance with speed limits by an automated traffic control system

This bill prohibits a municipality from using an automated traffic control system, such as a camera, to enforce speed limits. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 1052: Relating to requiring warning signs before intersections at which a municipality uses a photographic traffic monitoring system to enforce compliance with a traffic-control signal

This bill will require municipalities that use red-light camera systems to place signs on the approaches to each intersection that has such a system installed to notify drivers of the system's presence. This bill contains language similar to the signage requirements in SB 1119. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 1090: Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops and to the State's goal for generating renewable energy

This bill provides for a grant program to develop electric generating plants that produce electricity through the incineration of organic waste. The bill will provide funding for those who provide waste in the form of:

- Landfill diversions
- Forest wood waste from logging operations
- Storm debris
- Urban wood waste
- Landscape right-of-way trimmings
- Other agricultural organic waste

Grants will also be made available for the construction of plants that burn this waste in a way that minimizes air pollution. This bill is intended to reduce the uncontrolled burning of waste in rural areas as well as reduce the burden on the State's landfills. This bill is effective September 1, 2007.

HB 1279: Relating to the requirement that a detector for certain traffic actuated electric traffic-control devices register the presence of a motorcycle

This bill requires any traffic actuated electric traffic-control signal that uses a traffic detector to determine its signal intervals to be sensitive enough to detect the presence of a motorcycle. This bill is effective on September 1, 2007.

HB 1447: Relating to the requirement that a railroad corporation submit articles of incorporation or an amendment to articles of incorporation to the Attorney General

This bill repeals the requirement for a railroad to submit articles of incorporation to the Attorney General for approval. It also repeals the requirement of a railroad that amends its articles of incorporation to submit the amendments to the Attorney General for approval. This bill is effective immediately.

HB 1495: Relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority

This bill requires the Attorney General to draft a "Landowner's Bill of Rights" that will be sent to anyone whose property is to be acquired through eminent domain in order to inform them that they have the right to:

- A notice of the proposed acquisition of their property
- A good faith effort by the entity acquiring the land to negotiate with the owner
- An assessment of damages to the owner
- A hearing that includes the assessment of damages
- An appeal of the judgment in a condemnation proceeding

The correspondence must include:

- The condemnation procedure
- The owner's options
- The condemning entity's obligations to the owner

This document must be prepared by the Attorney General no later than January 31, 2008, and must be sent to all landowners affected by February 1, 2008. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 1526: Relating to incentives for the use of alternative leak detection technologies for air contaminants

This bill allows any company regulated under the Clean Air Act to use any leak detection technology that has been approved by the Environmental Protection Agency (EPA) as an alternative detection method. This is an attempt to promote innovative technology in monitoring harmful emissions. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 1798: Relating to the criminal consequences of driving a motor vehicle on certain designated right-of-way of a metropolitan rapid transit authority

Except for emergency vehicles and vehicles that are in the service of the transit agency, this bill makes it illegal to drive in the designated right-of-way of a bus rapid transit system. This applies to bus rapid transit systems that have their own, separate right-of-way. Currently Houston is the only city with this type of transit system. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 1857: Relating to the identification and regulation of land located in a future transportation corridor of a county

This bill places two requirements on a County with respect to proposed transportation corridors. First, it requires that a County and TxDOT agree on the location of any corridor and that the proposed corridor is in compliance with existing transportation plans. Notice of any agreed upon corridor must be published in the Texas Register and the local newspaper. Second, it allows for the County Commissioners Court to reject plats of subdivisions that lie in the path of any proposed transportation project unless the plat states this fact. Also, each purchase contract or lease involving land in such a subdivision must contain a statement that the property is located in a future transportation corridor. This bill is effective September 1, 2007.

HB 1886: Relating to procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects

This bill allows local government entities, including municipal governments, utility districts, and transit authorities to use design-build Comprehensive Development Agreements (CDAs) for civil works projects. These projects include roads, bridges, utilities, water plants, wastewater plants, airport runways, flood control projects, and transit projects. This program includes a limited number of projects per entity per year. A city with a population larger than 500,000 will be allowed three projects per fiscal year. A city with a population between 100,000 and 500,000 will be allowed two projects per fiscal year. This bill also provides for the process that an entity must go through to enter into this type of agreement. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 1947: Relating to the designation of the structure on Interstate 30 connecting the east and west levee of the Trinity River as the Margaret McDermott Bridge

This bill designates the bridge on I.H. 30 over the Trinity River near downtown Dallas as the Margaret McDermott Bridge. This bill is effective September 1, 2007.

