

BILL ANALYSIS

C.S.H.B. 1951
By: Krause
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been suggested that the current toll road system in Texas is in need of reform. C.S.H.B. 1951 seeks to implement this reform and provide transparency to the toll road system.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1951 amends the Transportation Code to authorize the Texas Department of Transportation (TxDOT) to enter into a comprehensive development agreement with a private entity for a toll project or for a state highway improvement project that includes both tolled and nontolled lanes and that may include nontolled appurtenant facilities if:

- the estimated capital costs for construction of the project exceed \$1 billion;
- TxDOT demonstrates that state funding for the project is not available without significant reprioritization of existing funds that are designated for other highway improvement projects; and
- the construction of the project does not require the use of money in the state highway fund.

The bill prohibits TxDOT from entering into more than two such comprehensive development agreements during each fiscal year.

C.S.H.B. 1951 prohibits TxDOT or a private entity from constructing or operating such a toll project, regardless of whether the project is part of the state highway system or is subject to TxDOT jurisdiction, unless the project is approved by a majority of voters voting:

- in all applicable counties in which a portion of the project is to be located at an election held for that purpose, subject to the following condition; or
- in each county in which a portion of the project is to be located at an election held for that purpose, if the project is to be located in at least one county that has a population of 500,000 or more and at least one county that has a population of not more than 50,000.

C.S.H.B. 1951 requires the commissioners court of each county in which a portion of a toll

project is to be located, as described by the bill, on request of TxDOT, to order such an election but prohibits the election from being ordered until the scope of the project has been finalized. The bill provides for the date of and ballot requirements for such an election.

C.S.H.B. 1951 requires TxDOT to contract for election services with each county in which a portion of the toll project is to be located in the manner prescribed by state law. The bill prohibits the election from being held earlier than the fifth anniversary of the date of a previous election to approve the same or a substantially similar toll project but authorizes the election to be held for a different toll project regardless of whether the project involves the same toll project entity or some or all of the counties involved in a previous election.

C.S.H.B. 1951 establishes that TxDOT may enter into a comprehensive development agreement only for state highway projects that are specifically authorized by applicable state law or as provided by statutory provisions relating to design-build contracts. The bill repeals a provision requiring TxDOT to obtain certain environmental clearance and present applicable financial information before entering into such an agreement.

C.S.H.B. 1951 provides for the collection by a toll project entity of tolls and for the civil enforcement of tolls without regard to whether the toll project is a part of the state highway system or is subject to the jurisdiction of TxDOT. The bill repeals, among other provisions, provisions establishing certain misdemeanor offenses for the nonpayment of tolls.

C.S.H.B. 1951 sets out provisions regarding, among other things:

- the payment of a toll and applicable exemptions from such payment;
- the invoice procedures by a toll project entity for a toll not paid at the time the toll project is used;
- the imposition of a civil penalty for the failure to pay two or more invoices and exceptions and a defense to that civil liability;
- a cap on the administrative fees charged for failure to comply with provisions regarding timely payment of an invoice;
- the authority of a toll project entity to contract with a person to collect unpaid tolls and administrative fees before referring the matter to an applicable court with jurisdiction over the civil penalty; and
- the confidentiality of information related to toll collection and enforcement.

C.S.H.B. 1951 establishes that a regional tollway authority and a regional mobility authority, in addition to powers and duties provided to each authority, have the same powers and duties as TxDOT, a county, and the other regional authority regarding the authority's toll collection and enforcement powers for the authority's turnpike projects and other toll projects developed, financed, constructed, or operated under an agreement with the authority or another entity, as applicable.

C.S.H.B. 1951 repeals provisions relating to:

- the unauthorized use of toll roads in a county with a population of more than 3.3 million or adjacent to such a county;
- the failure or refusal to pay a toll of a regional tollway authority or a turnpike project and related remedies; and
- the habitual violation of certain toll projects and related remedies.

C.S.H.B. 1951 amends the Transportation Code and Government Code to make certain conforming changes.

C.S.H.B. 1951 repeals the following provisions of the Transportation Code:

- Sections 223.201(i), (j), (k), (l), and (m)
- Section 223.2011
- Sections 228.001(3-a), 228.054, 228.0545, 228.0546, 228.0547, 228.055, and 228.056
- Sections 284.070, 284.0701, 284.0702, 284.202, 284.203, 284.2031(b), 284.2032, 284.204, 284.205, 284.206, 284.207, 284.208, 284.209, 284.210, 284.211, and 284.212
- Section 366.178
- Section 370.177
- Sections 372.105(c), (d), (e), and (f)
- Sections 372.106, 372.107, 372.108, 372.109, 372.110, 372.111, 372.112, 372.113, 372.114, and 372.115
- Section 502.011

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1951 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a specification that the comprehensive development agreement for a toll project or for a state highway improvement project into which TxDOT may enter is an agreement with a private entity. The substitute includes a provision conditioning the authority of TxDOT to enter into such an agreement on the construction of the project not requiring the use of money in the state highway fund.

The substitute revises the election requirements applicable to a toll project by including provisions:

- making the requirement applicable only to a toll project subject to a comprehensive development agreement under the bill's provisions;
- changing the counties in which such an election is held to either:
 - all applicable counties in which a portion of the project is to be located at an election held for that purpose, subject to the following condition; or
 - in each county in which a portion of the project is to be located at an election held for that purpose, if the project is located in at least one county that has a population of 500,000 or more and at least one county that has a population of not more than 50,000; and
- changing from a toll project entity to TxDOT the entity that requests an applicable commissioners court to order an election.

The substitute does not include provisions relating to the cessation of tolls.