REVISOR'S REPORT

TRANSPORTATION CODE
TITLES 1, 2, 3, 4, 6, AND 7

VOLUME II

A NONSUBSTANTIVE REVISION
OF THE STATUTES RELATING TO
TRANSPORTATION

Including
Carriers
Aviation
Navigation
Roadways
Vehicles and Traffic

To be submitted to the 74th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
March 1995
Sec. 69.054. LIABILITY FOR ACTS OF OTHER PILOTS. A pilot is not liable directly or as a member of an organization of pilots for a claim arising from an act or omission of any other pilot or organization of pilots that relates directly or indirectly to pilot services. (V.A.C.S. Art. 8280d, Sec. 2.)

Sec. 2. A pilot rendering pilotage services to or from ports located in Jefferson County or Orange County is not liable either directly or as a member of an organization of pilots for any claims arising from acts or omissions of any other pilot or organization of pilots that relate directly or indirectly to pilot services.

Section 2, V.A.C.S. Article 8280d, refers to pilots "rendering pilotage services to or from ports located in Jefferson County or Orange County." The revision omits the quoted language for the reason stated in Reviser's Note (1) to Section 69.053 of this code.

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TITLE 6. ROADWAYS

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 201. GENERAL PROVISIONS AND ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 201.001. DEFINITIONS. In this title:
(1) "Commission" means the Texas Transportation
Commission.
(2) "Department" means the Texas Department of
Transportation.
(3) "Director" means the executive director of the
Texas Department of Transportation. (V.A.C.S. Art. 6664, Subsecs.
(q)(1), (2), (3)).

Source Law

(q) In this title:

74C263 JD-D 369
(1) "Commission" means the Texas Transportation Commission.
(2) "Department" means the Texas Department of Transportation.
(3) "Director" means the executive director of the Texas Department of Transportation.

Revised Law

Sec. 201.002. OPERATING EXPENSES; USE OF STATE HIGHWAY FUND.

(a) The legislature has the responsibility to:

(1) appropriate money for the maintenance and operational expenses of the department;
(2) determine the number of employees of the department; and
(3) set the amount of compensation of all employees of the department, including the director, and the members of the commission.

(b) The General Services Commission shall contract for equipment and supplies, including seals and number plates, required by law in the administration of the registration of vehicles and in the operation of the department.

(c) All money authorized to be appropriated in accordance with this section for the operation of the department and the purchase of equipment shall be appropriated from the state highway fund. The commission shall use the amount remaining in the fund for public road construction and for establishing a system of state highways. (V.A.C.S. Art. 6674.)

Source Law

Art. 6674. The legislature shall make appropriations for the maintenance and running expenses of the Department, fix the compensation of the State Engineer-Director for Highways and Public Transportation and all other employees of the Department, and determine the number of such employees; and shall fix the compensation of the members of the Commission. The State Purchasing and General Services Commission shall make contracts for equipment and supplies (including seals and number plates) required by law in the administration of the registration of licensed vehicles, and in the operation of said Department. All money herein authorized to be appropriated for the operation of the Department and the purchase of equipment shall be paid from the State Highway Fund, and the remainder of said fund shall be expended by the Commission for the furtherance of
public road construction and the establishment of a
system of State highways as herein provided.

Revisor's Note

V.A.C.S. Article 6674 refers to the "State
Purchasing and General Services Commission." In 1991
the name of the agency was changed by Chapter 8, Acts
of the 72nd Legislature, 2nd Called Session, to the
"General Services Commission." The revised law is
drafted accordingly.

Revised Law

Sec. 201.003. TITLE CHANGES. (a) A reference in law to the
State Highway Department, Texas Highway Department, or State
Department of Highways and Public Transportation means the Texas
Department of Transportation.

(b) A reference in law to the State Highway Commission or
State Highway and Public Transportation Commission means the Texas
Transportation Commission.

(c) A reference in law to the State Highway Engineer or
State Engineer-Director for Highways and Public Transportation
means the director of the Texas Department of Transportation.

(V.A.C.S. Art. 6663, Subsec. (b).)

Source Law

(b) Any reference in law to the State Highway
Department, Texas Highway Department, or State
Department of Highways and Public Transportation means
the Texas Department of Transportation. A reference in
law to the State Highway Commission or State Highway
and Public Transportation Commission means the Texas
Transportation Commission. A reference in law to the
State Highway Engineer or State Engineer-Director for
Highways and Public Transportation means the director
of the Texas Department of Transportation.

Revisor's Note

The names of the State Highway Department, the
State Highway Commission, and the State Highway
Engineer were changed to the State Department of
Highways and Public Transportation, the State Highway
and Public Transportation Commission, and the State
Engineer-Director for Highways and Public
Transportation, respectively, by Section 3, Chapter
678, Acts of the 64th Legislature, Regular Session,
1975, amending V.A.C.S. Article 6663. That article was
subsequently amended by Section 1.01, Chapter 7, Acts
of the 72nd Legislature, 1st Called Session, 1991, and
the names of the State Department of Highways and
Public Transportation, the State Highway and Public
Transportation Commission, and the State
Engineer-Director for Highways and Public
Transportation were changed to the Texas Department of
Transportation, the Texas Transportation Commission, and the director of the Texas Department of
Transportation, respectively.

[Sections 201.004-201.050 reserved for expansion]

SUBCHAPTER B. TEXAS TRANSPORTATION COMMISSION

Revised Law

Sec. 201.051. COMMISSION. (a) The Texas Transportation
Commission consists of three members appointed by the governor with
the advice and consent of the senate.

(b) One member must reside in a rural area.

(c) Each member of the commission must represent the general
public.

(d) Except as provided by Subsection (e), a person is not
eligible for appointment as a member of the commission if the
person or the person's spouse:

(1) is employed by or participates in the management
of a business entity or other organization that is regulated by or
receives funds from the department;

(2) directly or indirectly owns or controls more than
10 percent interest in a business entity or other organization that
is regulated by or receives funds from the department; or
(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(e) A person is not ineligible under this section for appointment to or service on the commission because the person receives or has received funds from the department as compensation for acquisition of highway right-of-way.

(f) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising or a Texas trade association of automobile dealers may not be a member of the commission.

(g) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising or a Texas association of automobile dealers may not be a member of the commission.

(h) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department may not serve as a member of the commission.

(i) Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of the state as a whole.

(j) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. (V.A.C.S. Art. 6664, Subsecs. (a), (b), (j), (k), (l), (m), (n), (o), (q)(4)).

Source Law
Art. 6664. (a) The Texas Transportation
Commission is created and consists of three members appointed by the governor with the advice and consent of the senate.

(b) One member must reside in a rural area.

(j) All members must be representatives of the general public and citizens of the State. Except as provided by Subsection (k) of this article, a person is not eligible for appointment as a member of the Commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by the Department or receiving funds from the Department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the Department or receiving funds from the Department; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the Department, other than compensation or reimbursement authorized by law for Commission membership, attendance, or expenses.

(k) A person is not disqualified under this article from appointment to or service on the Commission because the person receives or has received funds from the Department if the funds are or were received as compensation for the acquisition of highway right-of-way.

(l) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, automobile dealers, aviation, or outdoor advertising may not be a member of the Commission.

(m) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, automobile dealers, aviation, or outdoor advertising may not be a member of the Commission.

(n) A person may not serve as a member of the Commission if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Department.

(o) Appointments to the Commission shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of the State as a whole.

(q) In this title:

(4) "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Reviser's Note

Subsection (j), V.A.C.S. Article 6664, requires members of the commission to be citizens of this state.
That provision is omitted from the revision because it is substantively identical to Section 14, Article XVI, Texas Constitution. The policy of the legislative council's statutory revision program is to omit from the revised codes the duplicating statutory provisions, because a statute that tracks the language of the constitution is not only superfluous but may foster the erroneous belief that a constitutional requirement is merely statutory and subject to amendment through the ordinary legislative process.

Revised Law
Sec. 201.052. TERMS. Members of the commission serve staggered six-year terms, with one member's term expiring February 1 of each odd-numbered year. (V.A.C.S. Art. 6664, Subsec. (c).)

Source Law
(c) Members of the commission hold office for staggered terms of six years, with one member's term expiring February 1 of each odd-numbered year.

Revised Law
Sec. 201.053. COMMISSIONER OF TRANSPORTATION. (a) The governor periodically shall designate one member of the commission as the commissioner of transportation, who shall serve as presiding officer of the commission.

(b) The commissioner shall:

(1) represent the department in dealing with the governor;

(2) report to the governor on the state of affairs of the department at least quarterly;

(3) report to the commission the governor's suggestions for department operations;

(4) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;
(5) periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the commission, and the Legislative Budget Board;

(6) designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules; and

(7) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for highway, public transportation, and aviation purposes. (V.A.C.S. Art. 6664, Subsecs. (d), (e).)

Source Law

(d) The governor shall periodically designate one member of the commission to serve as the chair who shall be known as the commissioner of transportation.

(e) In addition to any other duties assigned by this Act, the commissioner of transportation shall:

(1) represent the department in dealings with the governor;

(2) report at least quarterly to the governor on the state of affairs at the department.

(3) report suggestions made by the governor for departmental operations to the board;

(4) report to the governor regarding privatization efforts, including any legislative mandates, in order to maximize the efficiency of departmental operations;

(5) develop recommendations for the organization of the department to be submitted to the commission and to the governor and the Legislative Budget Board prior to the convening of the 73rd Legislature;

(6) periodically review the department's organizational structure and submit recommendations for revisions to that structure to the governor, the commission, and the Legislative Budget Board;

(7) designate an employee or employees of the department as a civil rights division of the department and receive regular reports from that division on the department's efforts to comply with civil rights legislation and administrative rules; and

(8) serve as the departmental liaison with the governor and the Office of State-Federal Relations in order to maximize federal funding for highway, public transportation, and aviation purposes.

Revisor's Note

The revised law omits as executed Subsection (e)(5), V.A.C.S. Article 6664, requiring the
development of recommendations for submission before the 73rd Legislature convened.

Revised Law
Sec. 201.054. COMMISSION MEETINGS. The commission shall hold regular meetings at least once a month and special meetings at the call of the commissioner of transportation or as provided by commission rule. Commission members shall attend the meetings of the commission. (V.A.C.S. Arts. 6664, Subsec. (f); 6665, Subsec. (a).)

Source Law
[Art. 6664] (f) The commission shall meet at least once each month. The commission may meet at other times at the call of the commissioner of transportation.

Art. 6665. (a) The Commission shall hold regular meetings once each month. They shall attend the same and such special or called meetings as they may provide by rule or the chairman may call.

Revised Law
Sec. 201.055. PERFORMANCE BOND. Each member of the commission shall execute a bond payable to the state in the amount of $5,000, to be approved by the governor and conditioned on the faithful performance of the member's duties. The department shall pay the premium for the bond from the state highway fund. (V.A.C.S. Art. 6664, Subsec. (g).)

Source Law
(g) Each member shall execute a bond payable to the state in the sum of $5,000, to be approved by the governor and conditioned on the faithful performance of his or her duties. The premium on such bonds shall be paid out of the State Highway Fund.

Revised Law
Sec. 201.056. COMPENSATION. A member of the commission is entitled to compensation as provided by the General Appropriations Act. If compensation for members is not provided by that Act, each member is entitled to reimbursement for actual and necessary
expenses incurred in performing functions as a member of the commission. (V.A.C.S. Art. 6664, Subsec. (h).)

**Source Law**

(h) A member of the commission is entitled to compensation as provided by the legislature in the general appropriations act; provided that, should the legislature not provide for compensation for members of the commission, a member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board.

**Revised Law**

Sec. 201.057. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment or maintain during service on the commission the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051;

(3) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the director knows that a potential ground for removal exists, the director shall notify the commissioner of transportation of the ground, and the commissioner shall notify the governor that a potential ground for removal exists. (V.A.C.S. Art. 6664a.)

**Source Law**

Art. 6664a. (a) It is a ground for removal from the Commission if a member:

(1) does not have at the time of
appointment the qualifications required by Article 6664, Revised Statutes;

(2) does not maintain during service on the Commission the qualifications required by Article 6664, Revised Statutes;

(3) violates a prohibition established by Article 6664, Revised Statutes;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled Commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the Commission.

(b) The validity of an action of the Commission is not affected by the fact that it is taken when a ground for removal of a Commission member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the chair of the Commission of the ground. The chair shall then notify the governor that a potential ground for removal exists.

Revised Law

Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT.

The department shall provide to the members of the commission, as often as necessary, information concerning the members' qualifications for office under Subchapter B and their responsibilities under applicable laws relating to standards of conduct for state officers. (V.A.C.S. Art. 6664, Subsec. (p).)

Source Law

(p) The Department shall provide to Commission members as often as necessary, information regarding the members' qualifications for office under this article and their responsibilities under applicable laws relating to standards of conduct for state officers.

[Sections 201.059-201.100 reserved for expansion]

SUBCHAPTER C. COMMISSION'S POWERS AND DUTIES

Revised Law

Sec. 201.101. RULES; RECORDS. The commission shall:

(1) adopt rules for the operation of the department;

(2) maintain a record of all proceedings and official orders; and

(3) keep on file copies of all road plans, specifications, and estimates prepared by the department or under
its direction. (V.A.C.S. Art. 6666.)

Source Law

Art. 6666. The Commission shall establish and make public proclamation of all rules and regulations for the conduct of the work of the Department as may be deemed necessary, not inconsistent with the provisions of law. They shall maintain a record of all proceedings and official orders and keep on file copies of all road plans, specifications and estimates prepared by the Department or under its direction.

Revisor's Note

(1) V.A.C.S. Article 6666 requires the commission to "make public proclamation" of rules adopted under that article. Chapter 2001, Government Code (the administrative procedure law), prescribes the procedure each state agency must follow in adopting rules, and the quoted phrase is therefore omitted from the revised law as unnecessary.

(2) V.A.C.S. Article 6666 refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 201.102. DEFINITION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly define the respective responsibilities of the commission and the staff of the department. (V.A.C.S. Art. 6665 (part).)

Source Law

(c) The Commission shall develop and implement policies that clearly define the respective responsibilities of the Commission and the staff of the Department.

Revised Law

Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS.
(a) The commission shall plan and make policies for the location, 
construction, and maintenance of a comprehensive system of state 
highways and public roads. In planning and making policies, the 
commission shall consider, for incorporation into the state highway 
system, turnpikes that other governmental or private entities are 
authorized to construct. The commission biennially shall submit a 
report of its work to the governor and the legislature. The report 
must include the recommendations of the commission and of the 
director.

(b) The director, under the direction and with the approval 
of the commission, shall prepare a comprehensive plan providing a 
system of state highways. (V.A.C.S. Arts. 6665 (part), 6670 
(part).)

Source Law

[Art. 6665]
(b) The Commission shall formulate plans and 
policies for the location, construction and maintenance 
of a comprehensive system of State highways and public 
roads. In formulating those plans and policies, the 
Commission shall consider, for incorporation into the 
state highway system, turnpikes that other governmental 
or private entities are authorized to construct. They 
shall biennially submit a report of their work to the 
Governor and the legislature, with their 
recommendations and those of the State 
Engineer-Director for Highways and Public 
Transportation.

Art. 6670. . . . He shall also prepare, under 
the direction and with the approval of the Commission, 
a comprehensive plan providing a system of State 
highways.

Revised Law

Sec. 201.104. DESIGNATION OF FARM-TO-MARKET ROADS. (a) The 
commission may designate any county road as a farm-to-market road 
for the purposes of construction, reconstruction, and maintenance 
only, if the commissioners court of the county in which the county 
road is located by order entered in its minutes waives any rights 
the county may have for state participation in any indebtedness 
incurred by the county in the construction of the road.

(b) The commission and the county commissioners court by
contract may set forth the duties of the state in the construction,
reconstruction, and maintenance of the county road in consideration
for the county's, road district's, or defined road district's
relinquishing all claims for state participation in any outstanding
county or road district bond, warrant, or other evidence of
indebtedness that is for the construction or improvement of the
road and that was created before the road was designated by the
commission.

(c) The assumption by the state of the obligation to
construct and maintain a road designated under this section as a
farm-to-market road is full and complete compensation for funds
that were spent by the county, road district, or defined road
district for the construction and maintenance of the road before
its designation. (V.A.C.S. Art. 6673c, Secs. 1, 2.)

Source Law

Art. 6673c
Sec. 1. The State Highway Commission is
authorized to designate any county road in the state as
a farm-to-market road for purposes of construction,
reconstruction, and maintenance only, provided that the
Commissioners Court of the county in which any such
county road is located shall pass and enter in its
minutes an order waiving any rights such county may
have for participation by the state in any indebtedness
incurred by the county in the construction of such
county road; and provided further that the State
Highway Commission and the Commissioners Court of the
county in which any such road is located may enter into
a contract that shall set forth the duties of the state
in the construction, reconstruction, and maintenance of
the county road in consideration of the county and/or
road district relinquishing any and all claims for
state participation in any county, road district, or
defined road district bonds, warrants, or other
evidences of indebtedness outstanding against such road
for the construction or improvement of the road before
being designated by the State Highway Commission.

Sec. 2. It is hereby declared to be the policy
of the state that the assumption by the state of the
obligation to construct and maintain such roads
designated by the State Highway Commission as
farm-to-market roads under the provisions of this Act
constitutes full and complete compensation for any and
all funds that might have been expended by any county,
road district, or defined road district in the
construction and maintenance of said road prior to its
designation by the State Highway Commission as a
farm-to-market road.
Revisor's Note

The revised law omits as unnecessary Section 3, V.A.C.S. Article 6673c, relating to the cumulative effect of that article. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision. Section 3 reads:

Sec. 3. This Act shall be cumulative of all other laws on this subject, but in the event of a conflict between the provisions of this Act and any other Act on this subject, the provisions of this Act shall prevail.

Revised Law

Sec. 201.105. DEPARTMENT DISTRICTS. (a) The commission shall divide the state into not more than 25 districts for the purpose of the performance of the department's duties.

(b) In determining a district's boundaries, the commission shall consider all costs and benefits, including highway activity in and the number of employees required for the proposed district.

(c) Not more than one district office may be in a district.

(d) The commission shall determine the number of department offices necessary for maintenance and construction personnel in a district.

(e) The commission periodically shall review the necessity for the number of maintenance, construction, and support operations in each district. The commission shall include the findings of its review as a part of the department's budget request submitted to the Legislative Budget Board.

(f) The department is exempt from any law purporting to require the department to conform the provision of its services to service regions other than the districts established under this section. (V.A.C.S. Art. 6663h.)
Art. 6663h. (a) For the purposes of performing the department's duties, the commission shall divide the state into not more than 25 districts. A district may not have more than one district office. The department may have as many offices for maintenance and construction personnel in a district as the commission determines necessary. The department is exempt from any law purporting to require the department to conform the provision of its services to service regions other than the districts established under this article.

(b) In determining the boundaries of a district, the commission shall consider all cost and benefit factors including the highway activity and the number of employees required to staff a proposed district.

(c) The commission shall periodically review the necessity for the number of maintenance, construction, and support operations in each district and shall submit the findings of this review to the Legislative Budget Board as part of any budget request the department shall be required to file with that commission.

Sec. 201.106. PURCHASE OF LIABILITY INSURANCE. (a) The commission may insure the officers and employees of the department 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 roads, highways, rest areas, or other public grounds in this state.

(b) Coverage under this section must be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. The form of the policy must be approved by the commissioner of insurance, and the coverage must be approved by the attorney general.

(c) This section is not a waiver of immunity of the state from liability for the torts or negligence of an officer or employee of this state.

(d) In this section, "equipment" includes an automobile, motor truck, trailer, aircraft, motor grader, roller, tractor, tractor power mower, and other power equipment. (V.A.C.S. Art. 6674s-1.)
Art. 6674s-1
Sec. 1. The State Highway Commission shall have the power and authority to insure the officers and employees of the Texas Highway Department from liability arising out of the use, operation, and maintenance of equipment, including but not limited to, automobiles, motor trucks, trailers, aircraft, motor graders, rollers, tractors, tractor power mowers, and other power equipment used or which may be used in connection with the laying out, construction, or maintenance of the roads, highways, rest areas, and other public grounds in the State of Texas. Such insurance shall be provided by the purchase of a policy or policies for that purpose from some reliable insurance company or companies authorized to transact such business in this state. All liability insurance so purchased shall be provided on a policy form or forms approved by the State Board of Insurance as to form and by the attorney general as to liability.

