

## BILL ANALYSIS

Senate Research Center

H.B. 2139  
By: Phillips (Wentworth)  
Transportation & Homeland Security  
5/19/2005  
Engrossed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Texas Department of Transportation has encouraged the use of private-public partnerships in the construction of public transportation projects. Many local governmental entities, seeking a "turn-key" project, are interested in entering into contracts with a private entity to build roads and other transportation projects, but are reluctant because they do not believe that they have the statutory authorization to do so.

H.B. 2139 authorizes local governments to enter into contracts with private entities for the construction, maintenance, or operation of a transportation project. The private entity is required to comply with all laws relating to the procurement and bidding of construction that apply to the local governments, as well as all state design criteria and construction specifications, unless the Texas Department of Transportation grants exemptions under the current procedures.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 222.104, Transportation Code, by adding Subsections (f), (g), and (h), as follows:

(f) Authorizes the Texas Department of Transportation (TxDOT) to delegate, to the maximum extent permitted by law, the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with whom TxDOT enters into an agreement under this section.

(g) Requires an agreement under this section to provide, unless TxDOT grants an exception, that a municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures.

(h) Provides that an agreement under this section should prescribe the roles and responsibilities of the parties and establish time frames for any TxDOT reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project.

SECTION 2. Amends Subchapter E, Chapter 222, Transportation Code, by adding Section 222.1045, as follows:

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) Defines "public entity."

(b) Authorizes a public entity to contract with a private entity to act as the public entity's agent in certain situations.

(c) Requires a public entity to select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience and to enter into a project development agreement with the entity.

(d) Requires a private entity to comply with Chapter 1001 (Engineers), Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) Authorizes a public entity to assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or 222.104(c) to the private entity.

SECTION 3. Effective date: upon passage or September 1, 2005.