

BILL ANALYSIS

Senate Research Center

C.S.S.B. 369

By: Sibley

International Relations, Trade & Technology

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Committee Report (Substituted)

DIGEST

In 1991, the Texas Department of Transportation was created by the 72nd Legislature, as a result of the consolidation of the State Department of Highways and Public Transportation with the Texas Department of Aviation and the Texas Motor Vehicle Commission. The legislature also declared its intention to merge the Texas Turnpike Authority with the Texas Department of Transportation in 1997. Both the Texas Department of Transportation and the Texas Turnpike Authority are subject to the Sunset Act and will be abolished September 1, 1997 unless continued by the legislature. As a result of its review of these agencies, the Sunset Advisory Commission recommends continuing the Texas Department of Transportation, consolidating the function of the authority within the department as a separate independent division, authorizing the creation of a regional turnpike authority, as well as several statutory modifications that are contained in this legislation.

PURPOSE

As proposed, C.S.S.B. 369 provides for the continuance of the Texas Department of Transportation (department) for a 12-year period, consolidates Texas Turnpike Authority within the department, and makes statutory modifications recommended by the Sunset Advisory Commission.

RULEMAKING AUTHORITY

Rulemaking authority is granted to a commissioners court under SECTION 24 (Section 366.031(b), Transportation Code), to the Texas Transportation Commission under SECTION 24 (Section 366.035(e), Transportation Code), to the Regional Toll Authorities in SECTION 24 (Sections 366.033(a), 366.035(f), 366.171(a), 366.180(b) and 366.185(b), Transportation Code), and to the board of directors of the Texas Turnpike Authority in SECTION 8 (Section 361.042, Transportation Code), of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 222, Transportation Code, by adding Subchapter E, as follows:

SUBCHAPTER E. TOLL FACILITIES

Sec. 222.101. EXPENDITURE OF MONEY. Authorizes the Texas Department of Transportation (department) to spend money from any source for the construction, maintenance, and operation of toll facilities.

Sec. 22.102. TEMPORARY TOLL PROJECTS. Authorizes the department to recover the cost of a preventative maintenance or rehabilitation project on a nontoll segment of the state highway system by temporarily imposing a toll charge.

Sec. 22.103. COST PARTICIPATION. Authorizes the department to participate in the cost of the construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the Texas Transportation Commission (commission), including requirements for repayment. Provides that an entity receiving cost participation from the department under this section is a successor agency to the Texas Turnpike Authority (TTA) for the purposes of Section 52-b, Article III, Texas Constitution.

SECTION 2. Amends Section 362.055, Transportation Code, to provide that this subchapter does not apply to a regional tollway authority created under Chapter 366.

SECTION 3. Amends Section 361.001, Transportation Code, as follows:

Sec. 361.001. DEFINITIONS. Redefines "authority" and defines "turnpike project," and "regional tollway authority." Deletes a definition of "highway."

SECTION 4. Amends Section 361.031, Transportation Code, to provide that the TTA is a division of the department that has full authority to exercise all powers granted to it under this chapter. Sets forth authorization powers and responsibilities of TTA. Authorizes TTA to use the facilities and personnel of the department in the same manner as other divisions of the department to perform its functions under this chapter. Requires the comptroller to assign a separate agency number to TTA.

SECTION 5. Amends Sections 361.032(a), (b), (c), (e), and (g), Transportation Code, to require the board of directors of TTA (board) to be composed of six directors appointed by the commission. Sets forth terms of directors and responsibilities of the commission.

SECTION 6. Amends Section 361.033, Transportation Code, to update standard language developed by the Sunset Commission regarding conflict of interest. Defines "Texas trade association."

SECTION 7. Amends Section 361.035, Transportation Code, to update standard language developed by the Sunset Commission regarding removal of a director.

SECTION 8. Amends Section 361.042, Transportation Code, to update standard language developed by the Sunset Commission, regarding general powers and duties of the board and TTA.

SECTION 9. Amends Section 361.055, Transportation Code, to set forth entities that are considered successor agencies to the TTA. Provides that a municipality that operates or otherwise receives a turnpike project under Subchapter H, the department, and a public or private entity authorized to receive funds from the department for the construction, maintenance, or operation of toll projects are successor agencies for the purposes of Section 52-b, Article III, Texas Constitution.

SECTION 10. Amends Section 361.132, Transportation Code, to authorize the board to acquire certain property it determines necessary or convenient for certain purposes of carrying out this chapter. Provides that the real property TTA is authorized to acquire may include certain provisions. Sets forth provisions of the board, rather than TTA, regarding the acquisition of real property. Provides that property necessary or convenient for the construction or operation of a turnpike project under Subsection (a) includes an interest in real property, a property right, or materials that TTA determines are necessary or convenient to meet certain objectives. Requires TTA to comply with all applicable relocation assistance procedures. Authorizes TTA to acquire certain materials as necessary to carry out a purpose under this chapter.

SECTION 11. Amends Section 361.135, Transportation Code, to authorize the board, with the concurrence of the commission, to acquire public or private real property in the name of the state, if certain conditions apply. Authorizes the board, with the concurrence of the commission, to condemn real property that TTA determines meets certain conditions, among which includes the property being necessary for access, approach, and interchange roads, or necessary for supplemental facilities of TTA. Deletes provisions authorizing the condemning of certain real property. Deletes a provision authorizing TTA to construct a supplemental facility. Makes conforming changes.