Sec. 2. Nothing herein shall be construed as a waiver of the immunity of the state from liability for the torts or negligence of the officers or employees of the state.

Revisor's Note
Section 1, V.A.C.S. Article 6674s-1, requires that the form of the liability insurance policy must be approved by the State Board of Insurance, the name of which was changed to the Texas Department of Insurance under Chapter 242, Acts of the 72nd Legislature, Regular Session, 1991. Section 6.09, Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, amended Section 8, Article 5.13-2, Insurance Code, to require that an insurance policy or printed endorsement form used to write general liability or commercial casualty insurance be approved by the commissioner of insurance rather than the board. The revised law is drafted accordingly.

Revised Law
Sec. 201.107. FINANCIAL REPORTS OF THE DEPARTMENT. (a) The commission shall prepare a quarterly statement containing an itemized list of all money received by the department and the source of the money and of all money paid by the department and the purpose of the payment. The statement shall be filed in the
records of the department, and a copy shall be sent to the
governor.

(b) The commission shall file annually with the governor and
the presiding officer of each house of the legislature a complete
and detailed written report accounting for all funds received and
disbursed by the department during the preceding fiscal year. The
report must be in the form and filed in the time provided by the
General Appropriations Act. (V.A.C.S. Art. 6665 (part).)

Source Law

(a) . . . A quarterly statement containing an
itemized list of all moneys received and from what
source and of all money paid out and for what purpose
shall be prepared and filed in the records of the
Department and a copy sent to the Governor. These
records shall be open to public inspection.

(b) In addition to the reporting requirements of
Subsection (a) of this article, the Commission shall
file annually with the Governor and the presiding
officer of each house of the legislature a complete and
detailed written report accounting for all funds
received and disbursed by the Department during the
preceding fiscal year. The annual report must be in
the form and reported in the time provided by the
General Appropriations Act.

Revisor's Note

V.A.C.S. Article 6665 states that a quarterly
statement of the department's receipts and expenditures
is open to public inspection. The revised law omits
that provision of Article 6665 as unnecessary because
Section 552.022(1), Government Code, states that a
report prepared by a governmental body is public
information. As such, the statement is subject to the
open records law without an express statement to that
effect.

Revised Law

Sec. 201.108. INTERNAL AUDITOR. (a) The commission shall
appoint an internal auditor for the department.

(b) The auditor shall report directly to the commission on
the conduct of department affairs. (V.A.C.S. Art. 6664, Subsec.
(i.)

**Source Law**

(i) The commission shall appoint an internal auditor for the department who shall report directly to the board on the conduct of departmental affairs.

**Revised Law**

Sec. 201.109. REVENUE ENHANCEMENT. (a) The commission shall:

(1) enhance existing sources of revenue; and

(2) create alternate sources of revenue.

(b) In carrying out this section, the commission shall provide for:

(1) maximizing the generation of revenue from existing assets of the department, including real estate;

(2) increasing the role of the private sector and public-private projects in the leasing of real estate and other assets in the development of highway projects;

(3) setting and attempting to meet annual revenue enhancement goals;

(4) reporting on the progress in meeting revenue enhancement goals in the department's annual report; and

(5) contracting for an independent audit of the department's management and business operations in 2001 and each 12th year after 2001. (V.A.C.S. Art. 6663f.)

**Source Law**

Art. 6663f. The Commission shall adopt a program to enhance existing sources of revenue and to generate alternate sources of revenue. The Commission shall include provisions for:

(1) maximizing revenue generation from existing department real estate and other assets;

(2) increasing the role of the private sector and public-private projects in the leasing of real estate and other assets in the development of highway projects;

(3) setting and attempting to meet annual revenue enhancement goals for this program;

(4) reporting on the progress toward the revenue enhancement goals in the Department's annual report; and

(5) contracting for an independent audit of the Department's management and business operations.
in the year 2001 and every 12 years after that year.

Revised Law

Sec. 201.110. CONTRACT WITH ADJOINING STATE FOR IMPROVEMENT OF ROAD CROSSING STATES' BOUNDARY. (a) The commission, by the authority of the governor, may contract with an adjoining state to:

(1) provide for the improvement of a public road or highway that crosses the states' boundary; and

(2) establish respective responsibilities for the improvement.

(b) In a contract for an improvement of the state highway system that is subject to a contract under Subsection (a), the commission may provide for the improvement of a segment of a public road or highway located in the adjoining state if:

(1) the improvement of that segment is necessary for the health, safety, and welfare of the people of this state and for the effective improvement and operation of the state highway system;

(2) that segment is an extension or continuation of a segment of the state highway system;

(3) the contract under Subsection (a) is authorized and executed under the law of the adjoining state; and

(4) all costs associated with the improvement of that segment are the responsibility of the adjoining state.

(c) In this section, "improvement" includes construction, reconstruction, and maintenance. (V.A.C.S. Art. 6673b-1, Secs. 1 (part), 2, 3.)

Source Law

Sec. 1. ... As used in this article, "improvement" includes construction, reconstruction, and maintenance.

Sec. 2. (a) The State Highway and Public Transportation Commission is hereby authorized, by the authority of the governor, to enter into contracts with adjoining states providing for the improvement of public roads and highways traversing state boundaries and establishing respective responsibilities for such improvement.

(b) Pursuant to Subsection (a) of this section, the State Highway and Public Transportation Commission,
in a contract to be awarded for the improvement of the
Texas State Highway System, may provide for the
improvement of a segment of a public road or highway
located in an adjoining state.

Sec. 3. The authority granted under Section 2 of
this article may be exercised only if:

(1) the improvement to the segment of
public road or highway in the adjoining state is
necessary for the health, safety, and welfare of the
people of this state and for the effective improvement
and operation of the Texas State Highway System;

(2) the segment of public road or highway
within the adjoining state is an extension or
continuation of a segment of the Texas State Highway
System;

(3) the contract entered into pursuant to
Subsection (a) of Section 2 of this article is
authorized and duly executed under the law of the
adjoining state; and

(4) all costs associated with the
improvement of the segment of the public road or
highway situated within the adjoining state are the
responsibility of the adjoining state.

Revisor's Note

(1) Section 3(3), V.A.C.S. Article 6673b-1,
refers to a contract that is "duly" executed. The
revised law omits "duly" as unnecessary because the
word does not add to the clear meaning of the law.

(2) The first sentence of Section 1 of V.A.C.S.
Article 6673b-1 states the purpose of the article. The
revised law omits that sentence as nonsubstantive and
unnecessary. The omitted sentence reads:

Art. 6673b-1
Sec. 1. It is the purpose and intent
of this article to provide for the
effective and economical improvement of
public roads and highways that traverse
boundaries between Texas and adjoining
states and to encourage cooperation between
Texas and adjoining states in the
improvement of such public roads and
highways. . . .

Revised Law

Sec. 201.111. RECOMMENDATION OF ENGINEER. On formal
application by a county, road district of a county, or
municipality, the commission may recommend for appointment a
competent civil engineer who is a graduate of a first-class school
of civil engineering and who is skilled in highway construction and

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maintenance. (V.A.C.S. Art. 6668 (part).)

Source Law

Art. 6668. . . . Upon the formal application of any county or organized road district thereof, or of any municipality, the Commission may recommend for appointment a competent civil engineer, and graduate of some first class school of civil engineering, skilled in the knowledge of highway construction and maintenance.

[Sections 201.112-201.200 reserved for expansion]

SUBCHAPTER D. TEXAS DEPARTMENT OF TRANSPORTATION

Revised Law

Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commission governs the Texas Department of Transportation. (V.A.C.S. Art. 6663, Subsec. (a).)

Source Law

Art. 6663. (a) The Texas Department of Transportation is created. The department is governed by the Texas Transportation Commission.

Revisor's Note

Because the department has been created and currently exists, the sentence of Subsection (a), V.A.C.S. Article 6663, creating the department is omitted from the revised law.

Revised Law

Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

(1) aviation;
(2) highways and roads;
(3) public transportation; and
(4) motor vehicle titles and registration.

(b) The person designated by the director to supervise the division responsible for highways and roads must be a registered
professional engineer experienced and skilled in highway
construction and maintenance.

(c) In appointing a person to supervise a function
previously performed by the former State Department of Highways and
Public Transportation, Texas Department of Aviation, or Texas
Turnpike Authority, preference shall be given to a person employed
in a similar position in that former agency. (V.A.C.S. Art. 6663,
Subsecs. (g), (h).)

Source Law
(g) Effective January 1, 1992, the Texas
Department of Transportation shall be organized into
divisions reflecting the different functions and duties
assigned to the department. It is the specific intent
of the legislature that separate divisions be
established to accomplish the department's duties in
the following areas:
(1) aviation;
(2) highways and roads;
(3) public transportation;
(4) motor vehicle titles and registration;
and
(5) any other divisions the board deems
necessary to accomplish the duties assigned to the
department.

(h) It is the specific intent of the legislature
that:
(1) the person designated by the executive
director to supervise the division responsible for
highways and roads shall be a registered professional
engineer experienced and skilled in highway
construction and maintenance;
(2) preference be given to the person or
persons employed in similar positions in the former
State Department of Highways and Public Transportation,
the Texas Department of Aviation, and the Texas
Turnpike Authority in appointing persons to supervise
those functions within the Texas Department of
Transportation.

Revised Law
Sec. 201.203. DEPARTMENT OFFICE; RECORDS. The department
shall have its office in Austin. The department shall keep all of
its records in that office. (V.A.C.S. Art. 6663, Subsec. (c).)

Source Law
(c) The Department shall have its office at
Austin where all its records shall be kept.
Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 1997. (V.A.C.S. Art. 6663, Subsec. (d).)

(d) The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 1997.

Reviser's Note (End of Subchapter)

Subsection (e), V.A.C.S. Article 6663, provides that the department is subject to Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes). The revised law omits the substance of Subsection (e) because Article 13 was repealed by Section 68(3), Chapter 684, Acts of the 73rd Legislature, 1993. Subsection (e) reads:

(e) The Texas Department of Transportation is subject to the requirements of Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

[Sections 201.205-201.300 reserved for expansion]

SUBCHAPTER E. DIRECTOR

Sec. 201.301. EXECUTIVE DIRECTOR. (a) The commission shall elect an executive director for the department. The director must be a registered professional engineer in this state and experienced and skilled in transportation planning, development, construction, and maintenance.

(b) The director serves at the will of the commission.

(c) Before assuming duties, the director shall execute a bond that is:
(1) payable to the state in an amount determined by
the commission;
(2) approved by the commission; and
(3) conditioned on the faithful performance of the
director's duties.

(d) The director shall:
(1) serve the commission in an advisory capacity,
without vote; and
(2) submit to the commission, quarterly, annually, and
biennially, detailed reports of the progress of public road
construction, detailed reports of public and mass transportation
development, and detailed statements of expenditures.

(e) The director is entitled to actual expenses for and
related to travel away from Austin in performance of the director's
duties under the direction of the commission. (V.A.C.S.
Art. 6669.)

Source Law

Art. 6669. (a) The Commission shall elect an
executive director for the Texas Department of
Transportation who shall be a Registered Professional
Engineer in the State of Texas experienced and skilled
in transportation planning, development, construction,
and maintenance.

(b) He or she shall hold his or her position
until removed by the Commission. He or she shall first
execute a bond payable to the state in such sum as the
Commission may deem necessary, to be approved by the
Commission, and conditioned upon the faithful
performance of his or her duties. He or she shall act
with the Commission in an advisory capacity, without
vote, and shall quarterly, annually and biennially
submit to it detailed reports of the progress of public
road construction, public and mass transportation
development, and statement of expenditures. He or she
shall be allowed all actual traveling and other
expenses therefor, under the direction of the
Department, while absent from Austin in the performance
of duty under the direction of the Commission.

Revised Law

Sec. 201.302. STATE ROAD MAP. The director shall make,
regularly revise, and keep in a form convenient for examination in
the office of the department a complete road map of the state that
shows road construction in the counties. (V.A.C.S. Art. 6670
Art. 6670. The Highway Engineer shall cause to be made and kept in form convenient for examination in the office of the Department, a complete road map of the State as represented in the road construction of the various counties, and such map shall be regularly revised as construction proceeds in the different counties. . . .

Sec. 201.303. USE OF UNIVERSITY LABORATORIES FOR ANALYZING MATERIALS. The director may use laboratories maintained at Texas A&M University and The University of Texas to test and analyze road and bridge material. Persons in charge of the laboratories shall cooperate with and assist the director with those tests and analyses. (V.A.C.S. Art. 6671.)

Art. 6671. The laboratories maintained at the Agricultural and Mechanical College of Texas and at the University of Texas shall be at the disposal and direction of the Highway Engineer for the purpose of testing and analyzing road and bridge material, and those in charge of said laboratories shall co-operate with and assist said Engineer to that end.

V.A.C.S. Article 6671 refers to the "Agricultural and Mechanical College of Texas." The institution's name was changed by Section 1, Chapter 166, Acts of the 58th Legislature, 1963, to "Texas A&M University." The revised law is drafted accordingly.

Sec. 201.401. EMPLOYEE QUALIFICATIONS. (a) A person may not be an employee of the department who is exempt from the state's position classification plan or compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary
group 17, of the position classification salary schedule if the person is:

(1) an officer, employee, or paid consultant of a Texas trade association:
   (A) in the field of road construction or maintenance or outdoor advertising; or
   (B) of automobile dealers; or
(2) the spouse of an officer, manager, or paid consultant described by Subdivision (1).

(b) A person may not act as general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(c) In this section, "Texas trade association" has the meaning assigned by Section 201.051. (V.A.C.S. Art. 6668a, Subsecs. (a), (b), (c)).

Source Law

Art. 6668a. (a) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, automobile dealers, or outdoor advertising may not be an employee of the Department who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, automobile dealers, or outdoor advertising may not be a Department employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person may not act as general counsel to the Department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Department.

Revised Law

Sec. 201.402. EQUAL EMPLOYMENT OPPORTUNITY. (a) The
director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address the areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

(d) The department's designated equal employment opportunity officer shall report directly to the director. (V.A.C.S. Art. 6668b.)
(3) procedures by which a determination can be made of significant underutilization in the Department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underutilization.

(b) A policy statement prepared under Subsection (a) of this article must cover an annual period, be updated at least annually, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this article. The report may be made separately or as a part of other biennial reports made to the legislature.

(d) The Department's designated equal employment opportunity officer shall report directly to the engineer-director.

Revised Law
Sec. 201.403. HIRING WOMEN AND MINORITIES. (a) To provide adequate numbers of women and minority applicants for all positions in the department, the department shall:

(1) open all positions compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 21, of the position classification salary schedule to applicants from inside and outside the department;

(2) seek applicants from this state and, if sufficient numbers are not available from this state, from other states;

(3) coordinate recruiting efforts with college placement officers and college student organizations;

(4) develop an extensive cooperative education program with colleges; and

(5) ensure that employees are aware of continuing educational opportunities and encourage employee participation in the programs.

(b) The department shall designate a central authority to set and monitor women and minority hiring goals. After consultation with appropriate persons in each division and regional office, the central authority shall set annual women and minority hiring goals in each division and regional office of the department and shall monitor progress toward those goals. The central
authority shall provide recruiting and technical assistance to each
division and regional office.

(c) Not later than February 1 of each year, the director
shall report to the commission, each house of the legislature, and
the Sunset Advisory Commission on the department's progress in the
recruitment and hiring of women and minority applicants.

(d) In this section, "minority" includes African Americans,
Hispanic Americans, Asian Americans, American Indians, Alaska
natives, and Pacific Islanders. (V.A.C.S. Art. 6669a.)

Source Law

Art. 6669a
Sec. 1. In this article, "minority" includes
African Americans, Hispanic Americans, Asian Americans,
American Indians, Alaska natives, and Pacific
islanders.

Sec. 2. For the purpose of providing adequate
numbers of women and minority applicants for all job
positions in the Department, the Department shall:
(1) open all positions compensated at or
above the amount prescribed by the General
Appropriations Act for step 1, salary group 21, of the
position classification salary schedule to applicants
both from within and outside the Department;
(2) seek applicants both from this state
and, when sufficient numbers are not available from
this state, from the rest of the United States;
(3) coordinate recruiting efforts with
college placement officers and college student
organizations;
(4) develop an extensive cooperative
education program with colleges; and
(5) ensure that employees are aware of
continuing educational opportunities and encourage
employee participation in the programs.

Sec. 3. The Department shall designate a central
authority to set and monitor women and minority hiring
goals. The central authority shall:
(1) set, after consultation with
appropriate persons in each division and regional
office, and monitor progress toward annual women and
minority hiring goals in each division and regional
office of the Department; and
(2) provide recruiting and technical
assistance to the divisions and regional offices of the
Department as needed.

Sec. 4. The State Engineer-Director for Highways
and Public Transportation shall report not later than
February 1 of each year to the Commission, each house
of the state legislature, and the Sunset Advisory
Commission on the progress of the Department in the
recruitment and hiring of women and minority job
applicants.
Sec. 201.404. EMPLOYEE PROGRAMS. (a) The director or the director's designee shall develop an intra-agency career ladder program covering all full-time classified and exempt positions. The program shall require intra-agency posting of all nonentry positions concurrently with any public posting.

(b) The director or the director's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

(c) The department shall provide to its employees, as often as necessary, information concerning the employees' qualifications for employment under this subchapter and their responsibilities under applicable laws relating to standards of conduct for state employees. (V.A.C.S. Art. 6668a, Subsecs. (d), (e), (f).)

(d) The engineer-director or the engineer-director's designee shall develop an intra-agency career ladder program covering all full-time classified and exempt positions. The program shall require intra-agency postings of all nonentry positions concurrently with any public posting.

(e) The engineer-director or the engineer-director's designee shall develop a system of annual performance evaluations. All merit pay for Department employees must be based on the system established under this subsection.

(f) The Department shall provide to its employees, as often as necessary, information regarding their qualifications for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

Sec. 201.405. DETERMINATION OF FITNESS OF ENGINEER FOR HIGHWAY CONSTRUCTION. The commission shall adopt rules necessary to determine the qualifications of engineers who apply to the department for highway construction work. (V.A.C.S. Art. 6668 (part).)

Art. 6668. The Department shall adopt such rules as are found necessary to determine the fitness of...
engineers making application for highway construction work. . . .

Revisor's Note

The revised law changes "department" to "commission" because V.A.C.S. Article 6666, revised in this code as Section 201.101, provides that the commission adopts rules for the operation of the department.

Revised Law

Sec. 201.406. EXCHANGE OF ENGINEERS WITH MEXICO. (a) The commission may employ not more than five citizens of the United Mexican States who are student engineers or graduate engineers for a period of not more than six months and pay those employees for their services from the state highway fund if the United Mexican States employs an equal number of engineers of the department in similar work in the United Mexican States for similar periods and pays them for their services.

(b) The commission may grant leaves of absence to not more than five engineers of the department to accept employment with the United Mexican States as provided under Subsection (a). (V.A.C.S. Art. 6669b, Secs. 1, 2.)

Source Law

Art. 6669b

Sec. 1. The Texas Highway Commission is hereby authorized to employ not to exceed five (5) citizens of the Republic of Mexico who are either student or graduate engineers, for a period of not more than six (6) months, and to pay such employees for their services out of the State Highway Fund, provided the Republic of Mexico will employ an equal number of the engineers of the Texas Highway Department in similar work in the Republic of Mexico and pay them for their services for similar periods of time.

Sec. 2. The Texas Highway Commission is further authorized to grant leaves of absence to not to exceed five (5) of its engineering employees for the purpose of accepting employment with the Republic of Mexico as provided in Section 1.

Revisor's Note

(1) The revised law substitutes "United Mexican
States" for "Republic of Mexico" because the former is the correct name of the nation.