HB 2006: Relating to the use of eminent domain authority

This bill requires a record vote by the governing entity in a public meeting for each use of eminent domain to acquire private property. It requires that an entity must make a good faith effort to acquire the property voluntarily before initiating condemnation proceedings. It defines fair market value as including any factor that would affect the price of the property in a private transaction between a willing seller and a willing buyer. This could include the condition of the property or any other factor that a private buyer might consider in making an offer. It adds to the definition of financial damages, which are required to be paid in addition to the fair market price of the property, as the expense imposed by relocation of a property owner to another property that allows the property owner to have a standard of living comparable to his current standard of living. This means that relocation costs are to be included in determining financial injury to the property owner. Finally, it requires an entity to resell the land acquired through eminent domain to the party from which it was acquired at the same price the entity paid at the time of acquisition if the property is no longer needed by the entity. HJR 30 is companion legislation. This bill was vetoed by the Governor.

HB 2077: Relating to police officers eligible to be certified to enforce commercial motor vehicle safety standards

This bill expands the eligibility to apply for certification in order to enforce commercial motor vehicle safety standards. Police officers that serve in a municipality with a population of at least 60,000 that lies in either a county that has a population of at least 750,000 or two counties with a combined population of 1 million or more will now be eligible for this program. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 2092: Relating to the designation of an area in a municipality as a reinvestment zone under the Tax Increment Financing Act

This bill allows an area in any municipality to be designated a transportation reinvestment zone in connection with a part of a commuter or mass transit rail system that exists or is planned for the area. This can be done even if the area would not qualify for such a designation under current law. This bill is effective September 1, 2007.

HB 2093: Relating to the issuance and enforcement of motor carrier overweight or oversize vehicle permits and motor carrier registrations; providing administrative penalties

This bill raises the fee schedule for overweight vehicle permits and motor carrier registrations by 200 to 300 percent. It also specifies that revenues from permit fees will be split evenly between the General Revenue Fund and the State Highway Fund. This bill is effective September 1, 2007.

HB 2293: Relating to a requirement that State agencies purchase low-emissions vehicles as a minimum percentage of their vehicles purchased

Starting September 1, 2007 at least 10 percent of a State agency's newly purchased vehicles must be low-emissions vehicles according to EPA standards. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 2565: Relating to the establishment of an advisory committee on motor vehicle inspections related to safety and emissions

This bill changes the structure of the advisory committee on motor vehicle inspections and updates statutory language related to reporting. The committee is expanded from three members to seven. Four members will represent inspection station owners, one member will represent manufacturers of emissions inspection devices, one member will represent vehicle repair technicians, and one member will represent the public interest. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 2591: Relating to county improvement of subdivision roads

This bill allows counties to improve subdivision roads, or access roads to subdivisions (non-county roads), anywhere within the county. Current law only allows the county to make these improvements in areas outside of a city's corporate limits. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 2682: Relating to the administration and powers of a coordinated county transportation authority

This bill makes minor administrative changes to a Coordinated County Transportation Authority, including the Denton County Transportation Authority. It allows for capital recovery fees from municipalities that chose to join the authority. In addition, it expands the list of items not requiring competitive bids to include work paid for by the day, right-of-way purchases, personal property, work performed by blind or disabled individuals, and electricity. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 2944: Relating to permits for erecting certain outdoor signs or advertising

This bill will prohibit TxDOT from issuing a permit for outdoor advertising if it is to be located in a city that has legally prohibited such a sign, or has not granted such a sign a permit. This bill is effective September 1, 2007.

HB 3084: Relating to the municipal street maintenance sales tax

This bill allows street maintenance sales taxes adopted after September 1, 2007, to have no automatic expiration date. Current law states that any sales tax adopted for the use of municipal street maintenance will automatically expire after four years. It also provides for a municipality to hold an election to repeal a street maintenance sales tax. This bill was vetoed by the Governor.

HB 3275: Relating to certain transportation studies

This bill calls for TxDOT to prepare a feasibility study for giving priority to the enhancement of federally designated emergency evacuation routes. The study is to be submitted to the Legislature no later than January 15, 2009. This bill is effective September 1, 2007.

HB 3693: Relating to energy demand, energy load, energy efficiency, incentives, energy programs, and energy performance measures

This bill deals with several different approaches to reduce energy consumption:

- School districts must reduce their electrical consumption by 5 percent and they must use the most energy-efficient light bulbs available on the market.
- State institutions of higher education, State agencies, and State buildings must use the most energy-efficient light bulbs available on the market.
- State agencies must use vending machines with energy-saving devices.
- The Texas Commission on Environmental Quality (TCEQ) must develop and update a list of equipment and appliances that meet energy efficiency standards and assist State agencies in selecting these products.
- State agencies must use energy efficient products including federal energy star compliant products.
- State agencies, including municipal governments, must report their energy usage on public websites or other public media.
- Housing that is built with State assistance must be built to high energy efficiency standards including federal energy star compliant products.
- Establishes a sales tax holiday on Memorial Day weekend for federal energy star compliant products.
- Establishes a review process for transactions relating to the sale of electricity producers.

This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

HB 3711: Relating to the repeal of obsolete statutes regulating railroads

This bill repeals old language and obsolete articles in order to allow railroads to maintain their competitiveness under current market conditions. This bill is effective September 1, 2007.