SECTION 12. Amends Section 361.136, Transportation Code, to delete a provision that requires TTA to provide and maintain a passageway over or under a turnpike project for the owner of

severed real property in excess of 80 acres. Deletes a provision that requires TTA to sell and dispose of all severed property within two years.

SECTION 13. Amends Chapter 361D, Transportation Code, as follows:

Sec. 361.142. COVENANTS, CONDITIONS, RESTRICTIONS, OR LIMITATIONS. Provides that covenants, conditions, restrictions, or limitations affecting property acquired in any manner by the authority are not binding against the authority and do not impair the authority's ability to use the property for a purpose authorized by this chapter. Provides that the beneficiaries of the covenants, conditions, restrictions, or limitations are not entitled to enjoin the authority from using the property for a purpose authorized under this chapter, but this section does not affect the right of a person to seek damages to the person's property under Section 17, Article I, Texas Constitution.

SECTION 14. Amends Section 361.180, Transportation Code, as follows:

Sec. 361.180. New heading: TOLLS ON CONVERTED HIGHWAYS. Authorizes the commission to impose a toll for transit over an existing free public highway if the highway has been converted to a toll facility under Section 222.072 or 362.0041.

SECTION 15. Amends Section 361.184, Transportation Code to authorize the board to transfer, or direct TTA to transfer certain funds into the project revolving fund, including advances from the state highway fund

SECTION 16. Amends Section 361.189, Transportation Code to authorize the commission to authorize the use of surplus revenue to pay the costs of another turnpike project and a toll-free project. Deletes a provision that prohibits the commission from taking action under this section that violates Subsection (b). Deletes provisions setting forth requirements for which surplus revenue of a turnpike project that was under construction or operated by TTA on January 1, 1993 may be used. Deletes provisions authorizing the board to use certain revenue from a turnpike project described by Subsection (b).

SECTION 17. Amends Section 361.232, Transportation Code, to provide that this section does not apply to the conversion of any highway that is a part of the state highway system to a turnpike project.

SECTION 18. Amends Section 361.237, Transportation Code, to provide that a turnpike project is a public road subject to all laws applicable to the regulation and control of traffic. Deletes provisions establishing the police responsibilities of TTA.

SECTION 19. Amends Section 361.238, Transportation Code, as follows:

Sec. 361.238. New heading: PAYMENT OF BOND INDEBTEDNESS; CESSATION OR CONTINUATION OF TOLLS. Provides that a turnpike project becomes a toll-free highway when certain conditions apply, among which include, firm banking and financial arrangements have been made for the discharge and final payment or redemption of the bonds in accordance with Article 717k, V.T.C.S., except as provided by Subsection (b). Deletes a provision regarding bonds. Authorizes the commission to continue to charge a toll if the conditions of Subsection (a)(1) and (2) are met. Deletes Subsections (b)-(d) regarding a turnpike project.

SECTION 20. Amends Chapter 361H, Transportation Code, as follows:

SUBCHAPTER H. New heading: TRANSFER OF TURNPIKE PROJECT TO COUNTY, MUNICIPALITY, REGIONAL TOLLWAY AUTHORITY, OR LOCAL GOVERNMENT CORPORATION

SECTION 21. Amends Sections 361.281, 361.282, and 361.285, Transportation Code, as follows:

Sec. 361.281. APPLICABILITY OF SUBCHAPTER. Provides that this chapter applies only to certain entities, including a municipality with a population of more than 120,000 that is adjacent to the United Mexican States, or a regional tollway authority created under Chapter 366.

Sec. 361.282. LEASE, SALE, OR CONVEYANCE OR TURNPIKE PROJECT. Authorizes TTA to convey a turnpike project to a county, municipality, regional tollway authority, or a local government corporation created under Chapter 431. Requires a turnpike being transferred to be in the best interest of the state and of the entity receiving the turnpike project.

Sec. 361.285. APPROVAL OF AGREEMENT BY ATTORNEY GENERAL. Makes a conforming change.

SECTION 22. Amends Section 361.331(a), Transportation Code, to authorize TTA to designate two or more turnpike projects that are wholly or partly located in a metropolitan planning organization, rather than a planning region of a council of governments, after certain processes are accomplished. Deletes the process for turnpike designation that requires an adopted resolution of the commissioners court of that county.

SECTION 23. Amends Section 362.0041, Transportation Code, as follows:

Sec. 362.0041. New heading: CONVERSION OF PROJECTS. Provides that a segment of the free state highway system may be converted to a toll facility if the commission finds the conversion is the most feasible. Deletes existing Subsections (b) and (c) regarding the cost of a transferred highway. Makes conforming and nonsubstantive changes.

SECTION 24. Amends Title 6G, Transportation Code, by adding Chapter 366, as follows:

CHAPTER 366. REGIONAL TOLLWAY AUTHORITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 366.001. SHORT TITLE: Regional Tollway Authority Act.

Sec. 366.002. PURPOSES; LIBERAL CONSTRUCTION. Provides that the purposes of the chapter are to expand and to improve transportation in the state; create regional tollway authorities to secure rights-of-way for urgently needed transportation systems; to plan, design, construct and operate these systems; and to reduce the financial burdens and demands on the commission. Requires this chapter to be liberally construed to effect its purposes.

Sec. 366.003. DEFINITIONS. Defines "authority," "board," "bond," "bond proceedings," "bond resolution," "bondholder," "highway," "local government entity," "revenue," "system," and "turnpike project."