(2) The revised law omits as unnecessary Section 3, V.A.C.S. Article 6669b, relating to the cumulative effect of that article. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision. Section 3 reads:

Sec. 3. The provisions of this Law shall be cumulative of all laws on the subject not in actual conflict herewith and all laws or parts of laws in conflict herewith are repealed only in so far as such laws are in actual conflict with the provisions of this Act, and in case of such conflict the provisions of this Act shall control and be effective.

[Sections 201.407-201.500 reserved for expansion]

SUBCHAPTER G. RECORDS

Revised Law

Sec. 201.501. REPRODUCTION OF RECORDS. (a) The department may photograph, microphotograph, or film any record that pertains to department operations.

(b) The department may create original records in micrographic form on media, such as computer output microfilm.

(c) The department shall provide an adequate number of microfilm readers and printers to allow the public convenient and inexpensive access to records created under Subsection (a). The department shall index the records alphabetically, by number, by subject matter, or by other appropriate references and shall provide the index to the public to promote convenient access.

(d) A photograph, microphotograph, or film of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or
authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(e) The director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(f) Certified records shall be furnished to any person who is authorized by law to receive them. (V.A.C.S. Art. 6663a, Secs. 1(a), (c) (part), 2, 2a (part).)

Source Law

Art. 6663a

Sec. 1. (a) The State Department of Highways and Public Transportation is hereby authorized to photograph, microphotograph, or film all records of any kind or character pertaining to departmental operations.

(c) The authority granted by Subsections (a). . . . of this section includes the authority to create original records in micrographic form on media such as computer output microfilm. The State Department of Highways and Public Transportation . . . shall provide microfilm readers and printers in adequate numbers to allow the public convenient and inexpensive access to records as provided by this section. The departments shall index the records alphabetically, by number, by subject matter, or by other appropriate referents and shall provide an index to the public to promote convenient access.

Sec. 2. Photographs or microphotographs or films of any record photographed, microphotographed or filmed, as herein provided, shall have the same force and effect as the originals thereof would have had, and shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. Duly certified or authenticated copies of such photographs or microphotographs or films shall be admitted in evidence equally with the original photographs or microphotographs or films.

Sec. 2a. The State Engineer-Director of the State Department of Highways and Public Transportation . . . or their duly authorized representatives are hereby authorized to certify to the authenticity of any photograph or microphotograph herein authorized and shall make such charges therefor as may be authorized by law. Such certified records shall be furnished to any person who is entitled to receive the same under the law.
Revisor's Note

(1) Section 2a, V.A.C.S. Article 6663a, refers to a "duly" authorized representative of the director. The revised law omits "duly" as unnecessary because the word does not add to the clear meaning of the law.

(2) Section 2a, V.A.C.S. Article 6663a, does not explicitly authorize the certification of the authenticity of a film. That appears to be an oversight, and "film" has been added in the revised law.

(3) The revision omits as unnecessary Section 1(g), V.A.C.S. Article 6663a, providing that Section 1 of that article does affect the public disclosure of information under V.A.C.S. Article 6252-17a. Article 6252-17a provides that all information held by a governmental body is public information unless the information falls into a specific exception, and Section 1, V.A.C.S. Article 6663a, does not contain a specific exception to the application of Article 6252-17a. Section 1(g) reads:

(g) This section does not affect the availability of information under Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

(4) The revision omits Section 3, V.A.C.S. Article 6663a, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. These provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. Section 3 reads:

Sec. 3. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature
hereby declares that it would have passed
this Act and each section, subsection,
sentence, clause, and phrase thereof,
irrespective of the fact that one or more
of the sections, subsections, sentences,
clauses or phrases be declared
unconstitutional.

Revised Law
Sec. 201.502. RETENTION OF DEED. A deed that conveys any
interest in real property to the state for a highway purpose shall
be deposited and retained in the Austin office of the department.
(V.A.C.S. Art. 6663a, Sec. 1(d).)

Source Law
(d) All deeds conveying land or interests in
land to the State of Texas for highway purposes shall
be retained and deposited in the offices of the State
Department of Highways and Public Transportation at
Austin, Texas.

Revised Law
Sec. 201.503. DISPOSAL OF RECORDS. Unless otherwise
required by law, and subject to Chapter 441, Government Code, the
department may dispose of or destroy a record that the department
determines is not required for the performance of the department's
duties and functions. (V.A.C.S. Art. 6663a, Sec. 1(e) (part).)

Source Law
(e) Unless otherwise required by law, and
subject to Chapter 441, Government Code, the State
Department of Highways and Public
Transportation ... may dispose of or destroy records
that each agency determines are not required for the
performance of the agency's duties and functions.

[Sections 201.504-201.600 reserved for expansion]

SUBCHAPTER H. PLANS AND PROJECTS

Revised Law
Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The
department shall develop a statewide transportation plan that
contains all modes of transportation, including:

(1) highways and turnpikes;
(b) In developing the plan, the department shall seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a). As appropriate, the department and such an agency or political subdivision shall enter into a memorandum of understanding relating to the planning of transportation services. (V.A.C.S. Art. 6663, Subsec. (f).)
Sec. 201.603. AGREEMENT WITH OTHER AGENCIES FOR ROADS. (a) On request of the Texas Department of Mental Health and Mental Retardation or the Texas Youth Commission, the department may enter into agreements with that department or commission for the construction, maintenance, or repair of roads in an institution, hospital, or school under the control, management, or supervision of that department or commission.

(b) The Texas Department of Mental Health and Mental Retardation or the Texas Youth Commission may reimburse the appropriate fund of the department for the cost of construction or maintenance performed under Subsection (a). Before a transfer of an amount under this subsection, the reimbursing agency shall notify in writing the comptroller of the amount to be transferred and the fund from which the amount is to be taken. (V.A.C.S. Art. 6674t, Secs. 1, 2.)

Source Law

Art. 6674t
Sec. 1. The Texas State Highway Department is hereby authorized and empowered, upon request of the Board for Texas State Hospitals and Special Schools or the State Youth Development Council, to enter into agreements or contracts with the Board or with the Council for the construction, maintenance and repair of roads within any of the institutions, hospitals and schools under the control, management or supervision of the Board or the Council.

Sec. 2. The Board for Texas State Hospitals and Special Schools and the State Youth Development Council are hereby authorized to reimburse the appropriate funds of the Texas State Highway Department for the cost of construction and/or maintenance performed under Section 1. Prior to the transfer of any funds, the Board and/or the Council shall notify the Comptroller in writing what funds and what amounts are to be transferred and direct the Comptroller to make the appropriate transfer.

Revisor's Note

(1) Section 1, V.A.C.S. Article 6674t, provides for "agreements or contracts" between the department and certain other state agencies. The reference to "contracts" is omitted from the revised law because
"contract" is included within the meaning of "agreement."

(2) Section 2, V.A.C.S. Article 6674t, refers to the "Board for Texas State Hospitals and Special Schools." In 1965, that board was abolished and its responsibilities transferred to the Texas Department of Mental Health and Mental Retardation (Chapter 67, Acts of the 59th Legislature, Regular Session, 1965). The revised law is drafted accordingly.

(3) Section 2, V.A.C.S. Article 6674t, refers to the "State Youth Development Council." In 1957 that agency was succeeded by the Texas Youth Council (Chapter 281, Acts of the 55th Legislature, Regular Session, 1957). In 1983 the name of the agency was changed to the Texas Youth Commission (Chapter 44, Acts of the 68th Legislature, Regular Session, 1983). The revised law is drafted accordingly.

(4) Section 2, V.A.C.S. Article 6674t, requires that before the transfer of funds, the board or council shall notify the comptroller what funds and what amounts are to be transferred and direct the comptroller to make the transfer. The revised law omits "direct the Comptroller to make the appropriate transfer" because that direction is implied in the notification.

(5) The revision omits Section 3, V.A.C.S. Article 6674t, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. These provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. Section 3 reads:

Sec. 3. If any section, subsection, sentence, clause or phrase of this Act is
for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares it would have passed the Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Revised Law

Sec. 201.604. ENVIRONMENTAL REVIEW. (a) The commission by rule shall provide for the commission's environmental review of the department's transportation projects that are not subject to review under the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.). The rules must provide for:

(1) public comment on the department's environmental reviews, including the types of projects for which public hearings are required, and a procedure for requesting a public hearing on an environmental review for which a public hearing is not required;

(2) the department's evaluation of direct and indirect effects of its projects;

(3) analysis of project alternatives; and

(4) a written report that briefly explains the department's decision on a project and that specifies the mitigation measures on environmental harm on which the project is conditioned.

(b) An environmental review of a project must be conducted before the location or alignment of the project has been adopted.

(c) The commission shall consider the results of its reviews in executing its duties.

(d) The department shall coordinate with the Texas Natural Resource Conservation Commission and the Parks and Wildlife Department in preparing an environmental review. To give those agencies time to respond, the department shall submit the review of a project and the department's mitigation proposals on the project to them for comment before the 30th day preceding the date on which the department issues the written report explaining its decision on
that project.

(e) At least once during each five-year period, the commission, after a public hearing, shall review the rules relating to environmental reviews and make appropriate changes. (V.A.C.S. Art. 6673g, Sec. 1, as added by Ch. 551, 72nd Leg., R.S., 1991.)

Source Law

Art. 6673g
Sec. 1. (a) The Commission shall adopt rules providing for environmental reviews of Department transportation projects that are not subject to review under the National Environmental Policy Act (Chapter 55, Title 42, U.S.C.). The Commission shall consider the results of its reviews in executing its duties. The rules must contain provisions for:

(1) public comment, including the types of projects for which public hearings are required, on the Department's environmental reviews;

(2) the Department's evaluation of direct and indirect effects of its projects;

(3) analysis of project alternatives; and

(4) a written report that briefly explains the Department's decision regarding a project and that specifies the mitigation measures to environmental harm on which the project is conditioned.

(b) A rule adopted under Subsection (a)(1) of this section also must provide a procedure for a public hearing to be requested on an environmental review for which a public hearing is not required. An environmental review provided by a rule adopted under this section must be conducted before the location or alignment of the project has been adopted.

(c) The Department shall coordinate with the Texas Natural Resource Conservation Commission and Texas Parks and Wildlife Department in preparing environmental reviews under this section and shall submit environmental reviews and mitigation proposals prepared by the Department to those agencies for comment before the written report explaining the Department's decision regarding a project is issued. The Texas Natural Resource Conservation Commission and Texas Parks and Wildlife Department shall have at least 30 days to respond prior to issuance of the written report.

(d) At least once every five years, the Commission shall, after a public hearing, review the existing environmental review rules and make appropriate changes.

Revised Law

Sec. 201.605. ADVISORY COMMITTEE ON RULES AFFECTING THE ENVIRONMENT. (a) The governor, the lieutenant governor, and the speaker of the house of representatives each shall appoint two members of a committee to advise the commission on rules that may affect the environment.

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(b) A member serves at the will of the officer who appointed the member.

(c) The commission may adopt rules to govern the operations of the advisory committee. (V.A.C.S. Art. 6673g, Sec. 2, as added by Ch. 551, 72nd Leg., R.S., 1991.)

Source Law

Sec. 2. (a) The governor, the lieutenant governor, and the speaker of the house of representatives each shall appoint two members to a committee to advise the Commission on rules of the Department that may affect the environment. (b) The advisory committee consists of six members, each of whom represents the general public. A member serves at the pleasure of the officer appointing the member. A member of the advisory committee is not entitled to receive compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred in performing duties as a member of the advisory committee. (c) The Commission may adopt rules to govern the operations of the advisory committee.

Revisor's Note

The revised law omits the provision of Section 2(b), V.A.C.S. Article 6673g, relating to the requirement that each member of the advisory committee represent the general public and the provision of that section relating to the compensation and reimbursement of advisory committee members as impliedly repealed by Sections 2(a) and 4(a), V.A.C.S. Article 6252-33, respectively. V.A.C.S. Article 6252-33 was enacted in 1993.

Revised Law

Sec. 201.606. PROPERTY IN ENDANGERED SPECIES HABITAT. If the department acquires for a transportation project property that is a habitat of one or more species listed as endangered under the Endangered Species Act (16 U.S.C. Section 1531 et seq.) and that is within the boundaries of a regional habitat conservation plan, the department may participate in the regional habitat conservation plan. If the department does not comply with the regional habitat
conservation plan, it shall comply with the Endangered Species Act and the applicable requirements of the United States Fish and Wildlife Service. (V.A.C.S. Art. 6673g, Sec. 4, as added by Ch. 551, 72nd Leg., R.S., 1991.)

Sec. 4. If the Department acquires for a transportation project a habitat of one or more species declared endangered under the federal Endangered Species Act (Chapter 35, Title 16, U.S.C.), and within the boundaries of a regional habitat conservation plan, the Department may participate in the regional habitat conservation plan. If the Department does not comply with the regional habitat conservation plan, it shall comply with the federal Endangered Species Act and the applicable requirements of the United States Fish and Wildlife Service.

Sec. 201.607. ENVIRONMENTAL, HISTORICAL, OR ARCHEOLOGICAL MEMORANDUM OF UNDERSTANDING. (a) Not later than January 1, 1997, and every fifth year after that date, the department and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archeological resources shall examine and revise their memorandum of understanding that:

(1) describes the responsibilities of each agency entering into the memorandum relating to the review of the potential environmental, historical, or archeological effect of a highway project;

(2) specifies the responsibilities of each agency entering into the memorandum relating to the review of a highway project;

(3) specifies the types of information the department must provide to the reviewing agency and the period during which the department must provide the information;

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department; and

(5) includes any other agreement necessary for the
effective coordination of the review of the environmental, 
historical, or archeological effect of a highway project.

(b) The department and each agency by rule shall adopt all 
revisions to the memorandum. (V.A.C.S. Art. 6673g, Secs. 3(a), 
(d), as added by Ch. 551, 72nd Leg., R.S., 1991.)

Source Law

Sec. 3. (a) The Department shall adopt a 
memorandum of understanding with each state agency that 
has responsibilities for the protection of the natural 
environment or for the preservation of historical or 
archeological resources. Each memorandum of 
understanding must:
1. describe each agency's responsibilities regarding the review of the potential environmental, historical, or archeological impacts of highway projects;
2. specify the responsibilities of each agency entering into the memorandum regarding the review of highway projects;
3. specify the types of information the Department must provide to the reviewing agency and the period of time in which the Department must provide the information;
4. specify the length of time in which the reviewing agency must review the highway project and provide comments to the Department; and
5. include any other agreements necessary for the effective coordination of the review of the environmental, historical, and archeological impacts of highway projects.

(d) Not later than January 1, 1997, and every fifth year after that date, the Department and each agency that has entered into a memorandum of understanding with the Department shall review and update the memorandum of understanding required by Subsection (a) of this section. The Department and each of the agencies by rule shall adopt the memorandum and all revisions to the memorandum.

Revisor's Note

The revised law omits as executed Sections 3(b) and (c), V.A.C.S. Article 6673g, as added by Chapter 551, Acts of the 72nd Legislature, Regular Session, 1991, relating to the adoption of the original memoranda of understanding. The omitted provisions read:

(b) The Department shall coordinate the development of each memorandum of understanding.

(c) If the Department and an agency are unable to agree on a memorandum of understanding, they shall each submit a
proposed memorandum of understanding to the
attorney general not later than February 1, 1992. Not later than April 1, 1992, the
attorney general shall issue a memorandum of understanding that is binding between
the Department and the other state agency. In preparing the memorandum of
understanding the attorney general may receive written and oral remarks from the
Department and the agency. The agency and the Department may, on agreement, amend a
memorandum of understanding issued by the attorney general.

Revised Law

Sec. 201.608. PROJECTS FOR TRAFFIC FROM INTERNATIONAL TRADE.

(a) The department annually shall review its proposed road projects to determine whether the projects are adequate to allow for the projected volume of highway traffic resulting from international trade over the five-year period following the date of the review.

(b) The department may reassign priorities to its projects in accordance with the results of its review.

(c) Not later than February 1 of each odd-numbered year, the department shall report to the legislature on the ability of the state highway system to allow for the projected volume of highway traffic resulting from international trade over the five-year period following the date of the report. (V.A.C.S. Art. 6673j-1.)

Source Law

Art. 6673j-1. (a) The department shall review its proposed road projects annually to determine whether they are adequate to handle the projected volume of highway traffic resulting from international trade over the next five years. The department may reassign priorities to its projects in accordance with the review.

(b) Not later than February 1 of each odd-numbered year, the department shall report to the legislature on the ability of the state highway system to handle the projected volume of highway traffic resulting from international trade over the next five years.

Revised Law

Sec. 201.609. NOTICE TO LEGISLATORS OF COMPLETED PROJECTS.

(a) Not later than the 10th day before the date on which a major
road project is scheduled for completion, the department shall
provide notice of the location and completion date of the road
project to each member of the legislature who represents the county
in which the road project is located and who wants to receive the
notice.

(b) The department shall ask each legislator whether the
legislator wants to receive notices under this section. (V.A.C.S.
Art. 6673j.)

Source Law

Art. 6673j. Not later than the 10th day before
the date a major road project is scheduled for
completion, the department shall inform each member of
the legislature who represents the county in which the
road project is located and who desires notice of the
location of and the completion date of the road
project. The department shall contact each legislator
to determine whether the legislator desires to receive
notices under this article.

[Sections 201.610-201.700 reserved for expansion]

SUBCHAPTER I. FUNDS AND EXPENDITURES

Revised Law

Sec. 201.701. FUNDS FOR EMERGENCY MEDICAL SERVICES. (a) If
the department receives state or federal highway safety funds that
may be used for emergency medical services, the department shall:

(1) contract with the Texas Department of Health for
the administration of the funds by the department of health; and

(2) designate a part of the funds to be used for
improvement of emergency medical services.

(b) If an agency of the federal government formally notifies
the department that a contract described by Subsection (a) violates
federal law or would cause the loss of any federal highway safety
funds, the department may not execute the contract or, if the
contract has been executed, the contract is void.

(c) This section does not affect any responsibility of the
department for oversight of state or federal highway safety funds.
(V.A.C.S. Art. 6663e.)
Art. 6663e. (a) Except as provided by Subsection (b) of this article, if the State Department of Highways and Public Transportation receives state or federal highway safety funds that may be used for emergency medical services, it shall:

(1) contract with the Texas Department of Health for the administration of the funds for emergency medical services by the Texas Department of Health; and

(2) designate a portion of the funds to be used for improvements of emergency medical services.

(b) If an agency of the federal government formally notifies the State Department of Highways and Public Transportation that a contract described by Subsection (a) of this article would cause the loss of any federal highway safety funds or would violate federal law, the department may not execute the contract or, if the contract has been executed, the contract is void.

(c) Any responsibility of the State Department of Highways and Public Transportation for oversight of state or federal highway safety funds is not affected by this article.

Sec. 201.702. DISADVANTAGED BUSINESS PROGRAM. (a) The department shall:

(1) set annual goals for the awarding of state or federally funded contracts, including construction, maintenance, supply, and service contracts, to disadvantaged businesses and shall attempt to meet the goals;

(2) assess the availability of disadvantaged businesses in this state;

(3) attempt to identify disadvantaged businesses in this state that provide or have the potential to provide supplies, materials, equipment, or services to the department;

(4) give disadvantaged businesses full access to the department's contract bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify barriers to the businesses' participation in the process; and

(5) allocate the responsibility for performing the duties prescribed by this section among persons in the department's headquarters and regional offices.
(b) The goals under Subsection (a)(1) must approximate the federal requirement for federal money used for highway construction and maintenance consistent with other applicable state and federal law.

(c) The department's equal opportunity office shall participate in the development of requests for proposals and other departmental documents relating to the bidding process.

(d) This section does not exempt the department from competitive bidding requirements provided by other law. (V.A.C.S. Art. 6669c.)

Source Law

Art. 6669c
Sec. 1. The Department shall establish a disadvantaged business program.

Sec. 2. (a) The Department shall set and strive to meet annual goals for the awarding of all state or federally funded contracts including construction, maintenance, supply, and service contracts to disadvantaged businesses. Contract goals shall approximate the federal requirement on federal money used in highway construction and maintenance, consistent with applicable state and federal laws.