HJR 30: Proposing a constitutional amendment to allow the repurchase of real property acquired by a governmental entity through eminent domain

If approved by voters, this resolution will amend the constitution to allow the resale of property acquired through eminent domain to the party from which it was acquired for the price that was paid at the time of acquisition. HB 2006 is companion legislation. HB 2006 was vetoed by the Governor.

SB 12: Relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties

This bill changes structures and funding for air quality programs including the Low Income Repair and Replacement Assistance Program and the Texas Emissions Reductions Program. It also addresses energy efficiency.

LOW INCOME REPAIR AND REPLACEMENT ASSISTANCE PROGRAM (LIRAP)

- Restricts administrative costs (including programmatic costs) to 10 percent of the funds provided to the counties.
- Increases qualifying income levels to 300 percent of poverty level (a family of four may bring home/net up to \$61,950 and still qualify for assistance).
- Modifies retirement incentive to the following:
 - \$3,000 for a car that is 3 years old or newer
 - \$3,000 for a truck that is 2 years old or newer

- \$3,500 for a hybrid that is 1 year old or newer
- Limits total cost of a replacement vehicle not to exceed \$25,000.
- Allows for retirement/replacement of vehicles at least 10 years old (does not have to fail an emissions test to qualify for assistance).
- Requires administrator to transfer funds to vendor within five business days after transaction is complete.
- Moves local initiative projects (regional emissions enforcement program, regional smoking vehicle program, etc.) officially under LIRAP – no longer separate section or requires separate appropriation, but limits appropriation to \$5 million per fiscal year statewide.
- Requires counties to match funds for local initiative projects.
- Requires TCEQ to review current Inspection and Maintenance Program emissions standards (cutpoints) to determine whether lowering the standard would be beneficial by January 1, 2008.
- Requires TCEQ to partner with auto manufacturers in promoting LIRAP.
- House Bill 1 appropriated \$45 million for fiscal year 2008 and \$45 million for fiscal year 2009 statewide or:
 - Approximately \$20 million for North Texas for LIRAP each fiscal year
 - Approximately \$2.5 million for North Texas for local initiative projects each fiscal year, provided the counties/region can match it

TEXAS EMISSIONS REDUCTION PLAN (TERP)

- Extends TERP to 2013.
- Increases cost effectiveness to \$15,000 per ton.
- Expands areas eligible for TERP funding to include major highway transportation corridors.
- Expands TERP funding to eligibility to marine vessels and areas to include waterways or bays within nine miles of a nonattainment area.
- Allows for the purchase and installation of idle reduction technologies and facilities at rest areas and other public facilities on major highway transportation routes.
- Requires TCEQ to investigate establishing an Internet-based application process and report to the legislature by December 31, 2007; or implement an Internet-based application process by June 1, 2008.
- Moves the administration of the funds from the comptroller to TCEQ.
- Establishes a new technology research and development program and allows TCEQ oversight of grants provided to nonprofit organizations.
- Establishes a new diesel testing facility to evaluate retrofits, add-ons, advanced technologies and fuel to determine their effectiveness in achieving emissions reductions, with emphasis on the reduction of oxides of nitrogen.

ENERGY EFFICIENCY

- Amends the energy efficiency programs administered by State Energy Conservation Office (SECO) and establishes new energy efficiency requirements for appliances sold.
- Requires state agencies and institutions of higher education to be included, along with political subdivisions and school districts, in the requirement to establish goals to reduce electric consumption by five percent each year for six years, beginning September 1, 2007.
- Allows SECO to adopt more stringent energy efficiency standards.

ANTI-IDLING RESTRICTIONS

- Allows TCEQ to limit idling by vehicles.
- States that idling is not necessary to power a heater or air conditioner if the vehicle is within two miles of a facility offering heating and air conditioning connections.
- Restricts idling in residential areas or locations within 1,000 feet of a hospital.

TCEQ NOTIFICATION REQUIREMENTS

Requires TCEQ to notify applicable county judge or presiding officer of a municipality when a construction permit or amendment is received.

ENFORCEMENT ACTIONS

Modifies laws relating to TCEQ's enforcement of repeat violations of federal Title V Clean Air Act regulations.

SOLAR ENERGY DEMONSTRATION PROJECT

Requires the Public Utility Commission to establish a demonstration project for solar electric systems for each of the following: new residential subdivisions; new or established affordable housing for low-income persons; and not more than three small businesses.

This bill is effective immediately.

SB 153: Relating to the creation of an offense involving the supervision of a vehicle operator holding an instruction permit

This bill makes it an offense for the licensed passenger accompanying a driver with a learner's permit to sleep, be intoxicated, or be inattentive or incapacitated in any way. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

SB 255: Relating to reports and information provided by the Texas Department of Transportation

This bill requires TxDOT to post annual per capita statistics on its website by district. This report is to include demographic statistics as well as a report on financial statistics relating to grant programs and toll roads. This bill is effective September 1, 2007.