Sec. 366.004. CONSTRUCTION COSTS DEFINED. Provides that the cost of acquisition, construction, improvement, extension, or expansion of a turnpike project or system under this chapter includes certain costs. Authorizes costs attributable to a turnpike project or system and incurred before the issuance of bonds to finance the turnpike project or system to be reimbursed from the proceeds of sale of the bonds.

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL TOLLWAY AUTHORITIES

Sec. 366.031. CREATION AND EXPANSION OF A REGIONAL TOLLWAY AUTHORITY. Authorizes two or more counties, acting through their respective commissioners courts, by order passed by each commissioners court, to create a regional tollway authority (authority)

under this chapter under certain conditions. Authorizes a commissioners court, by resolution, to petition an established authority for inclusion in the authority under certain conditions. Provides that for an authority created under Subsection (a), the authority is automatically approved 180 days after it is created by order of the respective commissioners courts, unless the commission disapproves prior to the 180th day. Provides that upon approval of the board of an authority receiving a petition under Subsection (b), the county becomes part of the authority.

Sec. 366.032. NATURE OF REGIONAL TOLLWAY AUTHORITY. Provides that an authority created under this chapter is a body politic and corporate and a political subdivision of this state. Provides that an authority is a governmental unit as that term is defined in Chapter 101, Civil Practice and Remedies Code. Sets forth provisions regarding the exercise by an authority of the powers conferred by this chapter in the acquisition, design, financing, construction, operation, and maintenance of a turnpike project or system. Provides that the operations of an authority are governmental, not proprietary, functions.

Sec. 366.033. GENERAL POWERS. Authorizes an authority, acting through its board, without state approval, supervision, or regulation, to take certain actions. Requires an authority to adopt a written drug and alcohol policy in accordance with certain provisions. Authorizes an authority to adopt policies regarding the testing of employees suspected of being in violation of the authority's drug and alcohol policy. Sets forth requirements regarding confidentiality.

Sec. 366.034. ESTABLISHMENT OF TURNPIKE SYSTEMS. Sets forth provisions applicable if an authority determines that the traffic needs of the counties in which it operates and the traffic needs of the surrounding region could be most efficiently and economically met by jointly operating two or more turnpike projects as one operational and financial enterprise.

Sec. 366.035. CONVERSION OF STATE HIGHWAY SYSTEM PROJECTS. Sets forth provisions applicable if the commission determines that the most feasible and economic means to accomplish necessary expansions, improvements, or extensions to the state highway system is the conversion to a turnpike project of a segment of the free state highway system. Requires an authority to reimburse the commission for the cost of a transferred highway, unless the commission determines that the transfer will result in substantial net benefits to the state, the department, and the traveling public that exceed that cost. Sets forth provisions regarding that cost and costs anticipated. Sets forth additional requirements for the commission and provisions regarding notice and rules. Requires an authority to adopt certain rules.

SUBCHAPTER C. FEASIBILITY OF REGIONAL TURNPIKE PROJECTS

Sec. 366.071. EXPENDITURES FOR FEASIBILITY STUDIES. Sets forth provisions regarding an authority and expenses of studying the cost and feasibility and other expenses. Sets forth provisions regarding money spent under this section and the use of any money of a turnpike project or system to study certain feasibility.

Sec. 366.072. FEASIBILITY STUDY FUND. Authorizes an authority to maintain a feasibility study fund and sets forth provisions regarding the fund. Sets forth additional provisions regarding the feasibility authority fund and money used the fund. Sets forth provisions regarding money used spent under Subsection (c). Authorizes an authority to borrow money and issue promissory notes or other interest-bearing evidence of indebtedness payable out of its feasibility study fund for a purpose described by Subsection (c).

Sec. 366.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER LOCAL GOVERNMENTAL ENTITY, OR PRIVATE GROUP. Authorizes municipalities, counties, local governments and

private groups or a combination of these entities to pay all or part of the certain expenses. Sets forth provisions regarding money spent under Subsection (a) for an authority's proposed turnpike project or system.

SUBCHAPTER D. TURNPIKE FINANCING

Sec. 366.111. TURNPIKE REVENUE BONDS. Authorizes an authority, by adoption of a bond resolution, to authorize the issuance of bonds to pay certain costs. Sets forth provisions regarding the bonds of each issue. Authorizes an authority to sell the bonds at public or private sale in a certain manner and for a certain price. Sets forth provisions regarding the proceeds of each bond issue. Sets forth provisions regarding the issuance of additional bonds to pay the costs of a turnpike project or system. Sets forth provisions applicable if the proceeds of a bond issue exceed the cost of the turnpike project or system for which the bonds were issued. Sets forth provisions regarding bonds issued under this chapter.

Sec. 366.112. INTERIM BONDS. Authorizes an authority, before issuing definitive bonds, to issue interim bonds, with or without coupons, exchangeable for definitive bonds. Authorizes the interim bonds to be authorized and issued in accordance with this chapter, without regarding to the requirements, restrictions, or procedural provisions contained in any other law. Authorizes a bond resolution authorizing interim bonds to provide that the interim bonds recite that the bonds are issued under this chapter.

Sec. 366.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT NOT PLEDGED. Provides that the principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from certain amounts. Provides that bonds issued under this chapter do not constitute a debt of the state or any of the counties of an authority or a pledge of the faith and credit of the state or any of the counties. Sets forth requirements for each bond. Prohibits an authority from incurring financial obligations that cannot be paid from revenue derived from owning or operating the authority's turnpike projects and systems or from other revenue provided by law.