(b) The Department shall perform a capacity study to assess the availability of disadvantaged businesses in the state.

(c) The Department shall attempt to identify disadvantaged businesses in the state that provide or have the potential to provide supplies, materials, equipment, or services to the Department. The Department shall give disadvantaged businesses full access to the contract bidding process. The Department shall inform and offer assistance to disadvantaged businesses regarding the Department's contract bidding process and identify barriers to participation by disadvantaged businesses in the Department's bidding process.

(d) The Department shall allocate responsibility for performing the duties provided by this article among persons in the Department's headquarters and regional offices.

(e) This article does not exempt the Department from competitive bidding requirements provided by law.

Sec. 3. The Department's equal opportunity office shall participate in the development of requests for proposals and other departmental documents relating to the bidding process.

Revised Law

Sec. 201.703. EXPENDITURES FOR ROADS NOT ON THE HIGHWAY SYSTEM. (a) The department in conjunction with the Federal Highway Administration may spend for the improvement of a road not
in the state highway system money appropriated by the United States Congress and allocated by the United States secretary of agriculture to the department for expenditure on the road. That federal money may be matched or supplemented by an amount of state money necessary for proper construction and performance of the work.

(b) State money may not be used exclusively for the construction of a road not in the state highway system.

(c) The expenditure of state money is limited to the cost of construction and engineering, overhead, and other costs on which the application of federal money is prohibited or impractical.

(V.A.C.S. Art. 6674d-1.)

Source Law

Art. 6674d-1. From and after the effective date of this Act, all moneys appropriated by the Congress of the United States and allocated by the Secretary of Agriculture of the United States to the State Highway Department for expenditure on roads not on the system of State Highways, may be expended, by and through the State Highway Department in conjunction with the Bureau of Public Roads, for the improvement of such roads and said Federal Funds may be matched, or supplemented by such amounts of State funds as may be necessary for proper construction and prosecution of the work. State funds shall not be used exclusively for the construction of roads not on the System of State Highways, the expenditure of State funds on said roads being limited to cost of construction and engineering, overhead and other costs on which the application of Federal Funds is prohibited or impractical.

Revisor's Note

V.A.C.S. Article 6674d-1 refers to the "Bureau of Public Roads." The functions of the bureau were transferred to the Federal Highway Administration August 13, 1973. The revised law reflects that transfer.

Revised Law

Sec. 201.704. CONTRACT FOR REPAIR OR MAINTENANCE OF EQUIPMENT. (a) The department shall contract with a private entity for the repair or maintenance of highway equipment and
passenger cars used by the department if the department determines
that the private entity can:

(1) provide maintenance and repair services that are
of sufficient quality and in sufficient quantity; and

(2) perform those services for a charge that is less
than 90 percent of the total cost for the department to provide
equivalent services.

(b) During a fiscal year the department shall spend for all
contracts under this section not less than 25 percent of the total
amount it spends for vehicle repair and maintenance in that year.

(c) In determining the total cost of providing maintenance
and repair services for the purpose of Subsection (a)(2), the
department shall consider direct and indirect costs of providing
those services.

(d) In this section:

(1) "Highway equipment" means machinery or equipment,
other than a passenger car, that is used by the department for the
construction, reconstruction, maintenance, or repair of a road or
highway.

(2) "Passenger car" has the meaning assigned that term
by Section 502.001. (V.A.C.S. Art. 6674h-3.)

Source Law

Art. 6674h-3. (a) In this article:

(1) "Highway equipment" means machinery or equipment,
other than a passenger car, that is used by the department for the
construction, reconstruction, maintenance, or repair of a road or highway.

(2) "Passenger car" has the meaning assigned by Section 1(j), Chapter 88, General Laws,
Acts of the 41st Legislature, 2nd Called Session, 1929
(Article 6675a-1, Vernon's Texas Civil Statutes).

(b) The department shall contract with a private
entity for the repair or maintenance of highway
equipment and passenger cars used by the department and
expend under all contracts under this subsection during
a fiscal year not less than 25 percent of the total
amount the department expends for vehicle repair and
maintenance in that year, if the department determines
that the private entity can:

(1) provide maintenance and repair
services of sufficient quality and in sufficient
quantity; and

(2) perform maintenance and repair
services at less than 90 percent of the total cost for
the department to provide these services.
(c) In determining the total cost of providing services, the department shall consider both direct and indirect costs of providing maintenance and repair services.

Revisor's Note

Subsection (a)(2), V.A.C.S. Article 6674h-3, contains a reference to Section 1(j), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1, Vernon's Texas Civil Statutes). Section 1(j) is codified in Section 502.001 of this code, and the revised law reflects that citation change.

[Sections 201.705-201.800 reserved for expansion]

SUBCHAPTER J. INFORMATION FURNISHED BY DEPARTMENT

Revised Law

Sec. 201.801. INFORMATION ABOUT DEPARTMENT; COMPLAINTS.

(a) The department shall prepare information of public interest describing the functions of the department and the department's procedures by which a complaint is filed with the department and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The commission by rule shall establish methods by which consumers and service recipients are notified of the department's name, mailing address, and telephone number for directing complaints to the department. The commission may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the department;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the department; or

(3) in a bill for service provided by an individual or entity regulated by the department.
(c) The department shall keep an information file about each written complaint filed with the department that the department has the authority to resolve.

(d) The department, at least quarterly and until final disposition of a written complaint that is filed with the department and that the department has the authority to resolve, shall notify the parties to the complaint of its status unless the notice would jeopardize an undercover investigation. (V.A.C.S. Art. 6665a, Subsecs. (a), (b), (c), (d).)

Source Law

Art. 6665a. (a) The Department shall prepare information of public interest describing the functions of the Department and the Department's procedures by which complaints are filed with and resolved by the Department. The Department shall make the information available to the public and appropriate state agencies.

(b) The Commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the Department for the purpose of directing complaints to the Department. The Commission may provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the Department;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the Department; or

(3) in a bill for service provided by an individual or entity regulated by the Department.

(c) The Department shall keep an information file about each written complaint filed with the Department that the Department has authority to resolve.

(d) If a written complaint is filed with the Department that the Department has authority to resolve, the Department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Revised Law

Sec. 201.802. PUBLIC ACCESS TO COMMISSION AND TO DEPARTMENT PROGRAMS. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the commission.

(b) The department shall prepare and maintain a written plan
that describes the manner in which a person who does not speak
English or who has a physical, mental, or developmental disability
is provided reasonable access to the department's programs.
(V.A.C.S. Art. 6665a, Subsecs. (e), (f).)

Source Law

(e) The Commission shall develop and implement
policies that provide the public with a reasonable
opportunity to appear before the Commission and to
speak on any issue under the jurisdiction of the
Commission.
(f) The Department shall prepare and maintain a
written plan that describes how a person who does not
speak English or who has a physical, mental, or
developmental disability can be provided reasonable
access to the Department's programs.

Revised Law

Sec. 201.803. INFORMATION FOR ROAD CONSTRUCTION AND
MAINTENANCE. (a) The department shall collect information and
compile statistics about the mileage, character, and condition of
public roads in each county and the cost of construction of the
classes of roads in the county.
(b) The department shall investigate and determine the
methods of road construction best adapted to different sections of
the state.
(c) The department shall establish standards for the
construction and maintenance of highways, bridges, and ferries,
considering natural conditions and the character and adaptability
of road building material in the counties of the state.
(d) The department may be consulted, at all reasonable
times, by county and municipal officials for any information or
assistance the department can give concerning the highways in the
county or municipality. The department shall provide the requested
information.
(e) The department may request from county and municipal
officials any information necessary for the performance of the
department's duties under this section.
(f) Before any proceeds from the sale of bonds or other
legal obligations issued by a county or a subdivision or defined
district of a county are spent for road construction by the
commissioners court of the county or under its direction, the
commissioners court shall obtain from the department information
and advice on the general plans and specifications for the road
construction to be undertaken. On request of a county
commissioners court, the department shall consider and advise the
commissioners court on those plans and specifications. (V.A.C.S.
Art. 6667.)

Source Law

Art. 6667. The Department shall collect
information and compile statistics relative to the
mileage, character and condition of the public roads in
the different counties, and the cost of construction of
the different classes of roads in the various counties.
It shall investigate and determine the methods of road
construction best adapted to the different sections of
the State, and shall establish standards for the
construction and maintenance of highways, bridges and
ferries, giving due regard to all natural conditions
and to the character and adaptability of road building
material in the different counties. The Department
may, at all reasonable times, be consulted by county
and city officials for any information or assistance it
can render with reference to the highways within such
counties or cities, and it shall supply such
information when called for by city or county
officials; and it may in turn call upon all such
officials for any information necessary for the
performance of its duties hereunder. Upon request of
the commissioners court of any county, the Department
shall consider and advise concerning general plans and
specifications for all road construction to be
undertaken from the proceeds of the sale of bonds or
other legal obligations issued by a county, or by any
subdivision or defined district of a county; and such
information and advice shall be so obtained before any
of the proceeds from such bond issues are expended by
or under the direction of the commissioners court.

Reviser's Note

V.A.C.S. Article 6667 refers to a "city." The
revised law substitutes "municipal" or "municipality"
for "city" because that is the term used in the Local
Government Code.

[Sections 201.804-201.900 reserved for expansion]
Sec. 201.901. PROHIBITING USE OF HIGHWAY OR ROAD. (a) The commission may prohibit the use of any part of a highway or road under the control of the department by any vehicle that will unduly damage the highway or road when:

(1) because of wet weather or recent construction or repairs, the highway or road cannot be safely used without probable serious damage to it; or

(2) a bridge or culvert on the highway or road is unsafe.

(b) Before prohibiting the use of a highway or road under this section, the commission shall post notices that state the maximum load permitted and the time the use of the highway or road is prohibited. The notices must be posted at locations that enable drivers to detour to avoid the restricted highway or road.

(c) The commission may not prohibit the use of a highway or road under this section until a detour has been provided.

(d) If the owner or operator of a vehicle that is prohibited from using a highway or road under this section is aggrieved by the prohibition, the person may file with the county judge of the county in which the restricted highway or road is located a written complaint that sets forth the nature of the grievance. On the filing of the complaint the county judge immediately shall set the issue for a hearing to be held not later than the third day after the date on which the complaint is filed. The county judge shall give to the commission written notice of the day and purpose of each hearing.

(e) The county judge shall hear testimony offered by the parties. On conclusion of the hearing, the county judge shall sustain, revoke, or modify the commission's decision on the restriction. The county judge's judgment is final as to the issues raised.
(f) A person who violates a prohibition established under this section before or after it is approved by the county judge under Subsection (e) commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed $200.

(V.A.C.S. Art. 6674o-1 (part).)

Source Law

Art. 6674o-1. The State Highway Commission, may have the authority by posting notices on the highways or roads under their respective control when from wet weather or recent construction or repairs such cannot be safely used without probable serious damage to same, or when the bridge or culverts on same are unsafe, to forbid the use of such highway or section thereof by any vehicle or loads of such weight or tires of such character as will unduly damage such highway. The notices provided for herein shall state the maximum load permitted and the time such use is prohibited and shall be posted upon the highway in such place as will enable the drivers to make detours to avoid the restricted highways or portions thereof; provided no road shall be closed until detours have been provided.

If the owner or operator of any such vehicle feels himself aggrieved by such action, he may complain in writing to the County Judge of such county, setting forth the nature of his grievance. Upon the filing of such complaint the County Judge shall forthwith set down for hearing the issue thus raised for a day certain, not more than three days later, and shall give notice in writing to such official of the day and purpose of each hearing, and at such hearing the County Judge shall hear testimony offered by the parties respectively, and upon conclusion thereof, shall render judgment sustaining, revoking or modifying such order heretofore made by the . . . State Highway Commission, and the judgment of the County Judge shall be final as to the issues raised. . . .

Any party guilty of violating the provisions and directions of any such order or notice of the . . . State Highway Commission, before or after it has been so approved by such judgment of the County Judge shall be fined not exceeding Two Hundred Dollars.

Revisor's Note

The part of V.A.C.S. Article 6674o-1 that is not set out as source law for this section is revised in Chapter 251 of this code.

Revised Law

Sec. 201.902. ROAD USE BY BICYCLISTS. (a) The department shall designate:

(1) a statewide bicycle coordinator; and
(2) a bicycle coordinator in each regional office.

(b) A bicycle coordinator shall assist the department in developing rules and plans to enhance the use of the state highway system by bicyclists.

(c) The commission shall adopt rules relating to use of roads in the state highway system by bicyclists, including provisions for:

(1) the specific duties of the statewide bicycle coordinator and the regional bicycle coordinators;

(2) obtaining comments from bicyclists on:

(A) a highway project that might affect bicycle use;

(B) the use of a highway for bicycling events;

and

(C) department policies affecting bicycle use of state highways;

(3) the consideration of acceptable national bicycle design, construction, and maintenance standards on a project in an area with significant bicycle use; and

(4) any other matter the commission determines necessary to enhance the use of the state highway system by bicyclists.

(d) A rule adopted under this section may not be inconsistent with Chapter 551. (V.A.C.S. Art. 6673h, Secs. 1, 2.)

Source Law

Art. 6673h
Sec. 1. The Department shall designate a statewide bicycle coordinator and a bicycle coordinator within each regional office. The general duty of a bicycle coordinator is to assist the department in developing rules and plans to enhance the use of the state highway system by bicyclists.

Sec. 2. (a) The Commission shall adopt rules regarding bicycle road use on the state highway system, including provisions for:

(1) the specific duties of the statewide bicycle coordinator and the regional bicycle coordinators;

(2) obtaining comment from bicyclists on highway projects that might affect bicycle use, on use of highways for bicycling events, and on departmental policies affecting bicycle use of state highways;
(3) the consideration of acceptable national bicycle design, construction, and maintenance standards on projects in areas with significant bicycle use; and

(4) other matters the Commission determines necessary to enhance the use of the state highway system by bicyclists.

(b) A rule adopted under this section may not be inconsistent with Article XXI, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

Revisor's Note

Section 2(b), V.A.C.S. Article 6673h, contains a reference to Article XXI, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). Article XXI is codified as Chapter 551 of this code, and the revised law reflects that citation change.

Revised Law

Sec. 201.903. ADVISORY COMMITTEE ON RULES ABOUT ROAD USE BY BICYCLISTS. (a) The commission shall appoint a five-member committee to advise the commission on the adoption of rules relating to bicyclists' use of roads in the state highway system.

(b) At least three of the members of the committee must represent bicyclists in the state.

(c) Members of the committee serve at the will of the commission.

(d) The commission may adopt rules to govern the operation of the committee.

(e) The committee is abolished on the commission's passage of initial rules relating to bicyclists' use of roads. (V.A.C.S. Art. 6673h, Sec. 3.)

Source Law

Sec. 3. (a) The Commission shall appoint a rules advisory committee to advise the Commission on the adoption of rules regarding bicycle road use on the state highway system.

(b) The advisory committee consists of five members, at least three of whom represent bicyclists in the state. The members serve at the pleasure of the Commission. A member of the advisory committee is not
entitled to receive compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred in performing duties as a member of the advisory committee.

(c) On passage of initial rules regarding bicycle road use, the advisory committee is abolished.
(d) The Commission may adopt rules to govern the operations of the advisory committee.

Revisor's Note

The revised law omits the provision of Section 3(b), V.A.C.S. Article 6673h, relating to the compensation and reimbursement of advisory committee members as impliedly repealed by Section 4(a), V.A.C.S. Article 6252-33. V.A.C.S. Article 6252-33 was enacted in 1993, two years after the enactment of V.A.C.S. Article 6673h.

Revised Law

Sec. 201.904. CLASSIFICATION, DESIGNATION, AND MARKING OF HIGHWAYS. (a) The department may classify, designate, and mark state highways in this state.

(b) The department may provide a uniform system of marking state highways under the control of the state. The system must correlate with and, to the extent possible, conform to the system adopted in other states. (V.A.C.S. Art. 6701d-11, Sec. 11.)

Source Law

Sec. 11. The Department is hereby authorized to classify, designate and mark both intrastate and interstate State Highways lying within the boundaries of this State and to provide a uniform system of marking and signing such highways under the jurisdiction of this State, and such system of marking and signing shall correlate with and so far as possible conform to the system adopted in other states.

Revised Law

Sec. 201.905. SPEED SIGNS. The department shall erect and maintain on the highways and roads of this state appropriate signs that show the maximum lawful speed for commercial motor vehicles, truck tractors, truck trailers, truck semitrailers, and motor vehicles engaged in the business of transporting passengers for
compensation or hire (buses). (V.A.C.S. Art. 6701f.)

Source Law

Art. 6701f. It shall be the duty of the State Highway Department and said Department is hereby directed to erect and maintain on the highways and roads of Texas appropriate signs showing the maximum lawful speed for commercial motor vehicles, truck tractors, trailers and semi-trailers (trucks) and motor vehicles engaged in the business of transporting passengers for compensation or hire (buses).

Revisor's Note
(End of Chapter)

(1) V.A.C.S. Article 6674q-13 applies to expenditure of money appropriated by the federal government under the Hayden-Cartwright Act passed in 1936 and to state money supplementing those funds. The Hayden-Cartwright Act was repealed by congress August 27, 1958. Article 6674q-13 is omitted from the revised law because the statute has been executed and no funds to which the article applies remain unspent. The omitted law reads:

Art. 6674q-13. From and after July 1, 1937, all moneys appropriated under the Hayden-Cartwright Act, passed by the 74th Congress, June 16, 1936, (H.R. 11687), for expenditure on roads not on the System of the State Highways, may be expended, by and through the State Highway Department in conjunction with the Bureau of Public Roads, for the improvement of such roads and said Federal funds may be matched or supplemented by such amounts of State funds as may be necessary for proper construction and prosecution of the work. State funds shall not be used exclusively for the construction of roads not on the System of State Highways; the expenditure of State funds on said roads being limited to cost of construction and engineering, overhead and other costs, on which the application of Federal funds is prohibited or impractical.

(2) V.A.C.S. Articles 6674q-14 and 6674r extended the application of V.A.C.S. Article 6674q-7, relating to the eligibility of certain types of indebtedness to participate in the distribution of funds in the County and Road District Highway Fund, to
the specific bonds described by Articles 6674q-14 and 6674r. Articles 6674q-14 and 6674r are omitted from the revised law because the bonds they describe were issued before 1937 and would have been retired by this time and because Article 6674q-7 expired September 1, 1979. The omitted law reads:

Art. 6674q-14. All bonds which have been heretofore issued and sold by road districts in counties with a population of not less than nineteen thousand (19,000) and not more than nineteen thousand five hundred (19,500), according to the next preceding Federal Census, where the proceeds of the sale of the bonds have been expended in whole or in part upon a highway which was then a part of the designated system of State Highways in Texas, and a part of the proceeds of which has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been designated as a part of the State Highway System of Texas, and where such designated parts of the State Highway System bear different highway numbers, or where one designation is numbered and the other un-numbered, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of Chapter 136, Acts of the Forty-third Legislature of Texas, 1933, and any amendments thereto, including the re-enactment and extension thereof under and by virtue of the terms and provisions of House Bill No. 463, enacted by the Legislature of Texas, Forty-fifth Regular Session, 1937.

The Board of County and Road District Indebtedness is directed to audit all expenditures of the aforementioned district, and the assumption herein provided for shall extend only to such bonds, the proceeds of which were expended in the construction of the road which has subsequently been designated a State Highway.