SB 330: Relating to enforcement of certain vehicle weight and safety requirements by a noncommissioned employee of the Department of Public Safety

This bill clarifies that "commercial motor vehicle inspection sites" are official weigh stations for purposes of enforcing commercial vehicle weight and safety requirements. This bill is effective immediately.

SB 718: Relating to the route selection for the Trans-Texas Corridor

This bill requires, to the extent possible, that the Transportation Commission shall select a route for a segment of the Trans-Texas Corridor that lies on the Texas Highway Trunk System. This bill was vetoed by the Governor.

SB 766: Relating to the transfer of powers and duties for accident reports from the Department of Public Safety of the State of Texas to the Texas Department of Transportation

This bill transfers the responsibility for creating annual accident and accident fatality reports from DPS to TxDOT. This responsibility includes making recommendations on reducing accidents and increasing safety. This bill is effective September 1, 2007.

SB 792: Relating to the authority of certain counties and other entities with respect to certain transportation projects and to Comprehensive Development Agreements with regard to such projects; authorizing the issuance of bonds; providing penalties

This was the major transportation bill for the 80th Texas Legislature. It deals primarily with toll roads including a two-year moratorium on Comprehensive Development Agreements.

Article 1. Term of Certain Toll or Fee Collection Contracts with Private Entities

Private firms responding to CDA requests for proposals may submit proposals for multiple contract terms, ranging from 10 years to 50 years from the date of the start of revenue operations (not to exceed 52 years).

CDA contract terms are limited to 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private entity, but not to exceed 52 years.

An item previously required only when CDA contracts extended beyond 50 years are now mandatory for all CDAs: a mechanism for setting the price for TxDOT purchase of the private entity's interest in the CDA.

The 50-year CDA contract term and the inclusion of a mechanism for setting the price for TxDOT purchase of the private entity's interest in the CDA apply to Trans-Texas Corridor and Regional Mobility Authority (RMA) CDAs.

Article 2. Payments to Unsuccessful Proposers for Comprehensive Development Agreements

Paying a stipend to unsuccessful CDA proposers becomes permissive, as opposed to required for TxDOT or RMA CDAs.
moratorium

Article 3. Moratorium on Certain Terms in Comprehensive Development Agreements or Sale of Toll Projects

This section imposes a two-year moratorium on entering into CDAs, which will expire on September 1, 2009. During this time, any CDA entered into by TxDOT, a Regional Tollway Authority (NTTA), an RMA, or Harris County Toll Road Authority (HCTRA) may not permit a private entity to operate a toll project or collect revenue from a toll project.

The following projects are exempt from the moratorium:

- The Trinity Parkway
- Managed lane projects in nonattainment or near nonattainment areas for which TxDOT has issued a Request for Qualifications (RFQ) before May 1, 2007
- Loop 9 in Dallas and Tarrant Counties on certain CDAs.
- State Highway 99 (in Houston)
- Interstate Highway 69 south of Corpus Christi
- A non-Trans-Texas Corridor project in Grayson County
- State Highway 121 if NTTA is given an opportunity to submit a public sector comparator bid before May 25, 2007. If NTTA's bid is determined to be the best value to the region, NTTA will be allowed to develop SH 121.

SB 792—continued

- U.S. Highway 281 (in San Antonio)

Any project in a border county with a population of 300,000 or more. If the project is in the El Paso area, it is only exempt if the MPO approved the project before May 1, 2007.

Before TxDOT can enter into a CDA, the commissioners court of the county in which a majority of the toll project is located must pass a resolution of support for the CDA. The support resolution must include a statement that the commissioners understand any non-compete provisions and penalties that may be assessed.

If a competing facility payment must be made to a private entity, that payment will be made with money allocated to the TxDOT district.

No toll entity may “sell” a toll project to a private entity.

A legislative study committee is created to study the public policy implications of allowing private entities to collect revenue from a toll project through a CDA and of selling existing toll projects. The study committee must prepare a report by December 1, 2008.

Article 4. Comprehensive Development Agreement Sunset Date

The authority to enter into CDAs will expire on August 31, 2009 (current statute sunsets CDA authority on August 31, 2011). This will allow CDA sunset review to occur simultaneously with TxDOT sunset review.

Managed lanes in nonattainment areas with an existing RFP or RFQ are exempt from the 2009 sunset date and will be allowed to continue until the original sunset date of August 31, 2011.

Identical rules are written for the authority of RMAs to enter into CDAs.

Article 5. Public Access to Trans-Texas Corridor Information

TxDOT will be required to make public, in a timely manner, all documents, plans, contracts, and master development plan updates related to the Trans-Texas Corridor. In addition, electronic versions of the master development plan updates must be sent to State elected officials.

TxDOT must post the costs incurred in connection with the Trans-Texas Corridor on its website in a timely manner. In addition, copies of contracts for the Trans-Texas Corridor must be posted to the website within 10 days of being signed.