Sec. 366.114. EFFECT OF LIEN. Provides that a lien on or a pledge of revenue from a turnpike project or system under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter has certain characteristics. Provides that a bond resolution is not required to be recorded except in the regular records of the authority.

Sec. 366.115. BOND INDENTURE. Authorizes the bonds issued under this chapter to be secured by a bond indenture between the authority and a certain corporate trustee or a certain bank. Sets forth additional provisions regarding a bond indenture. Authorizes the expenses incurred in carrying out a trust agreement to be treated as part of the cost of operating the turnpike. Sets forth certain authorizations for an owner or trustee of a bond issued under this chapter.

Sec. 366.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. Requires an authority to submit to the attorney general for examination a transcript of proceedings relating to bonds authorized under this chapter. Requires the transcript to include the bond proceedings and any contract securing or providing revenue for the payment of the bonds. Sets forth provisions applicable if the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law. Requires the comptroller to register the record of proceedings. Provides that after approval by the attorney general, the bonds, the bond proceedings, and any supporting contract are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

Sec. 366.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. Sets forth

provisions regarding a bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue. Authorizes bonds of an authority to secure the deposit of public money of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value.

Sec. 366.118. APPLICABILITY OF OTHER LAW; CONFLICTS. Sets forth provisions regarding laws that apply to bonds issued under this chapter. Provides that to the extent of a conflict between certain laws and this chapter, this chapter prevails.

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

Sec. 366.161. TURNPIKE PROJECTS EXTENDING INTO OTHER COUNTIES. Authorizes an authority to acquire, construct, operate, maintain, expand, or extend a turnpike project in certain counties.

Sec. 366.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. Authorizes an authority to construct or improve a turnpike project on real property, including a right-of-way acquired by the authority or provided to the authority for that purpose by the commission, a political subdivision of this state, or any other local governmental entity. Provides that except as provided by this chapter, an authority has the same powers and may use the same procedures as the commission in acquiring property.

Sec. 366.163. ACQUISITION OF PROPERTY. Authorizes an authority to acquire certain public or private real and other property. Sets forth provisions regarding the property an authority is authorized to acquire. Authorizes an authority to acquire real property by any method, including purchase and condemnation. Authorizes an authority to purchase public or private real property on the terms and at the price the authority and the property owner consider reasonable. Sets forth provisions regarding covenants, conditions, restrictions, and limitations.

Sec. 366.164. RIGHT OF ENTRY. Authorizes an authority, in order to acquire property necessary or useful in connection with a turnpike project, to enter any real property, water, or premises to make a survey, geotechnical evaluation, sounding or examination. Provides that an entry under Subsection (a) is not a trespass or an entry under a pending condemnation proceeding.

Sec. 366.165. CONDEMNATION OF REAL PROPERTY. Authorizes an authority to acquire public or private real property by the exercise of the power of condemnation under the laws applicable to the exercise of that power on property for public use under certain conditions. Authorizes an authority to condemn real property that TTA makes certain determinations about. Sets forth provisions regarding an authority's acquisition of any real or other property of the commission under this section or any other section of this chapter, or an authority's relocation, rerouting, disruption, or alteration of any facility of the commission.

Sec. 366.166. DECLARATION OF TAKING. Authorizes an authority to file a declaration of taking with the clerk of a certain court. Authorizes an authority to file the declaration of taking concurrently with or subsequent to the petition, but prohibits the authority from filing the declaration after the special commissioners have made an award in the condemnation proceeding. Sets forth requirements regarding the declaration of taking. Sets forth provisions regarding a deposit to the registry of the court of an amount equal to the appraised fair market value. Authorizes the authority to tender in favor of the owner of the subject property a bond or other security in a certain amount. Sets forth a provision regarding the date on which the declaration is filed. Authorizes an owner to draw upon the deposit held by the court under Subsection (d) on the same terms and conditions as are applicable under state law to a property owner's withdrawal of a commissioners' award under Section 21.021(a)(1), Property Code. Sets forth provisions

regarding a property owner that is a defendant in an eminent domain action filed by an authority under this chapter.

Sec. 366.167. POSSESSION OF PROPERTY. Requires an authority, immediately upon the filing of a declaration of taking, to serve a copy of the declaration on each person possessing an interest in the condemned property by a method prescribed by Section 21.016(d), Property Code. Requires an authority to file evidence of the service with the clerk of the court. Authorizes an authority take to take possession of the property, upon the filing of that evidence, on the same terms as if a commissioners hearing had been conducted, pending the litigation. Sets forth provisions applicable if the condemned property is a homestead or a portion of a homestead. Provides that a property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code.

Sec. 366.168. SEVERANCE OF REAL PROPERTY. Sets forth requirements applicable if an authority's turnpike project severs a property owner's real property. Authorizes an authority, at its option, to negotiate for and purchase the severed real property or any part of the severed real property under certain conditions. Authorizes an authority to sell and dispose of severed real property that it determines is not necessary or useful to the authority. Requires severed property to be appraised before being offered for sale by an authority.