Art. 6674r. All bonds which have been heretofore issued and sold by all road districts in counties with a population of not less than twenty-five thousand three hundred forty-four (25,344) and not more than twenty-five thousand four hundred forty-four (25,444) people, according to the last preceding Federal Census, where the proceeds of the sale of the bonds has been expended, in whole or in part, upon a highway which has, since the issuance and sale of said bonds, been temporarily or permanently designated as a part of the State Highway System, shall be entitled to participate in the State Highway Fund, under the provisions and restrictions of

(3) V.A.C.S. Article 6674t-1 directed the Texas Youth Commission to convey an easement in land to the Texas Transportation Commission for the reconstruction and maintenance of a highway. That article was enacted in 1957 and is omitted from the revised law as executed. The omitted law reads:

Art. 6674t-1. In consideration of the benefits accruing to the state from the reconstruction and maintenance of a state highway extending along or across certain state property known as the Gainesville State School for Girls, the State Youth Development Council, acting by its Executive Secretary, is hereby authorized and directed to execute and deliver to the State Highway Commission of the State of Texas a proper instrument conveying thereto a right-of-way easement to the following described tracts of land in Cooke County, Texas, for the reconstruction and maintenance of a highway, the form of such conveyance to be approved by the Attorney General:

Tract I: Being a part of and out of a 94.87 acre tract conveyed by P. L. Dickerman and Minnie Dickerman to the State of Texas on May 1, 1915, as recorded in Volume 116, page 185, of the Cooke County Deed Records, said point being in the center of the Gainesville-Woodbine Road;

Thence North 89 degrees 59' East 683 feet along the North line of said 94.87 acre tract to a point on the North right-of-way line of Farm Highway 678;

Thence North 50.0 feet along the West line of said 33 2/3 acre tract to a point for corner, said point being the Southwest corner of a 33 2/3 acre tract conveyed by J. M. Lee and wife, and C. H. Lee and wife, to the State of Texas on April 14, 1915, as recorded in Volume 116, page 147, of the Cooke County Deed Records, said point being also on the centerline of Farm Highway 678 at Survey Station 130 + 30;

Thence North 89 degrees 59' East 1667.0 feet along said North right-of-way line to a point in the East line of above mentioned 33 2/3 acre tract;

Thence South 100 feet, crossing the Southeast corner of said 33 2/3 acre tract and the Northeast corner of said 94.87 acre tract at 50 feet, to a point in the South

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right-of-way line of said Farm Highway No. 678;

Thence South 89 degrees 59' West
2350 feet along said South right-of-way
line to a point in the West line of the
above mentioned 94.87 acre tract;

Thence North 50 feet to the place of
beginning and containing 4.61 acres of land
more or less, of which 1.39 acres is new
right-of-way and the balance is in an
existing road.

Tract II: Being a strip of land out
of the A. C. C. Bailey Survey, Abstract 44,
200 feet long and 30 feet wide on the South
side of the proposed location of FM Highway
678, the centerline of said strip being
more particularly described as follows:

Beginning at a point in the South
line of said highway 50 feet South of
Survey Station 144 + 00;

Thence South 0 degrees 01' East 200
feet;

Containing 0.138 acres of land, more
or less.

(4) V.A.C.S. Article 6694a authorizes the
payment of premiums on bonds required by the federal
government to secure funds advanced by the federal
government under the National Industrial Recovery Act.
That act was repealed by congress September 6, 1966.
Article 6694a is omitted from the revised law because
it has no application and is meaningless. The omitted
law reads:

Art. 6694a. The State Highway
Commission is hereby authorized and
empowered to pay out of any available funds
to the credit of the State Highway Fund the
premium or premiums on surety or assurance
bonds that the Federal Government may
require to be given by the State Treasurer
to secure a fund or funds advanced by the
Federal Government to the State of Texas
under the recent National Industrial
Recovery Act for expenditure by the State
Highway Department in the construction and
improvement of state highways.

CHAPTER 202. CONTROL OF HIGHWAY ASSETS

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[Sections 202.060-202.080 reserved for expansion]

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Sec. 202.081. DEFINITION

Sec. 202.082. OWNERSHIP AND USE OF ASPHALT

Sec. 202.083. CONTAMINATION
Sec. 202.001. ADMINISTRATION. (a) The commission may maintain state highways.
(b) A county is:
(1) not liable for expenses associated with the maintenance of a state highway; and
(2) not responsible for the supervision of a state highway. (V.A.C.S. Art. 6673 (part).)

Sec. 202.002. FUNDS. (a) The commission shall use automobile registration fees in the state highway fund to maintain state highways and may not divert funds from automobile registration fees for another use.
(b) Notwithstanding Subsection (a), if the commission is
without sufficient funds from other sources to match the federal
aid for roads in the state, the commission may by resolution
transfer a sufficient amount from the state highway fund to match
the federal aid. (V.A.C.S. Art. 6673 (part).)

Source Law

Art. 6673. . . . The Commission shall use the
automobile registration fees in the State Highway Fund
for the maintenance of such highways, and shall divert
the same to no other use unless the Commission shall be
without sufficient funds from other sources to meet
Federal aid to roads in Texas, and in such case the
Commission is authorized by resolution to transfer a
sufficient amount from such fund to match said Federal
aid.

Revisor's Note

(End of Subchapter)

Section 1(1) of V.A.C.S. Article 6673a-3, Section
1(3) of V.A.C.S. Article 6673i, and Section 1(3) of
V.A.C.S. Article 6674i-2 provide a definition for the
term "department." The revised law omits those
definitions because "department" is defined in Section
201.001 of this code, a general definitions section
that applies to this chapter. Additionally, Section
1(3), V.A.C.S. Article 6673i, and Section 1(3), Article
6674i-2, refer to the "State Department of Highways and
Public Transportation." The revised law changes the
reference to the Texas Department of Transportation for
the reason stated in the revisor's note to Section
201.003. The omitted law reads as follows:

Art. 6673a-3
Sec. 1. In this Act:
(1) "Department" means the
Texas Department of Transportation.

Art. 6673i
Sec. 1. [In this article:]
. . .
(3) "Department" means the
State Department of Highways and Public
Transportation.

Art. 6674i-2
Sec. 1. [In this article:]
. . .
(3) "Department" means the
State Department of Highways and Public
Transportation.

[Sections 202.003-202.020 reserved for expansion]

SUBCHAPTER B. SALE, EXCHANGE, OR RETURN OF HIGHWAY PROPERTY

Revised Law

Sec. 202.021. REAL PROPERTY NO LONGER NEEDED. (a) The commission may recommend to the governor the sale of any interest in real property, including a highway right-of-way, that:

(1) was acquired for a highway purpose; and

(2) as determined by the commission, is no longer needed for that purpose.

(b) A highway right-of-way that is sold shall be sold with the following priorities:

(1) to abutting or adjoining landowners; or

(2) to the general public.

(c) The commission shall determine the fair value of the state's interest in the real property and advise the governor of the value.

(d) Revenue from the sale of property under this subchapter shall be deposited to the credit of the state highway fund.

(e) The governor may execute a deed conveying the state's interest in the property. (V.A.C.S. Art. 6673a, Sec. 1(a).)

Source Law

Art. 6673a

Sec. 1. (a) Whenever the State Highway and Public Transportation Commission determines that any real property, or interest therein, heretofore or hereafter acquired by the State for highway purposes, is no longer needed for such purposes, and in the case of highway right-of-way it has further determined that such right-of-way is no longer needed for use of citizens as a road, the State Highway and Public Transportation Commission may recommend to the Governor that such land or interest therein be sold, and the Governor may execute a proper deed conveying all the State's rights, title and interest in such land. It shall be the duty of the Commission to determine the fair and reasonable value of the State's interest in such land and to advise the Governor thereof. All money derived from such sales shall be deposited in the State Treasury to the credit of the State Highway Fund. Provided further, that where right-of-way property is owned by the State and the State Highway and Public
Transportation Commission determines that said right-of-way property should be sold, such property shall be sold with the following priorities:

(1) To abutting or adjoining landowners; or

(2) To the general public.

Revisor's Note

(1) Section 1(a), V.A.C.S. Article 6673a, refers to the "State Highway and Public Transportation Commission." The revised law changes the reference to the Texas Transportation Commission for the reason stated in the revisor's note to Section 201.003.

(2) Section 1(a), V.A.C.S. Article 6673a, refers to the "fair and reasonable value of the State's interest in such land." The reference to "reasonable" is omitted from the revised law because "reasonable" is included within the meaning of "fair."

(3) The revised law omits the reference in Section 1(a), V.A.C.S. Article 6673a, to the state treasury. Section 404.094(a), Government Code (State Funds Reform Act), requires all money collected or received by a state agency to be deposited in the state treasury. It is unnecessary to repeat that requirement in this chapter.

(4) Section 1(a), V.A.C.S. Article 6673a, refers to a "proper deed." The revised law omits "proper" as unnecessary because the word does not add to the clear meaning of the law.

(5) Section 1(a), V.A.C.S. Article 6673a, refers to the "State's rights, title and interest in" land. Throughout this chapter, the references to "rights" and "title" are omitted from the revised law because they are included within the meaning of "interest in real property."
Revised Law

Sec. 202.022. NOTICE OF SALE. Notice of a sale to the general public must be published in the English language:

(1) once a week for three consecutive weeks, with the final publication occurring not later than the 20th day before the date of the sale; and

(2) in a newspaper in the county where the property is located. (V.A.C.S. Art. 6673a, Sec. 1(b) (part).)

Source Law

(b) Notice of sale to the general public shall be advertised at least twenty days before the day of sale by having notice thereof published in the English language once a week for three consecutive weeks preceding such sale in a newspaper in the county in which the real estate is located.

Revised Law

Sec. 202.023. SALE OF REAL PROPERTY BY BID. (a) A sale to the general public of an interest in real property under this subchapter is by sealed bid and may not be for less than the value determined by the commission under Section 202.021.

(b) The commission may require that each bidder pay to the commission a bid deposit in an amount and form determined by the commission.

(c) The commission shall apply the bid deposit to the purchase price of the property for the bid accepted by the commission.

(d) If for any reason the bidder fails to complete the purchase before the 61st day after the date on which the bidder receives written notice that the state is ready to complete the sale, the bid deposit is forfeited.

(e) The state shall refund the bid deposit if the state is unable to complete the sale. (V.A.C.S. Art. 6673a, Sec. 1(b) (part).)

Source Law

(b) ... Such sale shall be made on a sealed bid basis, and said land shall not be sold for less
than the value recommended by the State Highway and
Public Transportation Commission as provided above.
The State Highway and Public Transportation Commission
may require all bidders to pay to the Commission a bid
deposit in an amount and form determined by the
Commission. The deposit for the bid accepted by the
Commission shall be applied to the purchase price of
the property and shall be forfeited if the bidder, for
any reason, fails to complete the purchase before the
61st day after the date the bidder receives written
notice that the State is ready to complete the sale.
The State shall refund the deposit if the State is
unable to complete the sale.

Revised Law
Sec. 202.024. EXCHANGE OF REAL PROPERTY. The governor, on
the recommendation of the commission, may execute a deed exchanging
an interest in real property acquired but not needed for a highway
purpose as whole or partial consideration for another interest in
real property needed for a state highway purpose. (V.A.C.S.
Art. 6673a, Sec. 1(c.).)

Source Law
Upon recommendation of the State Highway and
Public Transportation Commission, the Governor may
execute a proper deed exchanging any such real
property, or interest therein, either as a whole or
part consideration, for any other real property, or
interest therein, needed by the State for highway
purposes.

Revised Law
Sec. 202.025. EXECUTION OF DEED: METHOD. The governor, on
the recommendation of the commission, may execute a deed
relinquishing and conveying under this subchapter the state's
interest in real property as follows:
(1) if the state's title was acquired by donation,
convey to the grantor or the grantor's heirs or assigns;
(2) if the state's title was acquired by purchase by a
county or municipality, convey to the county or municipality, or to
the grantor or the grantor's heirs or assigns at the request of the
county or municipality;
(3) if the interest conveyed to the state is only the
right to use the property, convey to the owner of the fee in the
(4) if the interest in the property was acquired and held by a county or municipality in its own name for use by the state, quitclaim to the county or municipality any interest that might have accrued to the state by use of the property;

(5) if there is no record title to the property, quitclaim any interest that might have accrued to the state by use of the property to the county or municipality where the property is located or to abutting property owners at the request of the county or municipality; or

(6) if necessary to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state, quitclaim the state's interest. (V.A.C.S. Art. 6673a, Secs. 1(d)(1), (2), (3), (4).)

Source Law

(d) Provided further, that upon recommendation of the State Highway and Public Transportation Commission the Governor may execute a proper deed relinquishing and conveying the State's right, title and interest in such real property as follows:

(1) If title to the State was acquired by donation, convey to the grantor, his heirs or assigns; or if acquired by purchase by a county or city, convey to the county or city, or to the grantor, his heirs or assigns at the request of the county or city.

(2) If the rights and interests conveyed to the State consist only of the right to use such property, and title is not held by the State, convey the State's rights and interests to the owner of the fee in said property.

(3) If title or any interest in such property was acquired and held by a county or city in its own name for use by the State, quitclaim to the county or city any interest of the State which might accrue from the State's use of the property; or if there is no record title to such property, quitclaim the State's interests, which might accrue from its use of the property, to the county or city wherein such land is located, or to abutting property owners at the request of the county or city.

(4) Quitclaim the State's title, rights and interest as necessary to comply with reversionary clauses contained in instruments by which the State's title, rights or interests were acquired.

Revisor's Note

Section 1(d), V.A.C.S. Article 6673a, refers to a "city." The revised law substitutes the term
"municipality" for "city" because that is the term used in the Local Government Code.

Revised Law

Sec. 202.026. RECONVEYANCE OF PROPERTY ACQUIRED FOR FREEWAY.

(a) The governor, on recommendation of the commission, may execute a deed reconveying the property to the grantor or the grantor's heirs or assigns, if, not later than 12 months after the date the property is acquired for use as an approach-way to an urban freeway, the commission determines that the property is not needed for a highway purpose because of relocation of the approach-way.

(b) The sale price for the property must be the same as the purchase price paid by or for the state plus six percent annual interest from the date the original purchase price was paid.

(c) When the commission determines that the property is not needed for a highway purpose, it shall send written notice to the grantor, at the grantor's address at the time of acquisition.

(d) Not later than the second anniversary of the date the notice is mailed, the grantor or the grantor's heirs or assigns may request in writing that the state reconvey the property to them.

(e) If the commission does not receive a request to reconvey the property before the expiration of the period, the commission may dispose of the property at a public sale. (V.A.C.S. Art. 6673a, Sec. 1(d)(5).)

Source Law

(d) [Provided further, that upon recommendation of the State Highway and Public Transportation Commission the Governor may execute a proper deed relinquishing and conveying the State's right, title and interest in such real property as follows:]

...  

(5) If property has been acquired by or for the State for use as an approach-way to an urban freeway, but, within 12 months after acquisition, the Commission has determined that, due to relocation of the approach-way, the property is not needed for highway purposes, reconvey the property to the grantor from whom it was acquired by or for the State, or to his heirs, successors, or assigns. The sale price shall be the same as the purchase price paid by or for the State, plus six percent interest per annum from the date of that payment by or for the State. When the Commission determines that the property is not needed...
for highway purposes, it shall give written notice of that determination to the grantor. The notice shall be mailed to the grantor at his address as of the time of acquisition. Within two years after the notice is mailed, the grantor, his heirs, successors, or assigns may request in writing that the State reconvey the property to them. If at the expiration of the two-year period, no such request has been received by the Commission, the State may then dispose of the property at public sale.

Revisor's Note
(1) Section 1(d)(5), V.A.C.S. Article 6673a, refers to reconveying property to "the grantor from whom it was acquired." The revised law omits this phrase because it is unnecessary.

(2) Section 1(d)(5), V.A.C.S. Article 6673a, refers to reconveying property to a grantor's "heirs, successors, or assigns." The reference to "successors" is omitted from the revised law because "successors" is included within the meaning of "heirs or assigns."

Revised Law
Sec. 202.027. REIMBURSEMENT TO COUNTY OR MUNICIPALITY. (a) If real property owned by the state and sold under this subchapter was acquired by a county or municipality and if a part of that acquisition cost was reimbursed to the county or municipality by the state, the department may pay the county or municipality a percentage of the proceeds of the sale that is equal to the percentage of the value or cost not reimbursed to the county or municipality at the time of the initial acquisition.

(b) Reimbursement under this section applies only to real property that the commission determines was never used for the purpose for which it was acquired. (V.A.C.S. Art. 6673a, Sec. 1A.)

Source Law
Sec. 1A. If any real property owned by the state and sold under Section 1 of this article was acquired by a city or county with a part of the cost reimbursed to the city or county by the state, and it is determined by the State Highway and Public Transportation Commission that the real property was never used for the purpose for which it was acquired, the State Department of Highways and Public
Transportation may pay to the city or county a percentage of the proceeds received from the sale, such percentage being equal to the percentage of the value or cost not reimbursed to the city or county at the time of the initial acquisition.

Revisor's Note

Section 1A, V.A.C.S. Article 6673a, refers to a "city." The revised law substitutes the term "municipality" for "city" for the reason stated in the reviser's note to Section 202.025.

Revised Law

Sec. 202.028. CORRECTION OF ERROR OR AMBIGUITY IN INSTRUMENT. (a) The governor, on the recommendation of the commission, shall execute and deliver a quitclaim deed, correction deed, or other conveyance necessary to resolve an ambiguity or error in an instrument that conveyed an interest in real property to the state for a highway right-of-way.

(b) The ambiguity or error may be for any reason, including a metes and bounds description that is incomplete or incorrect.

(c) The ambiguity or error must be of sufficient consequence to raise doubt as to the location or extent of the interest conveyed, or must have resulted in the acquisition of real property or an interest in real property not intended to be included and not needed for a highway purpose. (V.A.C.S. Art. 6673a, Sec. 2.)

Source Law

Sec. 2. In all cases where there is an ambiguity or an error in any instrument by which title to, or any right or interest in, any real property is or has been conveyed to the State of Texas for highway right-of-way purposes because the metes and bounds description of said property is incomplete or incorrect, or for any other reason, and such ambiguity or error is of sufficient consequence to raise doubt as to the location or extent of the property conveyed thereby, or results in the acquisition of land or an interest in land not intended to be included therein and not needed for highway purposes, the Governor of this State, upon receipt of a recommendation from the State Highway and Public Transportation Commission that he so do, shall execute and deliver, in the name of the State of Texas, a quit claim deed, correction deed, or other conveyance deemed necessary to rectify and resolve any such ambiguity or error.
Reviser's Note

(1) Section 2, V.A.C.S. Article 6673a, directs the governor to "execute and deliver, in the name of the State of Texas, a quit claim deed." The revised law omits as unnecessary the phrase "in the name of the State of Texas" because the governor always acts in the name of the state when performing official duties.

(2) Section 2, V.A.C.S. Article 6673a, refers to "rectify and resolve" an ambiguity or error. The reference to "rectify" is omitted from the revised law because "rectify" is included within the meaning of "resolve."

Revised Law

Sec. 202.029. RIGHTS OF PUBLIC UTILITY OR COMMON CARRIER.
Under this subchapter, if the state sells, conveys, or surrenders possession of real property that is being used by a public utility or common carrier having a right of eminent domain for right-of-way and easement purposes, the sale, conveyance, or surrender of possession of the real property is subject to the right and continued use of the public utility or common carrier. (V.A.C.S. Art. 6673a, Sec. 4.)

Source Law

Sec. 4. Whenever any real property owned by the State and sold and conveyed hereunder is being used by a public utility or common carrier having right of eminent domain for right-of-way and easement purposes the sale, conveyance and surrender of possession herein provided for shall be and remain in all things subject to the right and continued use of such public utility or common carrier.

Revised Law

Sec. 202.030. APPROVAL OF TRANSFERS. (a) The attorney general must approve a transfer or conveyance that is made under this subchapter.

(b) The state's right to full and exclusive right of possession of all retained rights-of-way may not be infringed or
lessened in any way by a transfer or conveyance made under this subchapter. (V.A.C.S. Art. 6673a, Sec. 5 (part).)

Source Law
Sec. 5. The Attorney General shall approve all transfers and conveyances under this Act, and in no event shall the right of the State of Texas to full and exclusive right of possession of all retained rights-of-way be infringed or lessened in any manner thereby. . . .

Revised Law
Sec. 202.031. EXPENSES. (a) The person requesting the sale of an interest in property or the grantee in a deed issued under this subchapter shall pay expenses incurred by the department, including handling, appraising, or advertising the sale.
(b) The department may not process a request or deliver a deed until the expenses under Subsection (a) are paid. (V.A.C.S. Art. 6673a, Sec. 5 (part).)