Article 6. Use of Certain Contract Payments and Other Revenue

Payments, project savings, refinancing dividends, and any other revenue that TxDOT receives under a CDA must be used on transportation and air quality projects. Funds will be distributed to TxDOT districts located within the boundary of the MPO in which the project is located. The distribution between districts will be based on the percent of toll revenue from users from each department district of the project.

SB 792—continued

TxDOT and the MPO are prohibited from revising any formulas or reducing funding for TxDOT districts based on the receipt of CDA payments.

Article 7. Toll Projects in Territory of Local or Regional Toll Project Entity

HCTRA is given right of first refusal for toll projects in the Houston region and access to State right-of-way.

Market valuation is defined as a valuation of a toll project based on terms and conditions established, by the local toll project entity and TxDOT, for developing a toll project. This includes the initial toll rate and the toll rate escalation policy. The market valuation takes into account a traffic and revenue study using agreed-upon assumptions; an agreed project scope; market research; the estimated cost to finance, construct, maintain, and operate the project; and other appropriate information.

New procedures are created for giving local toll entities (NTTA, RMAs, HCTRA) the right of first refusal on toll projects:

1. Local toll entity and TxDOT agree that a toll project should be developed, constructed, and operated as a toll project.
2. Local toll entity and TxDOT mutually agree on the terms and conditions for development, construction, and operation of the toll project.
 - a. If there is no agreement on the terms and conditions, neither the local toll entity nor TxDOT may develop the project as a toll project.
3. Local toll entity and TxDOT mutually determine which entity, including a third party under contract with the entity or TxDOT, will develop the market valuation.
4. Local toll entity and TxDOT have 90 days after the date of receiving a final draft version of the market valuation to mutually approve the market valuation.
 - a. If there is no agreement within the 90-day period, the draft version is considered to be the final version of the market valuation.
 - b. TxDOT and the local toll entity can agree not to develop a market valuation.
 - c. If there is no agreement on which entity will develop the market valuation, neither the local toll entity nor TxDOT may develop the project as a toll project.
5. Local toll entity has first option to develop, finance, construct, and operate a toll project under established terms and conditions. Local toll entity has six months after the market valuation is approved to decide whether to exercise this option. (There is a different schedule for RMAs.)
6. If the local toll entity exercises the option, once the environmental requirements are complete and all legal challenges are concluded, the local toll entity has two years to complete the following items:
 - a. Enter into a contract for construction
 - b. Either:
 - i. Commit to make a payment into a toll project subaccount (defined later) in the value of the toll project as determined by the market valuation to be used by TxDOT to develop additional transportation projects in the same region, or
 - ii. Commit to construct additional transportation projects in the same region estimated to cost equal to the market valuation within a time period agreed to by the toll entity and TxDOT.
7. If the local toll entity exercises the option but has not begun the environmental review the local toll entity must begin the environmental review within six months of exercising the option.

SB 792—continued

8. If the local toll entity does not exercise the option or does not enter into a contract/make the funding commitment within two years then TxDOT has the option to develop, finance, construct, and operate the toll project under the established terms and conditions. TxDOT has two months to determine whether to exercise this option.
9. If TxDOT exercises the option, once the environmental requirements are complete and all legal challenges are concluded, the local toll entity has two years to complete the following items:
 - a. Enter into a contract for construction
 - b. Either:
 - i. Commit to make a payment into a toll project subaccount (defined later) in the value of the toll project as determined by the market valuation to be used by TxDOT to develop additional transportation projects in the same region, or
 - ii. Commit to construct additional transportation projects in the same region estimated to cost equal to the market valuation within a time period agreed to by the toll entity and TxDOT.
10. If TxDOT does not exercise the option or doesn't enter into a contract/make the funding commitment within the two years, then the local toll entity and TxDOT may meet again to agree to revised terms and conditions for the toll project. At that time, the agencies would follow the process described starting with number 2 above.

Under this process, the third party that develops the market valuation may not invest money directly or indirectly in a private entity that develops the toll project (fees for services are not considered investments). In addition, the third party may not directly or indirectly control, be controlled by, or be under common control with a private entity that develops the toll project.

TxDOT shall assist local toll entities in the development, financing, construction, and operation of a toll project developed by the local toll entity—consistent with federal law—by allowing the local toll entity to use State Highway right-of-way and to access the State Highway System as necessary. Ownership of the project may be transferred from TxDOT to the local toll entity if the project is removed from the State system.

Under this section, TxDOT may not require payment from the local toll entity for the right-of-way except to reimburse TxDOT for the actual costs, incurred or to be incurred by TxDOT, that are owed to a third party, including the federal government. In addition, if a local toll entity must reimburse TxDOT for right-of-way costs, that will reduce the payment required to a project subaccount or additional transportation projects for that project.

A local toll entity must enter into an agreement with TxDOT for any project it exercises the right of first refusal and also for which it intends to use State right-of-way. The agreement must provide that the local toll entity will comply with applicable federal and State laws.