Sec. 366.169. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY. Authorizes an authority to use real property owned by the state or a local governmental entity that the authority considers necessary for the construction or operation of a turnpike project. Authorizes the state or a local governmental entity having charge of public real property to consent to the use of the property for a turnpike project. Authorizes, except as provided by Section 366.035, the state or a local governmental entity to convey, grant, or lease to an authority real property that may be necessary or convenient to accomplish the authority's purposes, including the construction or operation of a turnpike project. Sets forth provisions regarding a conveyance, grant, or lease under this section. Provides that this section does not deprive the School Land Board of the power to execute certain leases. Authorizes the leases to provide for directional drilling from the adjoining property or tidewater area.

Sec. 366.170. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. Prohibits an authority, with an exception, from paying compensation for public real property, parkways, streets, highways, alleys, or reservations it takes, except for parks and playgrounds or as provided by this chapter. Requires public property damaged in the exercise of powers granted by this chapter to be restored or repaired and placed in its original condition as nearly as practicable. Provides that an authority has full easements and rights-of-way through, across, under, and over any property owned by the state or any local governmental entity that are necessary or convenient to certain purposes.

Sec. 366.171. PUBLIC UTILITY FACILITIES. Authorizes an authority to adopt rules for the installation, construction, operation, maintenance, repair, renewal, relocation, and removal of a public utility facility in, on, along, over, or under a turnpike project. Sets forth provisions applicable if an authority determines that it is necessary that a public utility facility located in, on, along, over, or under a turnpike project be relocated in the turnpike project, removed from the turnpike project, or carried along or across the turnpike project. Authorizes the authority to reduce the total costs to be paid by the authority under Subsection (b) by 10 percent for each 30-day period or portion of a 30-day period by which the relocation exceeds the limit specified by the authority. Sets forth provisions applicable if an owner or operator of a public utility facility does not timely remove or relocate as required under Subsection (b). Provides that Article 1436a, V.T.C.S., applies to the erection, construction, maintenance, and operation of lines and poles owned by a corporation described by Section 1 of that Act over, under, across, on,

and along a turnpike project or system constructed by an authority. Sets forth certain powers and duties of an authority. Provides that the laws of this state that are applicable to the use of public roads, streets, and waters by a telephone and telegraph corporation apply to the erection, construction, maintenance, location, and operation of a line, pole, or other fixture by a telephone and telegraph corporation over, under, across, on, and along a turnpike project or system constructed by an authority under this chapter. Defines "public utility facility."

Sec. 366.172. LEASE, SALE, OR CONVEYANCE OF TURNPIKE PROJECT. Authorizes an authority to lease, sell, or convey in another manner a turnpike to the department, a county, or a local government corporation created under Chapter 431. Sets forth a provisions regarding an agreement to lease, sell, or convey a turnpike project under this section.

Sec. 366.173. REVENUE. Authorizes an authority to impose tolls and contract with a person for certain purposes. Requires tolls to be set according to certain guidelines. Provides that tolls are not subject to supervision or regulation by any state agency or other local governmental entity. Sets forth provisions regarding the setting aside of tolls and other revenue derived from a turnpike project or system for which bonds are issued for certain payments. Provides that use and disposition of money to the credit of the sinking fund is subject to the bond proceedings. Authorizes the use of revenue from one turnpike project of an authority, to a certain extent, to be used to pay the cost of other turnpike projects of the authority. Prohibits an authority from using revenue from its turnpike projects in a manner not authorized by this chapter. Prohibits revenue generated from a turnpike project from being applied for a purpose or to pay a cost other than a cost or purpose that is reasonably related to or anticipated for a turnpike project.

Sec. 366.174. AUTHORITY REVOLVING FUND. Authorizes an authority to maintain a revolving fund. Authorizes an authority to transfer into its revolving fund money from any permissible source, including certain moneys, advances, and contributions. Authorizes the authority to use the money in the revolving for certain purposes. Sets forth a provision regarding money spent or advanced from the revolving fund for a turnpike project or system.

Sec. 366.175. USE OF SURPLUS REVENUE. Authorizes the board of an authority, by resolution, to authorize the use of surplus revenue of a turnpike project or system to pay certain costs. Sets forth provisions regarding the resolution.

Sec. 366.176. EXEMPTION FROM TAXATION OR ASSESSMENT. Provides that an authority is exempt from taxation of or assessment on a turnpike project or system, certain property, or certain income. Sets forth an additional exemption.

Sec. 366.177. ACTIONS AFFECTING EXISTING ROADS. Authorizes an authority to impose a toll for transit in certain cases. Authorizes an authority to construct a certain grade separation and prohibits the action from affecting a segment of the state highway system without the department's consent. Requires an authority to pay the cost of a grade separation and certain damages. Requires an authority to provide access to certain properties, if feasible.

Sec. 366.178. FAILURE OR REFUSAL TO PAY TOLL. Requires certain motor vehicles to pay the property toll. Sets forth the fine for a person who fails or refuses to pay a toll. Sets forth provisions applicable if a person fails to pay the proper toll. Sets forth provisions regarding notice of nonpayment. Sets forth provisions applicable if the registered owner of the vehicle fails to pay the proper toll and administrative fee within a certain time. Sets forth a provisions regarding the prosecution of a violation for nonpayment. Authorizes the court of the local jurisdiction to assess and collect the fine in addition to any court costs. Requires the court to collect the proper toll and administrative fee and

forward the toll and fee to the authority. Sets forth a defense to nonpayment. Sets forth provisions regarding a registered owner who is the lessor of a vehicle for which a notice of nonpayment has been issued.