Source Law
Sec. 5. . . . All expenses of the State Department of Highways and Public Transportation incurred under any of these provisions, including the cost of handling, appraising, or advertising all sales made hereunder, shall be borne by the requestor or grantee in the deeds issued hereunder and payment of such expenses shall be a condition precedent to the handling of the request or the delivery of such deeds. . . .

Revised Law
Sec. 202.032. RULES. The commission may adopt rules to implement this subchapter and to provide requestor refunds. (V.A.C.S. Art. 6673a, Sec. 5 (part).)

Source Law
Sec. 5. . . . The State Highway and Public Transportation Commission may adopt rules as reasonably necessary to implement this Act and to provide requestor refunds.

Revisor's Note
Section 5, V.A.C.S. Article 6673a, refers to "rules as reasonably necessary to implement this Act."
The revised law omits "as reasonably necessary" because an agency is presumed to act reasonably when adopting rules and to adopt only those rules that are necessary.

Revisor's Note
(End of Subchapter)

The revised law omits Section 6, V.A.C.S. Article 6673a, providing an ad valorem tax exemption for property used for road purposes. That section of the source law was enacted in 1953 and has never been amended. It is omitted from the revision because it was impliedly repealed by Title 1, Tax Code, which was intended as a comprehensive, substantive recodification of all property tax law and its administration. Title 1, Tax Code, was enacted by Chapter 841, Acts of the 66th Legislature, 1979. The Tax Code prevails in this situation because it was enacted after Section 6, V.A.C.S. Article 6673a. The omitted section reads:

Sec. 6. In the event any public road or State highway is located on land in which the fee simple title is not vested in the State or the county wherein such road is located, such land so dedicated and used for such road purpose shall not be assessed for ad valorem taxation, or the fee simple owner required to pay ad valorem taxes thereon for any purpose so long as same is used for such road purpose. It shall be the duty of the Tax Assessor whenever his attention is called thereto by the fee simple owner of lands so used for public road or State highway purposes to note on the assessment sheet the amount of land so used.

[Sections 202.033-202.050 reserved for expansion]

SUBCHAPTER C. LEASES, EASEMENTS, AND AGREEMENTS CONCERNING HIGHWAY PROPERTY

Revised Law
Sec. 202.051. DEFINITIONS. In this subchapter:
(1) "Highway asset" means an interest in real property that is held or controlled by the department for a highway or
department purpose.

(2) "Rest area" means an area of public land designated by the department as a rest area, comfort station, picnic area, or roadside park. (V.A.C.S. Art. 6673a-3, Secs. 1(2), (3).)

**Source Law**

Art. 6673a-3
Sec. 1. [In this Act:]

(2) "Highway assets" means all interests in real property held or controlled by the department for highway or department purposes.

(3) "Rest area" means an area of public land designated by the department as a rest area, comfort station, picnic area, or roadside park.

**Revised Law**

Sec. 202.052. LEASE AUTHORITY. (a) The department may lease a highway asset, part of a right-of-way, or airspace above or underground space below a highway that is a part of the state highway system if the department determines that the interest to be leased will not be needed for a highway purpose during the term of the lease.

(b) The lease may be for any purpose that is not inconsistent with applicable highway use.

(c) The department shall charge not less than fair market value for the highway asset.

(d) The department may authorize exceptions to the charges under Subsection (c) for the lease of a highway asset to a public utility provider and for a social, environmental, or economic mitigation purpose. (V.A.C.S. Art. 6673a-3, Sec. 2.)

**Source Law**

Sec. 2. The department may lease for any purpose not inconsistent with applicable highway uses any highway asset, part of the right-of-way for, or the airspace above or underground space below, a highway that is a part of the state highway system if the department has determined that the area to be leased will not be needed for highway purposes during the period of the lease. The department shall charge, as a minimum, fair market value, with certain exceptions to be determined by the department for leases of highway assets to public utility providers and for social, economic, or educational purposes.
environmental, and economic mitigation purposes.

Revised Law
Sec. 202.053. LEASE OF HIGHWAY ASSETS: TERMS. (a) The department may determine all terms of the lease except:

(1) a tenant may not be required to post a bond or security for a lease in an amount in excess of six months' rental under the lease; and

(2) the lease must allow the tenant to mortgage or otherwise pledge or grant a security interest in the leasehold to secure financing for the acquisition of the leasehold and for the construction and operation of an improvement permitted under the lease.

(b) The department may not convey title to, or sever from the real property, any permanent improvement constructed on the area leased under this subchapter.

(c) The lease may:

(1) contain a provision for early termination, at the option of either party, with or without cause; and

(2) provide that the right of one party to terminate without cause before the stated termination date may be conditioned on the payment of an amount negotiated by the parties and specified in the lease.

(d) In evaluating the consideration proposed by a tenant, the department may consider the value of any real property the tenant proposes to donate or convey for a highway purpose.

(e) Subject to rules of the commission to preserve safety and scenic beauty, a tenant may erect and maintain signs and other advertising displays relating to a business conducted on the leasehold. (V.A.C.S. Art. 6673a-3, Sec. 3.)

Source Law
Sec. 3. (a) The duration of the lease and all other terms of the lease may be determined by the department, except that:

(1) a tenant may not be required to post a bond or other security for a lease in an amount in excess of six months' rental under the lease; and
(2) the lease must allow the tenant to mortgage or otherwise pledge or grant security interests in the leasehold for the purposes of securing financing for the acquisition of the leasehold and the construction and operation of improvements permitted under the lease.

(b) The department may not convey title to, or sever from the real property, any permanent improvements constructed on the area leased under this Act.

(c) The lease may contain provisions for early termination at the option of either party, with or without cause, and may provide that the right of one party to terminate the lease without cause before its stated termination date may be conditioned on payment of an amount negotiated by the parties and set forth in the lease. The department may consider, in evaluating the consideration proposed by the lessee, the value of any land proposed to be donated or conveyed for highway purposes by the lessee. Tenants of highway assets leased from the department are entitled to erect and maintain on the leasehold property signs and other advertising displays relating to the business conducted on the leasehold property, subject to rules adopted by the commission for the preservation of safety and scenic beauty.

Reviser's Note
Section 3(a), V.A.C.S. Article 6673a-3, refers to the "duration of the lease and all other terms of the lease." The revised law omits as unnecessary "duration of the lease" because it is included in the meaning of "terms of the lease."

Revised Law
Sec. 202.054. REVENUE FROM LEASES. The department shall deposit payments received under a lease under this subchapter to the credit of the state highway fund. (V.A.C.S. Art. 6673a-3, Sec. 4.)

Source Law
Sec. 4. The department shall remit all payments received under a lease made under this Act to the state treasurer for deposit in the state treasury to the credit of the state highway fund.

Reviser's Note
The revised law omits the reference in Section 4, V.A.C.S. Article 6673a, to the state treasury for the reason stated in Reviser's Note (3) to Section 202.021.
Revised Law

Sec. 202.055. LEASE OF REST AREAS. (a) The department may lease a rest area to a person engaging in sales, services, or other commercial activities that serve the needs of the traveling public.

(b) The department shall require the person to maintain the rest area in a proper manner and repair promptly any damage to the rest area caused by the person or a customer of the person, or pay to the state all expenses incurred by the department in repairing the damage.

(c) The department shall adopt rules to implement this section.

(d) Section 94.002, Human Resources Code, does not apply to a lease authorized under this section. (V.A.C.S. Art. 6673a-3, Sec. 4A.)

Source Law

Sec. 4A. (a) The department may lease a rest area to a person who will engage in sales, services, or other commercial activities that will serve the needs of the traveling public.

(b) Section 94.002, Human Resources Code, does not apply to the granting of a lease authorized under this section.

(c) The department shall require a person who leases a rest area under this section to maintain the rest area in a proper manner and repair promptly all damage to the rest area caused by the lessee or a customer of the lessee, or pay to the state all expenses incurred by the department in repairing the damage.

(d) The department shall adopt any rules necessary to implement this section.

Revisor's Note

Section 4A(d), V.A.C.S. Article 6673a-3, refers to "necessary" rules of the department. The revised law omits "necessary" because an agency is presumed to adopt only those rules that are necessary.

Revised Law

Sec. 202.056. CERTAIN OIL AND GAS LEASES PROHIBITED. The commission may not enter into an oil and gas lease for real property owned by the state that was acquired to construct or
maintain a highway, road, street, or alley. (V.A.C.S. Art. 6673a-1.)

Source Law
Art. 6673a-1. The State Highway and Public Transportation Commission may not lease oil and gas owned by the state underlying land that was acquired to construct or maintain a highway, road, street, or alley.

Revised Law
Sec. 202.057. CONVEYANCE OF EASEMENT OR INTEREST FOR FLOOD CONTROL. (a) The commission may, on request of an officer of the United States or the county judge of an affected county, convey without monetary consideration to the United States, or to a county that has agreed to convey real property or an interest in real property to the United States under an Act of Congress, an easement or interest in that property if:

(1) the state acquired the property for use as a right-of-way for a state highway in a county that borders on the United Mexican States, or in a county adjacent to such a county; and

(2) the property is used or is proposed to be used by that county or the United States for the construction, operation, and maintenance of a system to control flood waters of a navigable stream of the state.

(b) If the state does not own fee simple title to the property, the commission may join and consent to an easement to be used for a flood control purpose if the owner of the fee has executed an easement.

(c) The commission may execute a necessary deed, conveyance, or agreement, to be signed by the commissioner of transportation as provided by commission order, for flood control purposes under this section.

(d) In lieu of the monetary consideration waived by Subsection (a), the commission may make a reservation or agreement for the construction, reconstruction, alteration, operation, or
maintenance of a structure or facility used or projected to be used for a highway purpose on real property that is needed for a flood control purpose. (V.A.C.S. Art. 5244a-1.)

Source Law

Art. 5244a-1. Whenever the State of Texas shall be the owner of any land, or interest in land, acquired for use as a right-of-way for any State highway in any County, one or more of the boundaries of which is coincident with any part of the International Boundary between the United States and Mexico, or in any county contiguous to any county of such described class, which is used or proposed to be used as a part of the site for flood control works, constructed or to be constructed by any such county or by the United States of America, for the purpose of controlling the flood waters of any navigable stream of this State, the State Highway Commission is hereby authorized and empowered, upon request by the United States through its proper officers, or upon the request of the County Judge of any such County, to convey to the United States of America, or to any such County, (which has agreed to convey said lands or interest therein to the United States pursuant to an Act of Congress), without monetary consideration therefor, an easement or interest in such land which may be necessary for the construction, operation, and maintenance of such works; and in the event the fee simple title to such lands is not vested in the State and the owner of the fee has executed an easement to such lands for flood control purposes, the Highway Commission is authorized and empowered to join in and assent to such easement. The State Highway Commission is authorized at its discretion to execute the necessary deeds, conveyances, or agreements for the purposes stated, to be signed by the Chairman pursuant to the order of the Commission, and all such conveyances and agreements heretofore made are hereby ratified and confirmed. The Commission may in lieu of the monetary consideration waived herein above, make such reservations and agreements as it deems necessary for the best interests of the State and its highway system, with reference to the alteration, construction, reconstruction, operation and maintenance of such structures and facilities now used, or hereafter to be used, for highway purposes in, upon, or across the lands, or interest therein, desired for flood control purposes.

Reviser's Note

(1) V.A.C.S. Article 5244a-1 refers to Mexico. The revised law substitutes "United Mexican States" for "Mexico" because the former is the correct name of the nation.

(2) V.A.C.S. Article 5244a-1 refers to the "Chairman" of the "State Highway Commission." In 1991,
the title of "Chairman" of the agency was changed by amendment to V.A.C.S. Article 6664 (Section 1.04, Chapter 7, Acts of the 72nd Legislature, 1st Called Session, 1991) to "the commissioner of transportation." The revised law is drafted accordingly.

(3) V.A.C.S. Article 5244a-1 provides that "all such conveyances and agreements heretofore made are hereby ratified and confirmed." The revised law omits this provision because it is executed.

(4) V.A.C.S. Article 5244a-1 provides that the commission may "make such reservations and agreements it deems necessary for the best interests of the State and its highway system." The revised law omits the phrase "it deems necessary for the best interests of the State and its highway system" because it is presumed that the commission will act only in the best interests of the state and the highway system it manages.

Revised Law

Sec. 202.058. AGREEMENT TO USE OR CULTIVATE RIGHT-OF-WAY.

(a) The department may agree with the owner of real property abutting or adjoining property acquired by the department for the right-of-way of a road in the state highway system, allowing the owner to use or cultivate a portion of the right-of-way not required for immediate use by the department.

(b) An agreement must be in writing and may provide for:
   (1) use or cultivation of the property;
   (2) construction of improvements on the property;
   (3) placement of fences on the property; and
   (4) other matters.

(c) The director or the director's authorized representative and the owner of the property shall execute the agreement.

(d) The department may not execute an agreement that would
impear or relinquish the state's right to use the property for a
right-of-way purpose when the property is needed to construct or
reconstruct the road for which it was acquired.

(e) Use by the owner of adjoining or abutting property under
this section is not abandonment of the property by the department.

(V.A.C.S. Art. 6674n-1.)

Source Law

Art. 6674n-1. The Texas Highway Department may
enter into written agreements with owners of the lands
abutting or adjoining the lands acquired by the
Department for right of way for any highway,
farm-to-market road, or other roadway in the State
Highway System, under the terms of which such owners of
abutting or adjoining lands may be authorized to use
and cultivate such portions of the right of way as may
not be required for immediate use of the Department.
The agreements may contain provisions regarding the
use, cultivation, construction of improvements, the
placement of fences and such other matters as may be
mutually agreed to by the Department and the respective
owners of the abutting or adjoining lands. Such
agreements shall be executed by the owners of the
adjoining or abutting lands and the State Highway
Engineer or his authorized representative; provided,
however, that the Department, by such agreements, may
not impair or relinquish the State's right to use such
land for right-of-way purposes when it is required for
the construction or reconstruction of the road for
which it was acquired, nor shall use by adjoining or
abutting land owners under such agreement ever be
construed as abandonment by the Department of such
lands acquired for right-of-way purposes.

Revisor's Note

V.A.C.S. Article 6674n-1 refers to the "State
Highway Engineer." In 1991, the title "State Highway
Engineer" was changed by amendment to V.A.C.S. Article
6663 (Section 1.01, Chapter 7, Acts of the 72nd
Legislature, 1st Called Session, 1991) to "the director
of the Texas Department of Transportation." The
revised law is drafted accordingly.

Revised Law

Sec. 202.059. MOWING, BALING, SHREDDING, AND HOEING MATERIAL
ON RIGHT-OF-WAY. (a) A department district engineer, on request
of a person, may, but is not required to, permit the person to mow,
bale, shred, or hoe material on the right-of-way of a portion of a
state highway that is in the district supervised by that engineer.

(b) If the person requesting permission under Subsection (a)
is not the owner of the real property adjacent to the right-of-way
that is the subject of the request, the district engineer must
first provide the owner of the property the option of mowing,
baling, shredding, or hoeing material on the right-of-way before
granting permission to another person.

(c) A person permitted to mow, bale, shred, or hoe the
right-of-way may not receive compensation for the mowing, baling,
shredding, or hoeing but is entitled to use or dispose of the hay
or other material produced.

(d) The state, the department, and the district engineer are
not liable for any property damage, personal injury, or death
resulting from the performance of a service or agreement under this
section. (V.A.C.S. Art. 6673f.)

Source Law

Art. 6673f
Sec. 1. A district engineer of the State
Department of Highways and Public Transportation may
grant permission to a person, at his request, to mow,
bale, shred, or hoe the right-of-way of any designated
portion of a highway that is in the state highway
system and is within the district supervised by the
engineer.

Sec. 2. If a person requesting permission to
mow, bale, shred, or hoe a highway right-of-way is not
an owner of land adjacent to the right-of-way that is
the subject of the request, the district engineer,
before granting permission, must provide a person
owning land adjacent to the right-of-way the option of
mowing, baling, shredding, or hoeing the right-of-way.
A district engineer may deny any request authorized by
this Act.

Sec. 3. A person granted permission to mow,
bale, shred, or hoe a highway right-of-way under this
Act may not receive compensation for the mowing,
baling, shredding, or hoeing but is entitled to use or
dispose of the hay or other materials produced by the
mowing, baling, shredding, or hoeing.

Sec. 4. The state, the State Department of
Highways and Public Transportation, and the district
engineer are not liable for any personal injuries,
property damage, or death resulting from the
performance of services or agreements as provided in
this Act.

[Sections 202.060-202.080 reserved for expansion]
Subchapter D. Reclaimed Asphalt Pavement

Revised Law

Sec. 202.081. Definition. In this subchapter "reclaimed asphalt pavement" means hot mix asphalt pavement and any accompanying tack coat, seal coat, or chip seal removed as millings or broken pavement pieces from a road during construction, reconstruction, or repavement under the authority of the department. (V.A.C.S. Art. 6673i, Sec. 1(1); Art. 6674i-2, Sec. 1(1).)

Source Law

Art. 6673i
Sec. 1. In this article:
(1) “Reclaimed asphalt pavement” means hot mix asphalt pavement and any accompanying tack coat, seal coat, or chip seal removed as millings or broken pavement pieces from a road during construction, reconstruction, or repavement under the authority of the department.

Art. 6674i-2
Sec. 1. In this article:
(1) "Reclaimed asphalt pavement" means hot mix asphalt pavement and any accompanying tack coat, seal coat, or chip seal removed as millings or broken pavement pieces from a road during construction, reconstruction, or repavement under the authority of the department.

Revised Law

Sec. 202.082. Ownership and Use of Asphalt. (a) The department owns and shall retain ownership of all reclaimed asphalt pavement from a road in the state highway system.

(b) The department shall maximize the use of the reclaimed asphalt pavement.

(c) The department shall, when feasible, remove and recycle hot mix asphalt from any road in the state highway system being repaved.

(d) The department may transfer ownership of reclaimed asphalt pavement to another governmental entity for use on a road. (V.A.C.S. Art. 6673i, Sec. 2(a); Art. 6674i-2, Sec. 2(a).)

Source Law

Art. 6673i
Sec. 2. (a) The Department has title and shall retain title to all reclaimed asphalt pavement from roads in the state highway system, except as otherwise provided by this subsection. The department shall maximize the use of reclaimed asphalt pavement. The department shall, when feasible, remove and recycle hot mix asphalt from any road being repaved. The department may transfer title to reclaimed asphalt pavement to another governmental entity for use on roads.

Art. 6674i-2
Sec. 2. (a) The department has title and shall retain title to all reclaimed asphalt pavement from roads in the state highway system, except as otherwise provided by this subsection. The department shall maximize the use of reclaimed asphalt pavement. The department shall, when feasible, remove and recycle hot mix asphalt from any road being repaved. The department may transfer title to reclaimed asphalt pavement to another governmental entity for use on roads.

Revised Law
Sec. 202.083. CONTAMINATION. The department shall ensure that the reclaimed asphalt pavement is kept as free as possible from contamination by nonasphaltic materials during its removal, transportation, and storage. (V.A.C.S. Art. 6673i, Sec. 2(b); Art. 6674i-2, Sec. 2(b).)

Source Law
Art. 6673i
(b) The department shall ensure that the reclaimed asphalt pavement be kept as free as possible from contamination by nonasphaltic materials during its removal, transportation, and storage.

Art. 6674i-2
(b) The department shall ensure that the reclaimed asphalt pavement be kept as free as possible from contamination by nonasphaltic materials during its removal, transportation, and storage.

Revised Law
Sec. 202.084. STORAGE OF RECLAIMED ASPHALT; RECORDS. (a) A state agency, department, or commission shall give precedence for the use of real property under its control for the storage of reclaimed asphalt products if environmental and economic constraints permit.

(b) The department shall keep a record of the location and amount of state-owned reclaimed asphalt products. (V.A.C.S.
Art. 6673i, Secs. 2(c), (d); Art. 6674i-2, Secs. 2(c), (d).

Source Law

Art. 6673i
(c) All state agencies, departments, and commissions shall give precedence for the use of lands under their control for the storage of reclaimed asphalt products when environmental and economic constraints permit.
(d) The Department shall keep a public record of the location and amount of state-owned reclaimed asphalt products.