The local toll entity or TxDOT may issue bonds, including revenue bonds and refunding bonds, or other obligations, and enter into credit agreements to pay any project costs. The Attorney General must review and approve any bonds or other obligations issued. The maximum bond term is 30 years and is not a general debt of the State.

The provisions of this section expire on August 31, 2011.

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The following projects do not have to go through the process outlined in this section:

- Any project for which TxDOT has issued an RFP or RFQ before May 1, 2007 except for SH 161 (this would include SH 121, North Tarrant Express, DFW Connector, and IH 635). SH 161 must go through the process.
- President George Bush Turnpike Eastern Extension from SH 78 to IH 30
- Phase 3 and 4 extensions of the Dallas North Tollway and the planned future extension into Grayson County, regardless of which local toll entity develops the project
- Lewisville Lake Bridge (and portions of FM 720)
- Southwest Parkway from Dirks Road/Altamesa Boulevard to IH 30

Subaccounts will be created by TxDOT in the State Highway Fund to hold payments received under each CDA, including surplus revenue and funds deposited by TxDOT or a local toll entity under the process described above. Interest earned will be deposited to the credit of the subaccount for which it was earned.

TxDOT will maintain the subaccounts and may assign the responsibility to allocate money in the subaccount to the MPO for the region. Funds will be allocated between districts in the region in which the project is located and will be based on the percent of toll revenue from users from each department district of the project.

In each odd-numbered year, TxDOT will submit a report to the Legislative Budget Board on the cash balances in the subaccounts and expenditures from the subaccounts.

TxDOT is prohibited from revising any formulas or reducing funding for TxDOT districts based on deposits into the subaccounts.

Article 8. County Authority in Connection With Certain Toll Projects

This section relates to HCTRA.

Article 9. Regional Tollway Authorities

Any action taken by NTTA under this section must comply with federal law, including provisions relating to the role of MPOs and approval of projects for conformity with the State Improvement Program (SIP), the use of toll revenue, and the use of the right-of-way of and access to federal-aid highways.

NTTA is authorized to use CDA procurement for toll projects. The rules for the process are laid out in the bill and mirror TxDOT's process for entering into CDAs.

- NTTA must use a competitive procurement process that provides the best value for NTTA.
- Unsolicited proposals may be accepted.
- NTTA must establish rules and procedures for accepting unsolicited proposals that require certain information of a private entity (project location, scope, and limits; private entity's qualifications, experience, technical competence, and capability to develop the project; and other necessary information).
- NTTA must publish a request for competing proposals and qualifications in the Texas Register that includes the criteria and relative weights and a deadline for submitting proposals.

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- NTTA may interview private entities submitting unsolicited or competing proposals.
- NTTA may shortlist private entities. At least two firms must be short listed unless only one proposal is received.
- NTTA will issue a request for detailed proposals from all private entities shortlisted. Additional information may be requested regarding the private entity's qualifications and technical competence; the feasibility of developing the project as proposed; engineering or architectural designs; the private entity's ability to meet schedules; or a financial plan, including costing methodology and cost proposals.
- The apparent best value proposer will be selected based on the criteria.
- NTTA may enter into negotiations with the apparent best value proposer.
- If NTTA later determines that the highest ranking proposal does not provide the best value, it may enter into negotiations with the second highest ranking proposer.
- A request for proposals may be withdrawn at any time and a new request issued.
- NTTA may require an unsolicited proposal be accompanied by a fee to cover the review of the proposal.
- NTTA is permitted to pay an unsuccessful proposer a stipend for their work. NTTA is authorized to use the work of an unsuccessful proposer.
- The following information will remain confidential until a final contract has been entered into:
 - The proposal, unless the private entity agrees to disclose information
 - Supplemental information submitted by a private entity, unless the private entity agrees to disclose information
- Final rankings are not confidential once they are complete.
- NTTA may require a private entity to provide a performance and payment bond or an alternative form of security.
- NTTA will retain ownership of a toll project and related facilities.
- NTTA may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a turnpike project, including supplemental facilities. At the end of the contract, the toll project and facilities are to be turned over to NTTA in a state of proper maintenance.
- NTTA may not incur a financial obligation for a private entity under a CDA.
- NTTA will negotiate the terms of private participation including methods to determine cost, profit, and project distribution; toll rates and responsibility for setting toll rates; acceptable safety and policing standards; and other professional, consulting, construction, operation, and maintenance standards, expenses, and costs.
- CDAs may include the following provisions: providing for purchase by NTTA of a private entity interest in the CDA; establishing the purchase price in accordance with agreed-upon methodology; providing for the payment of an obligation incurred under the CDA; permitting the private entity to pledge its rights under the CDA; concerning the private entity's right to operate and collect revenue from the project; and restricting the right of NTTA to terminate the private entity's right to operate and collect revenues.
- The project must be in TxDOT's Unified Transportation Program or located on a transportation corridor identified in the Statewide Transportation Plan before NTTA may enter into a CDA for a toll project.
- If the CDA allows a private entity to collect tolls, the private entity will submit to NTTA for approval the methodology for setting tolls and increasing tolls; a plan outlining the methods of collecting tolls, including late payment penalties and collection costs of delinquent toll collection; and any proposed change in the methodology for setting or collecting tolls.