Sec. 366.179. **USE AND RETURN OF TRANSPONDERS.** Provides that, for the purposes of this section, a transponder is a device placed on or within an automobile that is capable of transmitting or receiving information used to assess or collect tolls. Provides that a transponder is insufficiently funded under certain conditions. Sets forth provisions regarding an insufficiently funded or stolen transponder.

Sec. 366.180. **CONTROLLED ACCESS TO TURNPIKE PROJECTS.** Authorizes an authority to designate a turnpike project or a portion of a project as a controlled-access toll road. Authorizes an authority, by order, to take certain actions. Provides that denial of access to or from a segment of the state highway system is subject to approval of the commission.

Sec. 366.181. **PROMOTION OF TOLL ROADS.** Authorizes an authority to promote the use of its turnpike projects by appropriate means.

Sec. 366.182. **OPERATION OF TURNPIKE PROJECT; PEACE OFFICERS.** Requires an authority to operate its turnpike projects through a force of toll-takers and other employees or through the services contracted under Subsection (b) or (c). Authorizes an authority to enter into an agreement with one or more persons to provide personnel and services to design, construct, operate, maintain, expand, enlarge, or extend the authority's turnpike projects. Authorizes an authority to contract with any state or local government entity for the services of peace officers of that agency. Authorizes an authority to employ and commission a force of peace officers.

Sec. 366.183. **AUDIT.** Requires an authority to have a certified public accountant audit the authority's books and accounts at least annually. Authorizes the cost of the audit to be treated as part of the cost of construction or operation of a turnpike project.

Sec. 366.184. **DISADVANTAGED BUSINESSES.** Requires an authority, consistent to general law, to take certain actions in regard to disadvantaged businesses.

Sec. 366.185. **COMPETITIVE BIDDING.** Requires a contract made by an authority that requires the expenditures of public funds for the construction or maintenance of a turnpike project to be let go by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the authority's criteria. Requires the authority to adopt rules governing the award of contracts through competitive bidding.

SUBCHAPTER F. GOVERNANCE

Sec. 366.251. **BOARD OF DIRECTORS.** Provides that an authority is governed by a board of directors. Sets forth provisions regarding appointments to the board of directors, vacancy, voting, and presiding officer.

Sec. 366.252. **CONFLICT OF INTEREST.** Adds standard language developed by the Sunset Commission regarding conflicts of interest. Defines "Texas trade association."

Sec. 366.253. **SURETY BONDS.** Requires each director, before beginning a term, to execute a surety bond in the amount of \$25,000, and requires the secretary and treasurer to execute a surety bond in the amount of \$50,000. Sets forth requirements regarding each surety bond. Requires the authority to pay the expense of the bonds.

Sec. 366.254. **REMOVAL OF DIRECTOR.** Adds standard language developed by the Sunset

Commission regarding removal of director.

Sec. 366.255. COMPENSATION OF DIRECTOR. Provides that each director is entitled to reimbursement for the director's actual expenses necessarily incurred in the performance of the director's duties. Provides that a director is not entitled to any additional compensation for the director's services.

Sec. 366.256. EVIDENCE OF AUTHORITY ACTIONS. Provides that actions of an authority are the actions of its board and may be evidenced in any legal manner, including a board resolution.

Sec. 366.257. PUBLIC ACCESS. **Adds standard language developed by the Sunset Commission regarding public access.**

Sec. 366.258. INDEMNIFICATION. Authorizes an authority to indemnify one or more of its directors or officers for certain costs and expenses. Sets forth provisions applicable if an authority does not fully indemnify a director or officer as provided by Subsection (a). Prohibits a court from assessing indemnity under Subsection (b) for an amount paid by the director or officer to the authority. Provides that this section applies to a former director or officer of the authority.

Sec. 366.259. PURCHASE OF LIABILITY INSURANCE. Requires an authority to insure its officers and employees from liability arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the authority's turnpike projects. Sets forth requirements regarding insurance coverage under this section. Provides that this section is not a waiver of immunity of the authority or the counties in an authority from certain liability. Defines "equipment."

Sec. 366.260. CERTAIN CONTRACTS AND SALES PROHIBITED. Prohibits a director, agent, or employee of an authority from taking certain actions. Provides that a person who violates Subsection (a) is liable for a civil penalty to the authority not to exceed \$1,000. Provides that Subsection (a) does not apply to the sale of turnpike right-of-way to an authority.

Sec. 366.261. STRATEGIC PLANS AND ANNUAL REPORTS. Requires an authority to make a strategic plan for its operations. Requires a majority of the commissioners courts of the counties composing the authority, by concurrent resolution, to determine the types of information required to be included in the strategic plan. Requires an authority, each even-numbered year, to issue a plan covering the next five fiscal years, beginning with the next odd-numbered fiscal year. Requires an authority, not later than March 31 of each year, to file with the commissioners court of each county of the authority a written report on the authority's activities describing all turnpike revenue bond issuances anticipated for the coming year, the financial condition of the authority, all project schedules, and the status of the authority's performance under the most recent strategic plan. Requires the board and the administrative head of an authority, at the invitation of a commissioners court of a county in the authority, to appear before the commissioners court to present the report and receive questions and comments. Requires the authority to give notice to the commissioners court of each county of the authority not later than the 90th day before the date of issuance of revenue bonds.