Art. 6674i-2
(c) All state agencies, departments, and commissions shall give precedence for the use of lands under their control for the storage of reclaimed asphalt products when environmental and economic constraints permit.
(d) The department shall keep a public record of the location and amount of state-owned reclaimed asphalt products.

Revisor's Note
Section 2(d), V.A.C.S. Article 6673i, and Section 2(d), V.A.C.S. Article 6674i-2, state that the department "shall keep a public record of the location and amount of" reclaimed asphalt products. The revised law omits the requirement to keep a public record because Section 552.022(1), Government Code, states that a report prepared by a governmental body is public information, and therefore an express statement to that effect is unnecessary.

Revised Law
Sec. 202.085. ANNUAL REPORT. Not later than January 1 of each year, the department shall report to the legislative audit committee on the department's use of recycled asphalt pavement.
(V.A.C.S. Art. 6673i, Sec. 2(e); Art. 6674i-2, Sec. 2(e).)

Source Law
Art. 6673i
(e) The Department shall, not later than January 1, report annually to the legislative audit committee on the department's use of recycled asphalt pavement.

Art. 6674i-2
(e) The department shall, not later than January 1, report annually to the legislative audit committee
on the department's use of recycled asphalt pavement.

(1) The revised law omits Article 6674q because all of the land covered by the law has been exchanged. The omitted law reads:

Art. 6674q. The State Highway Commission is hereby authorized and empowered at its discretion to exchange any lands or interests therein heretofore donated to the State of Texas, either for right of way purposes, or for the use of the people of Texas for camping accommodations and for park purposes, under and pursuant to the provisions of Chapter 37 of the General and Special Laws of the First Called Session of the Fortieth Legislature, page 110, for other lands or interests therein, located adjacent to or accessible from the state highway provided for in said Act and deemed by the Commission, in its discretion, to be more desirable for said purposes than said lands or interests heretofore donated; the State Highway Commission is authorized to execute the necessary deeds or conveyances for the purposes stated to be signed by the chairman pursuant to the order of the Commission.

(2) Section 1(4), V.A.C.S. Article 6673a-3, defines "road authority." The revised law omits this definition because the defined term is not used in V.A.C.S. Article 6673a-3 or in the revision. The omitted definition reads:

(4) "Road authority" means any political subdivision, agency, or quasi-governmental entity of the state with the authority to construct or maintain roads, bridges, or highways.

(3) Section 1(2), V.A.C.S. Article 6673i, and Section 1(2), V.A.C.S. Article 6674i-2, define "road." The revised law omits this definition as unnecessary because reference to the state highway system is included where necessary in the substantive provisions of this chapter. The omitted definitions read:

Art. 6673i Sec. 1. (In this article:)

(2) "Road" means a paved road
in the state highway system.

Art. 6674i-2
Sec. 1. [In this article:]

(2) "Road" means a paved road
in the state highway system.

CHAPTER 203. MODERNIZATION OF STATE HIGHWAYS;
CONTROLLED ACCESS HIGHWAYS

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CHAPTER 203. MODERNIZATION OF STATE HIGHWAYS;
CONTROLLED ACCESS HIGHWAYS
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law
Sec. 203.001. DEFINITIONS. In this chapter:
(1) "Controlled access highway" means a designated
state highway to or from which access is denied or controlled, in
whole or in part, from or to adjoining real property or an
intersecting public or private way, without regard to whether the
designated state highway is located in or outside a municipality.

(2) "Person" includes an individual, corporation,
association, or firm.

(3) "Public or private way" includes a street, road,
highway, or alley.

(4) "State agency" includes a department or agency of
this state. (V.A.C.S. Art. 6674w (part); New.)

Source Law

Art. 6674w. Definitions. Wherever used in this Act,
"Controlled Access Highway" means any designated State
Highway within or without the limits of any
incorporated city, town or village, whether under the
General Laws or by special charter, including Home Rule
Charter Cities, to or from which access is denied or
controlled, in whole or in part, from or to abutting
land or intersecting streets, roads, highways, alleys
or other public or private ways.

Wherever used in this Act, "Person" means any
person, individual, individuals, corporation,
association, and/or firm.

Revisor's Note

(1) V.A.C.S. Article 6674w refers to "any
incorporated city, town or village, whether under the
General Laws or by special charter, including Home Rule
Charter Cities." The revised law substitutes the term
"municipality" for the quoted phrase because that is
the term used in the Local Government Code.

(2) The definition of "public or private way" is
added for drafting convenience and to eliminate
frequent, unnecessary repetition of the substance of the definition.

(3) The definition of "state agency" is added
for drafting convenience and to eliminate frequent,
unnecessary repetition of the substance of the definition.
Sec. 203.002. MODERN STATE HIGHWAY SYSTEM. (a) To accomplish the purposes of this chapter, the commission may:

(1) locate, construct, maintain, and operate a modern state highway system;

(2) plan for future highways; and

(3) convert an existing street, road, or highway into a controlled access highway in accordance with modern standards of speed and safety.

(b) The commission shall emphasize the construction of controlled access highways. (V.A.C.S. Arts. 1085a, Sec. 1 (part); 6674w-1, Sec. 1 (part).)

Source Law

Art. 1085a
Sec. 1. The State Highway Commission . . . within their respective jurisdictions may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway . . . as a freeway, and to make any highway . . . within their respective jurisdictions a freeway, . . . .

Art. 6674w-1
1. Authorization for Modernization of Highway Facilities. To effectuate the purposes of this Act, the State Highway Commission is empowered to lay out, construct, maintain, and operate a modern State Highway System, with emphasis on the construction of controlled access facilities and to convert, wherever necessary, existing streets, roads and highways into controlled access facilities to modern standards of speed and safety; and, to plan for future highways. . . .

Revisor's Note

(1) Section 1, V.A.C.S. Article 1085a, applies to the powers of the State Highway Commission to operate a state highway as a freeway. Section 3, V.A.C.S. Article 1085a, revised in this chapter in Section 203.065, defines "freeway." This definition of freeway overlaps with the subject matter of V.A.C.S. Article 6674w et seq., revised in this code as this chapter. Note that, to the extent of any perceived conflict between V.A.C.S. Article 1085a and V.A.C.S.
Article 6674 et seq., the later-enacted V.A.C.S. Article 6674w et seq. take precedence, both under accepted principles of statutory construction and under V.A.C.S. Article 6674w-5. (See Revisor's Note (3) of the end-of-chapter note.)

(2) The revised law substitutes "locate" for "lay out" in Section 1, V.A.C.S. Article 6674w-1, to conform to modern usage.

(3) Section 1, V.A.C.S. Article 6674w-1, refers to "controlled access facilities." The revised law substitutes the defined phrase "controlled access highway."

(4) The revised law omits as redundant the portion of Section 1, V.A.C.S. Article 6674w-1, that states that the commission may exercise all its powers and procedures to accomplish the purposes of the law because more specific provisions in this chapter grant the powers and specify the procedures. The omitted provision reads:

[The State Highway Commission is further empowered to] ... exercise all of the powers and procedures to it granted by existing laws and this Act for the accomplishment of such purposes and the exercise of such powers and duties; ... .

Revised Law

Sec. 203.003. JURISDICTION. (a) Subject to Section 203.021, the commission may locate, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare, in any area of this state, whether in or outside a municipality.

(b) Subject to Section 203.021, the department and the commission may exercise any power granted by this chapter in a county or municipality without the consent of the county or municipality.
(c) The department's or the commission's exercise of a power under this chapter in a county or municipality removes the county's or municipality's exclusive jurisdiction over the specific public way affected by the exercise of power, to the extent the exercise of power affects the public way and its use. (V.A.C.S. Arts. 6674w-1, Sec. 1 (part); 6674w-5 (part).)

Source Law

Art. 6674w-1

1. . . . The State Highway Commission is further empowered to lay out, construct, maintain and operate any designated State Highway, now or hereafter constructed, with such control of access thereto as is necessary to facilitate the flow of traffic, and promote the Public Safety and Welfare, in any area of the State, whether in or outside of the limits of any incorporated city, town or village, including Home Rule Cities . . . .

Art. 6674w-5

. . .

The powers granted to the State Highway Department and State Highway Commission by this Act to perform acts and exercise powers within the limits of counties, incorporated cities, towns and villages, including Home Rule Cities, may be exercised without the consent or agreement of any such county, city, town or village, including Home Rule Cities, after complying with Subsection 1 of Section 2 hereof, and whenever the State Highway Department or the State Highway Commission performs any act or exercises any power within the limits of any county, incorporated city, town or village, including Home Rule Cities, as authorized in this Act, such act or exercise of power shall qualify and render inexclusive the dominion of such counties, cities, towns or villages, including Home Rule Cities, with respect to the specific streets, alleys, and other public ways affected by such act or exercises of power, but only to the specific extent to which such act or the exercise of such power affects such streets, alleys and other public ways and their use.

Revisor's Note

(1) The revised law substitutes "locate" for "lay out" in Section 1, V.A.C.S. Article 6674w-1, for the reason stated in Revisor's Note (2) to Section 203.002.

(2) The revised law adds a cross-reference to Section 203.021 of the revised law, which provides for a public hearing and requires the department to file
certain information with the county or municipality.

(3) V.A.C.S. Article 6674w-5 refers to "streets, alleys, and other public ways." The references to "street" and "alley" are omitted from the revised law because "street" and "alley" are contained within the meaning of "public way."

(4) V.A.C.S. Article 6674w-5 refers to an "incorporated city, town or village, including Home Rule Cities." The revised law substitutes "municipality" for the reason stated in Revisor's Note (1) to Section 203.001 of this code.

(5) V.A.C.S. Article 6674w-5 refers to power to "perform acts and exercise powers." The revised law omits the reference to "perform acts" because the meaning of that phrase is contained within the meaning of "exercise powers."

(6) V.A.C.S. Article 6674w-5 references "Subsection 1 of Section 2 hereof," meaning the portion of V.A.C.S. Article 6674w-1 revised in this chapter as Section 203.021. The revised law is drafted accordingly.

Revised Law

Sec. 203.004. CONTRACTS FOR ADMINISTRATION OF PROPERTY ACQUIRED FOR MITIGATION OF ADVERSE ENVIRONMENTAL EFFECTS. (a) The department may contract with the Parks and Wildlife Department for the administration, control, or maintenance of property acquired under Subchapter D for the mitigation of an adverse environmental effect directly resulting from the construction or maintenance of a state highway.

(b) A contract under this section is not subject to Chapter 771, Government Code. (V.A.C.S. Art. 6674w-3(c).)

Source Law

(c) The State Department of Highways and Public Transportation may make contracts with the Parks and
Wildlife Department relating to the administration, control, or maintenance of interests in property acquired for the mitigation of adverse environmental impacts directly resulting from the construction or maintenance of State Highways. A contract entered into under this subsection is not subject to The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes).

Reviser's Note

(1) V.A.C.S. Article 6674w-3(c) refers to property acquired for the mitigation of adverse environmental effects. The acquisition of this property is governed by the portion of the source law revised as Subchapter D of this chapter and the revised law adds a cross-reference to that subchapter for the convenience of the reader.

(2) V.A.C.S. Article 6674w-3(c) refers to "The Interagency Cooperation Act (Article 4413(32), Vernon's Texas Civil Statutes)." That statute was codified in 1991 as Chapter 771, Government Code, and the revised law is drafted accordingly.

[Sections 203.005-203.020 reserved for expansion]

SUBCHAPTER B. PUBLIC HEARINGS AND COMMENT

Revised Law

Sec. 203.021. PUBLIC HEARINGS. (a) For a highway project that bypasses or goes through a county or municipality, the commission shall hold at least one public hearing in the locality before an authorized representative of the commission.

(b) Notice of the hearing shall be by publication in the locality. The hearing shall be held not less than three or more than 10 days after the date of publication.

(c) At least seven days before the date of the public hearing, the department shall file with the governing body of the county or municipality the design and schematic layout of the project.

(d) A person interested in the development of the project is
entitled to attend the hearing and discuss and inspect the design
and schematic layout filed with the governing body. (V.A.C.S.
Art. 6674w-1, Sec. 1 (part).)

Source Law

1. ... provided, however, that in the case of
any project involving the bypassing of or going through
any county, city, town, or village, including Home Rule
Cities, the State Highway Commission shall afford the
opportunity for not less than one (1) public hearing in
the locality before an authorized representative of the
State Highway Commission, at which persons interested
in the development of the project shall have the
opportunity for attendance, discussion and inspection
of the design and schematic layout presented and filed
with the governing body of such county, city, town or
village, including Home Rule Cities, at least seven (7)
days before the public hearing, by the State Highway
Department. Such hearing shall be held not less than
three (3) days nor not more than ten (10) days after
the publication in the locality of notice of such
hearing.

Revisor's Note

Section 1, V.A.C.S. Article 6674w-1, refers to an
"incorporated city, town, or village, including Home
Rule Cities." The revised law substitutes
"municipality" for the reason stated in Revisor's Note
(1) to Section 203.001 of this code.

Revised Law

Sec. 203.022. RULES GOVERNING NOTICE AND COMMENT. (a) The
department shall by rule provide owners of adjoining property and
affected local governments and public officials with notice and an
opportunity for comment on a state highway project that involves:
(1) the addition of one or more vehicular lanes to an
existing highway; or
(2) the construction of a highway at a new location.

(b) The department shall give additional notice and
opportunity for comment on a project described by Subsection (a) if
conditions relating to land use, traffic volumes, and traffic
patterns have changed significantly since the project was
originally subject to public review and comment.
(c) The department shall by rule provide procedures for informing adjoining property owners and affected local governments and public officials of impending construction. (V.A.C.S. Art. 6674w-1, Sec. 1A.)

Source Law

1A. The State Department of Highways and Public Transportation shall promulgate reasonable rules: (a) providing abutting landowners and affected local governments and public officials notice and an opportunity for comment on a state highway project for the addition of one or more vehicular lanes to an existing highway or for the construction of a highway at a new location; (b) providing those persons additional notice and opportunity for comment on such projects when conditions relating to land-use, traffic volumes, and traffic patterns have changed significantly from the time the project originally underwent public review and comment; and (c) providing procedures for informing such persons of impending construction.

[Sections 203.023-203.030 reserved for expansion]

SUBCHAPTER C. CONTROL OF ACCESS

Revised Law

Sec. 203.031. CONTROL OF ACCESS. (a) The commission, by order entered in its minutes, may:

(1) designate a state highway of the designated state highway system as a controlled access highway;

(2) deny access to or from a controlled access highway from or to adjoining public or private real property and from or to a public or private way intersecting the highway, except at specific locations designated by the commission;

(3) close a public or private way at or near its intersection with a controlled access highway;

(4) designate locations on a controlled access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location;

(5) erect protective devices to preserve the integrity, usefulness, and use of the controlled access highway; and
(6) repeal an order entered under this section.

(b) This section does not alter the rights of a person under another law of this state to compensation for damages caused by the exercise of the commission's powers. (V.A.C.S. Arts. 1085a, Sec. 4 (part); 6674w-1, Sec. 2 (part).)

Source Law

[Art. 1085a]
Sec. 4. The State Highway Commission . . . is authorized to close any highway . . . within their respective jurisdictions at or near the point of its intersection with any freeway or to make provisions for carrying any highway . . . over or under or to a connection with the freeway and may do any and all things on such highway . . . as may be necessary therefor.

[Art. 6674w-1]
2. Control of Access. The State Highway Commission, by proper order entered in its minutes, is hereby authorized and empowered:
(a) To designate any existing or proposed State Highway, of the Designated State Highway System, or any part thereof, as a Controlled Access Highway;
(b) To deny access to or from any State Highway, presently or hereafter designated as such, whether existing, presently being constructed, or hereafter constructed, which may be hereafter duly designated as a Controlled Access Highway, from or to any lands, public, or private, adjacent thereto, and from or to any streets, roads, alleys, highways or any other public or private ways intersecting any such Controlled Access Highway, except at specific points designated by the State Highway Commission; and to close any such public or private way at or near its point of intersection with any such Controlled Access Highway;
(c) To designate points upon any designated Controlled Access Highway, or any part of any such highway, at which access to or from such Controlled Access Highway shall be permitted, whether such Controlled Access Highway includes any existing State Highway or one hereafter constructed and so designated;
(d) To control, restrict, and determine the type and extent of access to be permitted at any such designated point of access;
(e) To erect appropriate protective devices to preserve the utility, integrity, and use of such designated Controlled Access Highway; and,
(f) To modify or repeal any order entered pursuant to the powers herein granted.
Provided, however, that nothing in the foregoing subparagraphs (a) through (f), inclusive, shall be construed to alter the existing rights of any person to compensation for damages suffered as a result of the exercise of such powers by the State Highway Commission under the Constitution and laws of the State of Texas. . . .
(1) Section 4, V.A.C.S. Article 1085a, refers to closing a highway at the highway's intersection with a freeway. See Reviser's Note (1) to Section 203.002 of this code.

(2) Section 2, V.A.C.S. Article 6674w-1, refers to a "proper" order. The revised law omits "proper" as unnecessary because the word does not add to the clear meaning of the law.

(3) The revised law omits as unnecessary the references in Section 2, V.A.C.S. Article 6674w-1, to the time of construction of a state highway. The term "state highway" includes a state highway constructed or designated as a state highway before or after the effective date of the source law or constructed before or after the date of designation.

(4) Section 2, V.A.C.S. Article 6674w-1, refers to "streets, roads, alleys, highways or any other public or private ways." The revised law substitutes "public or private way" for the reason stated in Reviser's Note (2) to Section 203.001 of this code.

(5) Section 2(c), V.A.C.S. Article 6674w-1, authorizes the commission to designate access points on a controlled access highway "whether such Controlled Access Highway includes any existing State Highway or one hereafter constructed and so designated." The revised law omits the quoted phrase as unnecessary. As noted in Reviser's Note (3), the commission may designate a state highway as a controlled access highway without regard to whether the highway was in existence on the effective date of the source law or is in existence on the date of the designation. Section 2(c), V.A.C.S. Article 6674w-1, authorizes the commission to designate access locations on any
controlled access highway without regard to that highway's individual history.

(6) Section 2(d), V.A.C.S. Article 6674w-1, authorizes the commission to "control, restrict, and determine the type and extent of access ...." The revised law omits "control" and "restrict" because the meaning of those terms is included within the meaning of "determine the type and extent of."

(7) The revised law omits the express authorization in V.A.C.S. Article 6674w-1, Section 2(f), for the commission to modify an order entered into under this portion of the statute because the power to adopt an order implies the power to modify it.

(8) Section 2, V.A.C.S. Article 6674w-1, states that portions of that section may not be construed to alter certain existing rights of a person under the constitution. The revised law omits this reference to the constitution as unnecessary because provisions of the constitution always prevail over general law.

Revised Law

Sec. 203.032. PRECEDENCE OF COMMISSION ORDER. An order of the commission under Section 203.031 supersedes a conflicting rule or ordinance of a state agency or other political subdivision of this state or any county or municipality. (V.A.C.S. Art. 6674w-1, Sec. 2 (part).)

Source Law

2. ... Subject to the foregoing limitations any order issued by the State Highway Commission pursuant to such powers shall supersede and be superior to any rule, regulation or ordinance of any department, agency or subdivision of the State or any county, incorporated city, town or village, including Home Rule Cities, in conflict therewith.

Revisor's Note

(1) Section 2, V.A.C.S. Article 6674w-1, states
that a commission order "shall supersede and be superior to." The revised law omits "be superior to" because the meaning of that phrase is included within the meaning of "supersede."

(2) Section 2, V.A.C.S. Article 6674w-1, refers to "rules and regulations." The revised law omits the reference to "regulations" because under Section 311.005, Government Code, a "rule" includes a "regulation."

(3) Section 2, V.A.C.S. Article 6674w-1, refers to a "department, agency . . . of the State." The revised law substitutes "state agency" because "state agency" is defined by Section 203.001 of this code to include a department or agency of the state.