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- The maximum length of NTTA CDA contracts is 50 years from the start of revenue operations by the private entity, not to exceed 52 years.
- NTTA will adopt rules governing the selection of private entities for CDAs and negotiations of CDAs.

Any payment received by NTTA under a CDA must be used to finance a toll project or a highway project. NTTA will allocate any CDA payment to member counties based on the percentage of toll revenue from users, from each County, of the project.

NTTA is specifically authorized to lease both tangible and intangible property.

NTTA has sole discretion to use surplus toll revenue without regulation by State or local governmental entities. NTTA may use surplus toll revenue on non-tolled projects if:

- The project is within NTTA's boundaries and
- The project will either
 - Enhance the operation or revenue of an existing, or the feasibility of a proposed, toll project; or
 - Ameliorate the impact of an existing or proposed toll project; and
 - Not be anticipated to result in an overall reduction of revenue of any toll project or system.

NTTA's Board will prescribe terms for the use of surplus revenue, including the manner in which the project will be studied, designed, constructed, maintained, repaired, or operated. NTTA must enter into an agreement with the owner of a project or an entity directly affected by the toll project in order to develop the additional projects. NTTA may not take any action to violate agreements governing the use of toll project or system revenue. NTTA may not commit expenditures on other projects in any fiscal year exceeding 10 percent of its surplus revenue from the preceding fiscal year. When authorizing expenditures of surplus revenue, NTTA should consider balancing projects throughout its boundaries and connectivity to existing or proposed toll projects or systems.

NTTA is given the same powers for studying, financing, designing, constructing, maintaining, repairing, and operating highways as it has for toll projects.

All work on a highway on the State Highway System must be approved by TxDOT, and TxDOT will supervise and regulate such work.

NTTA is specifically authorized to be the sole provider of customer service and other toll collection and enforcement services for reasonable compensation, regardless of whether the toll project is developed by NTTA or a CDA.

NTTA is authorized to procure a combination of engineering, design, and construction services in a single procurement. Rules may not conflict with existing design-build procedures (this new section is dependent on HB 1886 becoming law).

NTTA may utilize construction manager-at-risk procurement for the construction of a toll project.

New provisions are enacted regarding gifts and contributions to NTTA directors.

The commissioners court of a county that is a member of NTTA may request the NTTA Board to vote on whether to build a project that the county requests.

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If TxDOT requests NTTA to participate in the development of a Trans-Texas Corridor project, NTTA is granted all of TxDOT's powers related to the Trans-Texas Corridor.

The TxDOT/NTTA Protocol is void.

Article 10. Regional Mobility Authorities

This section applies to RMAs.

Article 11. Comprehensive Development Agreements for Toll Projects

SH 121 is exempt from the following provisions because an apparent best value proposer was selected before May 1, 2007.

The following provisions apply to TxDOT, NTTA, RMAs, and HCTRA – referred to as toll project entities.

A toll project entity may not enter into a CDA unless the Attorney General reviews the proposed agreement and determines that it is legally sufficient.

Toll project entities must provide the names of shortlisted proposers to the Legislative Budget Board within 10 days. At least 30 days before entering into a CDA contract, a toll project entity must provide the Legislative Budget Board with the proposed contract; the apparent best value proposal; and financial forecast prepared by the toll project entity that includes the estimated toll revenue of the project, the estimated construction costs and operating expenses, and the amount of income the private entity will realize.

Toll project entities must allow the State Auditor 30 days to review the toll entity's traffic and revenue report. After the CDA is signed, the financial forecasts and traffic revenue reports are public information.

Toll project entities will develop a formula for making termination payments to terminate a CDA under which a private entity collects revenue from a toll project. The formula will calculate an estimated amount of loss to the private entity as a result of the termination and be based on investments, expenditures, and the internal rate of return on equity under the agreed base case financial model as projected over the original term of the agreement, plus an agreed percentage markup on that amount. The formula will not be based on any estimate of future revenue from the project unless it is included in an agreed base case financial model.

If a toll project entity terminates a CDA contract the toll project entity may issue bonds to make termination payments, purchase the interest of the private entity in the CDA, or provide for the payment of obligations of the private entity incurred pursuant to the CDA.

CDAs may not contain a non-compete clause that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project by any entity.

A CDA may provide for a toll project entity to make a payment to a private firm if a competing facility is built within four miles of the toll project. The payment would be for loss of toll revenues attributable to the competing facility minus the decreased operation and

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maintenance costs to the private entity. No payment will be made for building planned improvements, safety projects, operations and maintenance projects, HOV lanes added to existing roadways, or projects providing a mode of travel not included in the toll project. It is the burden of the private entity to prove lost revenue.