Sec. 366.262. MEETINGS BY TELEPHONE CONFERENCE CALL. Provides that Chapter 551, Government Code, does not prohibit any open or closed meeting of the board, a committee of the board, or the staff, or any combination of the board or staff, from being held by telephone conference call. Sets forth additional provisions regarding telephone conference calls.

SUBCHAPTER G. AID FOR REGIONAL TURNPIKE PROJECTS

Sec. 366.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS. Authorizes the department, to the extent permitted by the Texas Constitution, to agree with an authority to provide for or contribute to the payment of certain costs. Prohibits the agreement from being inconsistent with the rights of the bondholders or persons operating the turnpike project under a lease or other contract. Authorizes the department to use certain personnel to conduct feasibility studies under Subsection (a). Sets forth provisions regarding an obligation or expense incurred by the commission or department under this section and money spent from the state highway fund under this section. Authorizes the commission or department to use federal money for any purpose described by this chapter.

Sec. 366.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE TURNPIKE PROJECTS. Authorizes an authority to enter into an agreement with certain public or private entities, for the purposes of studying the feasibility of a turnpike project or system or to make certain changes to a turnpike project or system. Provides that an authority has broad discretion to negotiate provisions in a development agreement with a private entity. Sets forth issues to which provisions may relate. Prohibits an authority from incurring a financial obligation on behalf of a private entity that constructs, maintains, or operates a turnpike project or system. Provides that an authority or a county in an authority is not liable for any financial or other obligation of a turnpike project solely because a private entity constructs, finances, or operates any part of a turnpike project or system. Authorizes an authority to invest public and private money to finance a function described by this section.

Sec. 366.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. Authorizes a local governmental entity to issue bonds or enter into and make payments under agreements with an authority to acquire, construct, maintain, or operate a turnpike project or system. Authorizes an entity to levy and collect taxes to pay the interest on bonds and to provide a sinking fund for the redemption of the bonds. Authorizes a local governmental entity to agree with an authority to issue bonds or enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a turnpike project or system of that authority. Authorizes a governmental entity to pledge certain revenue and levy and collect taxes, to make payments on certain funds. Prohibits the term of an agreement under this section from exceeding 40 years. Provides that any election required to permit action under this subchapter is to be held in conformity with Chapter 1, Title 22, V.T.C.S., or any other applicable law.

Sec. 366.304. ADDITIONAL AGREEMENTS OF AUTHORITY. Authorizes an authority to enter into an agreement necessary or convenient to achieve the purposes of this subchapter.

SECTION 25. Amends Chapter 411F, Government Code, by adding Section 411.132, as follows:

Sec. 411.132. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: REGIONAL TOLLWAY AUTHORITIES. Provides that a regional tollway authority governed by Chapter 366, Transportation Code, is entitled to obtain from the department criminal history record information maintained by the department that pertains to certain persons. Sets forth prohibitions regarding criminal history record information obtained under Subsection (a).

SECTION 26. (a) Provides that the North Texas Tollway Authority is established as a regional tollway authority under Chapter 366, Transportation Code.

(b) Sets forth counties which compose the North Texas Tollway Authority. Provides that the jurisdiction of the authority may be extended to other certain counties. Sets forth the only counties, as of the effective date of this Act, that meet geographical qualifications for future inclusion in the North Texas Tollway Authority.

(c) Provides that notwithstanding Section 366.251, Transportation Code, as added by this Act, the initial board of directors of the North Texas Tollway Authority is composed of nine directors. Sets forth provisions regarding the directors.

(d)-(f) Sets forth terms of members appointed to the board.

SECTION 27. Repealers: Sections 361.003, 361.038, 361.039, 361.040, 361.041, 361.044, 361.045, 361.047, 361.048, 361.139, 361.190, 361.284, and 361.331(e), Transportation Code (Sunset Provision; Employee Qualifications; Personnel Policies; Equal Employment Opportunities; Certain Contracts and Sales Prohibited; Suits Involving Authority; Expenses of Authority; Travel Expenses; Filing of Minutes, Budget, and Reports; Relocation Assistance Program; Expenses Incurred by Commission; Eligibility of Turnpike Project to Become Part of State Highway System; and Pooled Turnpike Projects).

SECTION 28. Abolishes the Texas Turnpike Authority and creates the Texas Turnpike Authority division of the Texas Department of Transportation on the effective date of this Act. Provides that except as provided by Subsections (b) and (c) of this section, all assets, rights, and obligations of the Texas Turnpike Authority are transferred to the division. Requires the North Texas Tollway Authority to succeed to all assets, rights, and other property of the Texas Turnpike Authority located in certain counties, including certain assets and rights. Requires the North Texas Tollway Authority to assume and become liable for all duties and obligations of the Texas Turnpike Authority related to certain assets, rights, and properties transferred under Subsection (b) of this section. Provides that the North Texas Tollway Authority is obligated to comply with all the assumed obligations to the same extent as the Texas Turnpike Authority. Authorizes an employee of the Texas Turnpike Authority to elect to become an employee either of the Texas Turnpike Authority division of the Texas Department of Transportation or the North Texas Tollway Authority on the effective date of this Act, subject to the employment openings and requirements and requirements of those entities. Provides that a rule or regulation adopted by the Texas Turnpike Authority relating to the operation of a turnpike in certain counties before the effective date of this Act that is not consistent with this Act remains in effect as a rule or regulation of the North Texas Tollway Authority until superseded by action of that agency.

