

BILL ANALYSIS

Senate Research Center
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S.B. 1397
By: Ogden
Transportation & Homeland Security
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 3588 enacted during the 78th Legislature, Regular Session, 2003, was a sweeping piece of transportation-related legislation. One of the major components of the bill was broader authority to develop toll roads. A question that has arisen is when an existing road can be designated as a toll road without the designation being considered to constitute double taxation. There have been concerns that redesignation as a toll road of a road already constructed, under construction, or funded through the gasoline tax, is double taxation.

As proposed, S.B. 1397 prohibits the Texas Department of Transportation from operating or transferring a segment of a highway to an authority unless the Texas Transportation Commission designates the segment as a toll road before the contract is let or unless prior to September 1, 2005, the segment was open to traffic as a toll road. This legislation keeps the current requirement that the governor approve any transfer of a road from the state to an authority.

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 224.154(a), Transportation Code, to authorize the Texas Transportation Commission (commission), subject to Sections 224.1541(d) (Exclusive Lanes) and 361.101 (Determination of Turnpike Projects), to authorize by order the Texas Department of Transportation (department) to charge a toll for the use of one or more lanes of a state highway facility, including a high occupancy vehicle lane, for the purposes of congestion mitigation. Deletes existing text related to charging tolls on existing free public highways.

SECTION 2. Amends Section 224.160(a), Transportation Code, to authorize the commission, to aid in the collection of tolls and in the enforcement of toll violations, to use automated enforcement technology that it determines is necessary, including automatic vehicle license plate identification photography and video surveillance, by electronic imaging or photographic copying. Deletes existing text related to temporary toll projects.

SECTION 3. Amends Section 361.101, Transportation Code, as follows:

Sec. 361.101. New heading: DESIGNATION OF TURNPIKE PROJECTS. (a) Authorizes the department to perform certain functions. Deletes existing text related to commission approval of final designation of turnpike projects.

(b) Prohibits the department, except as provided by Subsection (c), from operating a segment of highway, including a lane of a segment, as a turnpike project, or transferring a segment to another entity for operation as a turnpike project, unless certain conditions are met.

(c) Authorizes the department, notwithstanding Subsection (b), to operate a segment of highway as a turnpike project if certain conditions are met.

(d) Provides that this subsection and Subsection (c) expire September 1, 2006.

SECTION 4. Amends Section 366.165(d), Transportation Code, to provide that an authority's acquisition of any real or other property of the commission under this section of this chapter or an authority's relocation, rerouting, disruption, or alteration of any facility of the commission is subject to certain requirements. Deletes existing text regarding a conversion of a state highway. Makes nonsubstantive changes.

SECTION 5. Amends Section 366.169(c), Transportation Code, to authorize the state or a local government entity to convey, grant, or lease to an authority real property, except as provided by Section 361.101(b), rather than Section 366.035, including highways and other real property already devoted to public use and rights or easement in the real property, that may be necessary or convenient to accomplish the authority's purposes, including the construction or operation of a turnpike project.

SECTION 6. Amends the heading to Section 370.035, Transportation Code, to read as follows:

Sec. 370.035. TRANSFER OF STATE HIGHWAY SYSTEM TURNPIKE PROJECTS.

SECTION 7. Amends Section 370.035(a), Transportation Code, to authorize the commission by order to transfer an existing turnpike project that is part of the state highway system to an authority only if certain procedures are followed, including gubernatorial approval of the transfer. Deletes existing text authorizing the commission to transfer an existing turnpike project only if it determines that the public has a reasonable alternative nontoll route. Makes conforming changes.

SECTION 8. Amends Section 370.163(b), Transportation Code, to provide that an authority's acquisition of any property of the commission under this or another section of this chapter or an authority's relocation, rerouting, disruption, or alteration of a facility of the commission is subject to certain requirements. Deletes existing text relating to conversion of a state highway system. Makes conforming changes.

SECTION 9. Amends Section 370.168(c) Transportation Code, to make a conforming change.

SECTION 10. Repealer: Sections 222.102 (Temporary Toll Projects), 361.180 (Tolls on Converted Highways), 362.0041 (Conversion of Projects), and 366.035 (Conversion of State Highway System Projects), Transportation Code; Section 284.009 (Conveyance of State Highway to County or Toll Road Authority), Transportation Code, as added by Chapter 953, Acts of the 78th Legislature, Regular Session, 2003; and Section 284.009 (Conveyance of State Highway to County or Toll Road Authority), Transportation Code, as added by Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 11. Effective date: September 1, 2005.