Any CDA that contains a provision for compensation of lost revenue to the private entity must also contain a provision that the private entity will compensate the toll project entity if a highway facility is built that increases the toll revenues. The payment would be for increased revenues attributable to the new project minus increased operations and maintenance costs.

The following information must be published by a toll project entity before entering into a CDA:

- Project financing
 - Total and future debt for the project
 - How the debt will be repaid and a repayment timeline
 - Projected interest to be paid on the debt
- If tolls will remain on the project after the debt is retired
- The method for setting the toll rates
- Competing facility provisions and penalties
- Termination provisions and the calculation of value for termination
- Initial toll rates, the method for increasing toll rates, and the projected toll rates at the end of the contract
- Projected total concession payment

The toll project entity must disclose this information at least 30 days before entering into the contract. This information must be published in a newspaper in the county in which the toll project is located. In addition, the toll project entity must hold a hearing on this information.

Article 12. Metropolitan Planning Organizations

MPO policy boards will be required to adopt an ethics policy in the bylaws preventing a member from having a conflict of interest in business with the MPO.

Article 13. Toll Collection

Entities operating toll lanes under an agreement with TxDOT will have the same powers and duties as TxDOT to collect and enforce tolls.

Article 14. Issuance of Bonds

The total authorized amount of “Ogden Bonds” is raised to \$6 billion, with \$1.2 billion (total, not of the new \$3 billion) being designated for safety projects.

This bill is effective immediately.

SB 964: Relating to the board of directors of a regional tollway authority.

This bill changes the board structure of a Regional Tollway Authority. Original Counties may appoint an additional member to the Board of Directors. Also, Counties with existing toll projects may appoint one additional member. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

SB 1077: Relating to performance audits of certain regional transportation authorities.

This bill changes the process of auditing Regional Transportation Authorities including Dallas Area Rapid Transit and the Fort Worth Transportation Authority. It includes a measurement of subsidy per passenger and number of passengers per hour. It removes operating cost per passenger and average vehicle occupancy. This bill is effective immediately.

SB 1089: Relating to the authority of certain development corporations to spend tax revenue on certain mass transit-related facilities.

This bill allows 4a and 4b sales tax revenue to be spent on transit. This bill is effective immediately.

SB 1119: Relating to the implementation of a photographic traffic signal enforcement system; providing for the imposition of civil penalties and to the use of the money collected to help fund trauma facilities and emergency medical services; providing a criminal penalty.

This bill authorizes municipalities to use cameras to enforce red light running. A violation under this law is a civil violation and will not appear on a criminal or driving record. It specifies that a person may not be issued both a civil citation via a camera and a criminal citation via a police officer for the same offense. Before cameras can be installed, a traffic study must be done to determine if there are any other strategies, such as signalization changes or changes of approach, that will reduce the number of red light violations without the use of a camera. An intersection with a camera must be selected based on traffic volume, the history of accidents, the number and frequency of red light violations, and similar engineering considerations. Signs must also be located on the approaches to an intersection with a camera notifying drivers of the camera's existence and its purpose.

Information obtained by the enforcement camera may only be used to locate and notify the offender. It is assumed that the owner of a car photographed in violation of the law was the operator at the time of the violation.

A fine of up to \$75 may be charged and a late fee of up to \$25 may be charged. After expenses, 50 percent of revenue collected for violations must go into a local account that can only be used to fund traffic safety programs. The remaining 50 percent must be deposited in a regional trauma account.

Private companies that are contracted to provide this service cannot be paid according to the number of citations issued by the system.

This bill is effective September 1, 2007.

SB 1266: Relating to pass-through financing and the designation and operation of transportation reinvestment zones.

This bill authorizes the creation of transportation reinvestment zones in municipalities that intend to enter into pass-through financing agreements in order to provide funds necessary to secure such agreements. Revenue from reinvestment zones of this type may also be used to reimburse TxDOT for pass-through payments made. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

SB 1536: Relating to the issuance of bonds by a municipality for certain improvements on the State Highway System; providing authority to impose a tax.

This bill authorizes municipalities to issue bonds for construction and improvement of projects or facilities on the State Highway System within their jurisdiction and to pledge revenue from any available source including pass-through payments from TxDOT and local taxes for the repayment of these bonds. This bill was allowed to become law without the Governor's signature. This bill is effective September 1, 2007.

SB 1723: Relating to the collection of surcharges assessed under the driver responsibility program.

This bill allows for an amnesty program to be established for certain offenders as an incentive for compliance with the law. This includes reducing or eliminating any surcharge due. This bill is effective September 1, 2007.

SJR 64: Proposing a constitutional amendment providing for the issuance of general obligation bonds by the Texas Transportation Commission to provide funding for highway improvement projects.

If approved by voters, this resolution will amend the constitution to allow TxDOT to issue up to \$5 billion general obligation bonds to fund highway projects. This constitutional amendment will be presented to voters in November 2007.