SECTION 29. Requires the North Texas Tollway Authority, by October 1, 1997, to pay a certain amount determined and agreed upon to the Texas Department of Transportation.

SECTION 30. Provides that North Texas Tollway Authority is a successor agency to the Texas Turnpike Authority under the State Constitution and for all purposes concerning assets, rights, other property, duties, and obligations not transferred to the North Texas Tollway Authority. Provides that any agreement between the Texas Turnpike Authority and any federal, state, or local governmental entity relating to an asset, right, or obligation transferred to North Texas Tollway Authority is binding as a successor to Texas Turnpike Authority.

SECTION 31. Provides that this Act conforms Chapter 361, Transportation Code, to the changes made by Sections 1 and 2, Chapter 148, Acts of the 74th Legislature, 1995. Provides that this Act prevails if there is any conflict between this Act and another Act of the 75th Legislature.

SECTION 32. Effective date: September 1, 1997.

SECTION 33. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Changes proposed SUBCHAPTER D to SUBCHAPTER E. Makes nonsubstantive changes.

SECTION 8.

Amends proposed Section 361.042, Transportation Code, to require the board, rather than TTA, to take certain actions regarding turnpike projects, the adoption of rules, and employment of an administrative head. Adds a new Subdivision (6) regarding the employment of attorneys. Renumbers existing subdivisions accordingly.

SECTION 13.

Amends proposed Chapter 361D, Transportation Code, by adding Section 361.142, regarding covenants, conditions, restrictions, or limitations. Renumbers remaining SECTIONS 14-23 accordingly.

SECTION 24.

Redesignated from proposed SECTION 23. Removes proposed SECTION 24.

Amends proposed 366.003, Transportation Code, to redefine "bondholder."

Amends proposed Section 366.031, Transportation Code, to authorize two or more counties, by order passed by each commissioners court to create a regional tollway authority under this Chapter if one of the counties has a population of not less than 500,000, rather than 1,500,000, and the commission approves the creation. Authorizes a commissioners court to petition an established authority for inclusion in the authority if the county is contiguous to a county that initially created the authority.

Amends Section 366.033, Transportation Code, to authorize an authority, acting through its board, to take certain actions without state approval, supervision, or regulation. Adds Subsection (g) regarding drug and alcohol policies.

Amends Section 366.163, Transportation Code, to add Subsection (d) regarding covenants, conditions, restrictions, or limitations.

Amends Section 366.169, Transportation Code, to add a provision regarding a conveyance, grant, or lease.

Amends proposed Section 366.173, Transportation Code, to add Subsection (g) regarding the use of revenue from an authority's turnpike projects in a manner not authorized.

Amends proposed Section 366.174, Transportation Code, to authorize an authority to transfer into its revolving fund money from a turnpike project if the transfer does not diminish the money available for the project or the system, if any, of which it is a part to less than an amount required to be retained by the bond proceedings pertaining to the project or system.

Amends proposed Section 366.178, Transportation Code, to delete Subsection (c)(3) regarding a lien. Adds a new Subsection (h) regarding defense to nonpayment and renumbers remaining subsections.

Amends proposed Section 366.179, to delete a reference to any peace officer in Subsection (b).

Amends proposed Section 366.181, Transportation Code, to require an authority to operate, rather than police and operate, its turnpike projects through a force of toll-takers and other employees of the authority, rather than through a force of police, peace officers, toll-takers, and other employees of the authority. Deletes proposed Subsection (d) regarding the employment and commissioning of a force of peace officers.

Amends proposed Section 366.184, Transportation Code, to require an authority to set goals for the award of contracts to disadvantaged businesses and attempt to meet the goals.

Adds Section 366.185, Transportation Code, regarding competitive bidding.

Amends proposed Section 366.251, Transportation Code, to strike Subsection (d) and insert a new Subsection (d) regarding appointments.

Amends proposed Section 366.261, Transportation Code, to amend the section heading and add new Subsections (a) and (c), regarding strategic plans and notice, and redesignate proposed Subsection (a) as (b). Requires a written report filed with the commissioner's court to describe turnpike revenue bond issuances anticipated for the coming year.

SECTION 25.

Adds a new SECTION 25, regarding access to criminal history record information, and renumbers remaining SECTIONS accordingly

SECTION 26.

Redesignated from SECTION 25. Amends SECTION 26 to set forth counties that, as of the effective date of this Act, are the only counties that meet the geographical qualifications for future inclusion in the North Texas Tollway Authority. Makes changes regarding county judges and the terms of initial directors.

SECTION 27.

Redesignated from SECTION 26.

SECTION 28.

Redesignated from SECTION 27. Sets forth provisions regarding all existing and proposed extensions to certain projects, the Texas Turnpike Authority administration building, and all other facilities, improvements, leaseholds, funds, accounts, and investments related to a project listed in this subsection. Makes a nonsubstantive change.

SECTION 29.

Redesignated from SECTION 28.

SECTION 30.

Redesignated from SECTION 29. Provides that the department is a successor to the Texas Turnpike Authority for all purposes concerning assets, rights, other property, duties, and obligations not transferred to the North Texas Tollway Authority.

SECTION 31.

Redesignated from SECTION 30.

SECTION 32.

Redesignated from SECTION 31.

SECTION 33.

Redesignated from SECTION 32.

Amendment 1

Page 27, line 9, insert new Subsection (b). Renumbers remaining subsection.

Amendment 2

Page 63, line 14, replace Subsection (d) with new Subsection (d).