(4) Section 2, V.A.C.S. Article 6674w-1, refers to an "incorporated city, town or village, including Home Rule Cities." The revised law substitutes "municipality" for the reason stated in Reviser's Note (1) to Section 203.001 of this code.

Revised Law

Sec. 203.033. INJUNCTION AGAINST DENIAL OF ACCESS. A court may not grant an injunction to prevent or stay a commission order of denial of previously existing access to a state highway unless an owner or lessee of real property that adjoins the part of the highway to which access is denied under the commission's order:

(1) brings the suit at which the injunction is sought; and

(2) has not released any claim for damages resulting from the denial of access or a condemnation suit has not been commenced to ascertain the damages. (V.A.C.S. Art. 6674w-1, Sec. 2 (part).)

Source Law

2. . . .
No injunction shall be granted to stay or prevent
Reviser's Note

(1) Section 2, V.A.C.S. Article 6674w-1, states that "[n]o injunction shall be granted . . . ." The revised law makes clear that this is a limitation on the power of a court.

(2) Section 2, V.A.C.S. Article 6674w-1, refers to an injunction granted to "stay or prevent the denial of." The revised law omits the reference to "prevent" because the meaning of that term is included within the meaning of "stay."

(3) Section 2, V.A.C.S. Article 6674w-1, refers to real property "actually physically abutting" a state highway. The revised law omits "actually physically" as unnecessary; to abut or adjoin the highway, property must touch, or be in actual physical contact.

Revised Law

Sec. 203.034. RIGHT TO ACCESS; DAMAGES FOR DENIAL OF ACCESS.

(a) An owner of real property adjoining a controlled access highway is not entitled to access to the highway as a matter of right.

(b) Denial of access to or from a controlled access highway is not a ground for special or exemplary damages unless:

(1) in connection with the purchase or condemnation of the real property adjoining the controlled access highway and to be used in the location of the highway, the commission specifically authorizes access to or from particular real property adjoining the highway; and
(2) the commission denies highway access to or from the particular land where the real property adjoins the highway. (V.A.C.S. Art. 6674w-1, Sec. 2 (part).)

Source Law

Along new Controlled Access State Highway locations, abutting property owners shall not be entitled to access to such new Controlled Access State Highway locations as a matter of right, and any denial of such access shall not be deemed as grounds for special or exemplary damages, except where access to such new Controlled Access State Highway shall have been specifically authorized by the State Highway Commission to or from particular lands abutting upon such new Controlled Access State Highway in connection with the purchase or condemnation of lands or property rights from such abutting owners to be used in such new Controlled Access State Highway location, and the State Highway Commission thereafter denies access to or from such particular abutting lands to such State Highway at the point where such lands actually abut upon such State Highway.

Revisor's Note
Section 2, V.A.C.S. Article 6674w-1, refers to "new" controlled access highways. The meaning of "new" is ambiguous: it could refer either to controlled access highways constructed or designated as controlled access after the effective date of the article or to constructed controlled access highways that are "new" at the time a suit for damage is brought. In either event, "new" is omitted as unnecessary. Statutes of limitations govern the time in which a suit may be brought for damages, and any suit relating to access to controlled access highways constructed before the 1957 effective date of the article is barred. [Sections 203.035-203.050 reserved for expansion]

SUBCHAPTER D. ACQUISITION OF PROPERTY

Revised Law
Sec. 203.051. ACQUISITION OF PROPERTY AUTHORIZED. (a) The commission may acquire by purchase, on terms and conditions the
commission considers proper or by the exercise of eminent domain, in the name of the state:

   (1) an interest in real property;
   (2) any property rights, including:
       (A) a right of ingress or egress; and
       (B) a reservation right in real property that restricts or prohibits the:
           (i) addition of a new improvement on the real property;
           (ii) addition to or modification of an existing improvement on the real property; or
           (iii) subdivision of the real property;
       and
   (3) timber, earth, stone, gravel, or other material.

(b) Chapter 21, Property Code, applies to an acquisition by eminent domain.

(c) Subsection (a) does not authorize the commission to condemn property that is used and dedicated for cemetery purposes under Subtitle C, Title 8, Health and Safety Code. (V.A.C.S. Arts. 1085a, Sec. 2 (part); 6674w-3(a)(1) (part), (2) (part), (5) (part).)

Source Law

[Art. 1085a]
Sec. 2. For the purposes of this Act, the State Highway Commission . . . may acquire the necessary property and property rights by . . . purchase, or condemnation, in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways . . . .

Art. 6674w-3. (a)(1) Any land in fee simple or any lesser estate or interest therein; any property rights of any kind or character including, but not limited to, rights of ingress and egress and reservation rights in land which restrict or prohibit the adding of new, or addition to or modification of existing improvements on such land, or subdividing the same; and any timber, earth, stone, gravel, or other material . . . may be purchased by the State Highway and Public Transportation Commission in the name of the State of Texas, on such terms and conditions and in such manner as the Commission may deem proper.

(2) Any land or any estate or interest therein; any property rights of any kind or character including, but not limited to, rights of ingress and
egress, and reservation rights in land which restrict
or prohibit for any period of time not to exceed seven
(7) years the adding of new, or addition to or
modification of existing improvements on such land, or
subdividing or resubdividing same; and any timber,
earth, stone, gravel, or other material . . . may be
acquired by the exercise of the power of Eminent Domain
by the State Department of Highways and Public
Transportation in the name of the State of Texas in the
manner hereinafter provided.

(5) In the exercise of the powers of
Eminent Domain herein conferred, the State Department
of Highways and Public Transportation shall be subject
to the laws and procedures prescribed by Chapter 21,
Property Code . . . and further provided, that none of
the powers granted herein shall be a grant to the State
Highway and Public Transportation Commission for the
purpose of condemning property which is used and
dedicated for cemetery purposes pursuant to Subtitle C,
Title 8, Health and Safety Code.

Revisor's Note

(1) Section 2, V.A.C.S. Article 1085a, refers to
the article's purposes, which include operating a state
highway as a freeway. As in Section 203.002, Articles
1085a and 6674w-3 are combined in a single revised
section. See Revisor's Note (1) to Section 203.002 of
this code.

(2) V.A.C.S. Article 6674w-3(a)(1) refers to
"land in fee simple or any lesser estate or interest
therein." The reference to "land in fee simple or any
lesser estate" is omitted from the revised law because
"land in fee simple" and "an estate in land" are
contained within the meaning of "an estate or interest
in real property."

(3) V.A.C.S. Article 6674w-3(a)(5) refers to the
"exercise of the powers of Eminent Domain herein
conferred" and the "powers granted herein . . . for the
purpose of condemning property," meaning the
condemnation power granted under Chapter 300, Acts of
the 55th Legislature, Regular Session, 1957. The
portion of that act granting condemnation power is
revised in Subsection (a) of this section and the
revised law is drafted accordingly.

Revised Law

Sec. 203.052. COMMISSION DETERMINATION REQUIRED. (a) The commission may acquire an interest in real property, a property right, or a material under Section 203.051 only if the commission determines that the acquisition is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended.

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

(1) protect a state highway;

(2) drain a state highway;

(3) divert a stream, river, or other watercourse from the right-of-way of a state highway;

(4) store materials or equipment used in the construction or maintenance of a state highway;

(5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;

(6) locate, construct, or maintain a roadside park;

(7) locate, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;

(8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway; or

(9) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway. (V.A.C.S. Arts. 6674w-3(a)(1) (part), (2) (part).)
Art. 6674w-3. (a)(1) [Any land in fee simple or any lesser estate or interest therein; any property rights]. . . which the State Highway and Public Transportation Commission may in its judgment determine to be necessary or convenient to any State Highway to be constructed, reconstructed, maintained, widened, straightened or lengthened including, but not limited to, any land, property rights or materials deemed by the Commission necessary or convenient for the purpose of protecting any State Highway; draining any State Highway; diverting streams or rivers or any other watercourse from the right of way of any State Highway; storing materials and equipment used in the construction and maintenance of State Highways; constructing and operating warehouses and other buildings and facilities used in connection with the construction, maintenance, and operation of State Highways; laying out, construction, and maintenance of roadside parks; laying out, construction, and maintenance of vehicular parking lots that will contribute to maximum utilization of State Highways with the least possible congestion; mitigating adverse environmental impacts directly resulting from construction or maintenance of State Highways; and any other purpose related to the laying out, construction, improvement, maintenance, beautification, preservation and operation of State Highways, [may be purchased] . . . .

[(2) Any land or any estate or interest therein; any property rights]. . . which the State Highway and Public Transportation Commission may in its judgment determine to be necessary or convenient to any State Highway to be constructed, reconstructed, maintained, widened, straightened or lengthened including, but not limited to, any land, property rights or materials deemed by the Commission necessary or convenient for the purpose of protecting any State Highway; draining any State Highway; diverting streams or rivers or any other watercourse from the right of way of any State Highway; laying out, construction, and maintenance of roadside parks; laying out, construction, and maintenance of vehicular parking lots that will contribute to maximum utilization of State Highways with the least possible congestion; mitigating adverse environmental impacts directly resulting from construction or maintenance of State Highways; and any other purpose related to the laying out, construction, improvement, maintenance, and operation of State Highways, [may be acquired] . . . .

Revisor's Note

(1) The revised law combines portions of V.A.C.S. Articles 6674w-3(a)(1) and (2). V.A.C.S. Article 6674w-3(a)(1) refers to land, property rights, or materials necessary or convenient for the purpose of "storing materials . . ." and "constructing and operating warehouses and other buildings and
facilities . . . "; V.A.C.S. Article 6674w-3(a)(2) does not expressly identify these purposes. However, both subdivisions include broad, catchall language authorizing the acquisition of land, property rights, or materials for "any other purpose related to the laying out, construction, improvement, maintenance, and operation of State Highways." Because the purposes described by Subdivision (a)(1) but omitted from (a)(2) clearly would fall within the authorization of the catchall language, it is appropriate to combine these portions of the source law and to retain in the revised law the purposes specified by Subdivision (a)(1) as examples of appropriate purposes.

(2) The revised law substitutes "locate" for "lay out" in V.A.C.S. Articles 6674w-3(a)(1) and (2) for the reason stated in Reviser's Note (2) to Section 203.002 of this code.

(3) The revised law substitutes "parking lot" for "vehicular parking lots" in V.A.C.S. Articles 6674w-1(a)(1) and (2) because the terms are synonymous and the former is more concise and more frequently used.

Revised Law

Sec. 203.053. LOCATION OF PROPERTY ACQUIRED; PUBLIC PROPERTY. (a) The authorization under this subchapter to purchase or exercise the power of eminent domain is not affected by the location of the real property, the location of the real property to which the property right refers, or the location of the material. This subsection applies without regard to whether the location is in or outside a municipality.

(b) Under this subchapter, the commission may purchase or condemn real property, property rights, and materials that belong to the public, whether under the jurisdiction of the state, a state
agency, a county, a municipality, or an entity or subdivision of a county or municipality. (V.A.C.S. Arts. 6674w-3(a)(3), (b)(2).

**Source Law**

(a) . . .

(3) The purchase or power of Eminent Domain being hereby authorized is granted regardless of the location of any such land, property rights, or materials to be acquired, whether within or without the confines of any incorporated city, town or village, whether same are incorporated under general or special laws, including Home Rule Cities.

(b) . . .

(2) Whether purchased or condemned by the Commission, the lands, property rights and materials which are purchased or condemned may also include those belonging to the public, whether under the jurisdiction of the State or any department or agency thereof, county, city, town, village, including Home Rule Cities, or other entity or subdivision thereof.

**Reviser's Note**

(1) V.A.C.S. Article 6674w-3(a)(3) refers to "[t]he purchase or power of Eminent Domain being hereby authorized," meaning that these powers are authorized under Chapter 300, Acts of the 55th Legislature, Regular Session, 1957. The portions of that act authorizing the acquisition of property by purchase or condemnation are revised in this chapter as this subchapter and the revised law is drafted accordingly.

(2) V.A.C.S. Articles 6674w-3(a)(3) and (b)(2) refer to the location of "property rights." The revised law clarifies this reference by referring to the location of the land affected by the property rights to be acquired.

(3) V.A.C.S. Articles 6674w-3(a)(3) and (b)(2) refer to a "city, town or village . . . including Home Rule Cities." The revised law substitutes "municipality" for the reason stated in Reviser's Note (1) to Section 203.001 of this code.

**Revised Law**

Sec. 203.054. ATTORNEY GENERAL SHALL BRING SUIT. (a)
Except as provided by Subsection (b), the attorney general, at the request of the commission, shall bring and prosecute a condemnation suit of the commission under this subchapter.

(b) At the request of the attorney general, the appropriate county or district attorney or criminal district attorney shall prosecute the suit.

(c) The suit shall be brought in the name of this state.

(V.A.C.S. Art. 6674w-3(a)(4) (part).)

Source Law

(4) In the prosecution of any condemnation suit brought by the State Highway and Public Transportation Commission in the name of the State of Texas for the acquisition of property pursuant to the powers granted in this Act, the Attorney General, at the request of the Commission, or, at the Attorney General's direction, the applicable County or District Attorney or Criminal District Attorney, shall bring and prosecute the suit in the name of the State of Texas...

Revisor's Note

The portion of V.A.C.S. Article 6674w-3(a)(4) regarding venue for condemnation suits brought by the commission has been superseded by Sections 15.001 and 15.011, Civil Practice and Remedies Code, and Section 21.013, Property Code. Those statutes establish uniform rules regarding venue of lawsuits generally, certain actions involving title to real property, and condemnation proceedings. The omitted law reads:

(4) ... and the venue of any such suit shall be in the county in which the property or a part thereof is situated.

Revised Law

Sec. 203.055. SCOPE OF ESTATE CONDEMNED; INTEREST IN OIL, GAS, OR SULPHUR. (a) The department may condemn the fee or a lesser interest in the property.

(b) The department shall, in a statement or petition in condemnation, exclude from the interest to be condemned all the oil, gas, and sulphur that can be removed from beneath the real
property. This exclusion shall be made without providing the owner
of the oil, gas, or sulphur any right of ingress or egress to or
from the surface of the land to explore, develop, drill, or mine
the real property. (V.A.C.S. Art. 6674w-3(a)(5) (part).)

Source Law

(5) [In the exercise of the powers of
Eminent Domain herein conferred, the State Department
of Highways and Public Transportation] . . . shall be
entitled to condemn the fee or such lesser estate or
interest . . . provided however, that any statement or
petition in condemnation brought by the Department
pursuant hereto shall exclude from the estate sought to
be condemned all the oil, gas and sulphur which can be be
removed from beneath the land condemned without any
right whatever remaining to the owners of such oil, gas
and sulphur of ingress or egress to or from the surface
of the land condemned for the purpose of exploring,
developing, drilling or mining of the same . . . .

Revisor's Note

V.A.C.S. Article 6674w-3(a)(5) refers to matters
that must be specified in the statement or petition for
the condemnation proceeding. This reference is omitted
from the revised law because it duplicates Section
21.012, Property Code. The omitted law reads:

[(5)] . . . as it may specify
in any statement or petition in any
condemnation proceeding filed by it
pursuant to such powers . . . .

Revised Law

Sec. 203.056. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL
SUBDIVISION OR PUBLIC AGENCY. (a) The governing body of a
political subdivision or public agency may, without advertisement,
convey the title to or a right in property that:

(1) is owned by the political subdivision or public
agency; and

(2) may be acquired by the commission under this
subchapter for highway purposes.

(b) In this section, "political subdivision" includes a
county or municipality. (V.A.C.S. Art. 6674w-3(b)(1); New.)
(b)(1) The governing body of every county, city, town, village, political subdivision or public agency is hereby authorized without any form of advertisement to make conveyance of title or rights and easements, owned by any such body, to any property needed by the State Highway and Public Transportation Commission to effect its purposes in connection with the construction or operation of the State Highway System or the mitigation of adverse environmental impacts directly resulting from the construction or maintenance of State Highways.

Revisor's Note

(1) V.A.C.S. Article 6674w-3(b)(1) refers to property "owned by any such [governing] body." Property within the jurisdiction of the governing body of a political subdivision or public agency is owned by the entity, not its governing body. The revised law makes this clear.

(2) The revised law uses the term "municipality" to refer to "city, town, village" in the added definition of "political subdivision." See Revisor's Note (3) below and Revisor's Note (1) to Section 203.001 of this code.

(3) The revised law adds a definition of "political subdivision" for conciseness.

(4) V.A.C.S. Article 6674w-3(b)(1) refers to property "needed by the State Highway and Public Transportation Commission to effect its purposes in connection with the construction or operation of the State Highway System or the mitigation of adverse environmental impacts directly resulting from the construction or maintenance of State Highways." The quoted language is omitted as unnecessary because as revised in this section "property" may be acquired only if the commission may acquire the property, and under Sections 203.051 and 203.052 of this code the commission may acquire property for these purposes.
Revised Law

Sec. 203.057. CONSENT TO USE OF STATE PROPERTY. (a) The commission may use real property owned by the state, including submerged real property, that the commission could acquire under this subchapter for highway purposes.

(b) This section does not deprive the School Land Board of authority to execute a lease authorized by law for the development of oil, gas, or another mineral on state-owned real property adjoining a state highway or in a tidewater limit and for that purpose a lease executed by the School Land Board may provide for directional drilling from real property adjoining a state highway or from a tidewater area. (V.A.C.S. Art. 6674w-3(b)(3) (part).)

Source Law

(3) The State of Texas hereby consents to the use of all lands owned by it, including lands lying underwater, which are deemed by the Commission to be necessary for the construction or operation of any State Highway or for the mitigation of adverse environmental impacts directly resulting from the construction or maintenance of State Highways; provided, however, that nothing herein shall be construed as depriving the School Land Board of authority to execute leases in the manner authorized by law for the development of oil, gas and other minerals on State-owned lands adjoining any such State Highway, or in tidewater limits, and to this end such leases may provide for directional drilling from such adjoining land and tidewater area...

Revisor's Note

V.A.C.S. Article 6674w-3(b)(3) refers to land deemed by the commission to be necessary "for the construction or operation of any State Highway or for the mitigation of adverse environmental impacts directly resulting from the construction or maintenance of State Highways . . . ." The revised law omits the quoted language for the reason stated in Revisor's Note (4) to Section 203.056 of this code.

Revised Law

Sec. 203.058. COOPERATION OF STATE AGENCY. (a) The
commission shall advise and make arrangements with the state agency
that has jurisdiction over the state-owned real property to
accomplish the purpose of Section 203.057.

(b) The state agency shall cooperate with the department in
connection with the use of real property under Section 203.059. If
the agency is not expressly authorized to act through a designated
representative, the agency may do whatever act is necessary under
Section 203.057 by and through the presiding officer of its board,
or its department head or executive director, as appropriate.

(V.A.C.S. Art. 6674w-3(b)(3) (part).)

Source Law

(3) ... The Commission shall advise, and make arrangements with, the State Department or agency having jurisdiction over such lands to accomplish such necessary purposes. Any such State Department or agency is hereby directed to cooperate with the State Department of Highways and Public Transportation in this connection, and as to any such department or agency not expressly authorized to act through some designated representatives, express authority is hereby granted to such department or agency to do whatever acts are necessary hereunder by and through the Chairman of its Board, Department Head, or Executive Director, whether appointed or elected, whichever may be appropriate.

Revisor's Note

(1) V.A.C.S. Article 6674w-3(b)(3) refers to a "State Department or agency." The revised law substitutes "state agency." See Revisor's Note (3) to Section 203.001.

(2) The revised law adds cross-references to Section 203.059 of the revised law. Section 203.059 and this section are both revisions of V.A.C.S. Article 6674w-3(b)(3), and the references are necessary to show interconnections of the two sections.

(3) V.A.C.S. Article 6674w-3(b)(3) refers to "the Chairman of [the commission's] Board, Department Head, or Executive Director, whether appointed or elected." The reference to whether the official is
"appointed or elected" is omitted from the revised law because it does not add to the clear meaning of the law; the described officials are either appointed or elected.

Revised Law

Sec. 203.059. COMPENSATION FOR STATE AGENCY. (a) If the acquisition of real property, property rights, or material by the department from a state agency under this subchapter will deprive the agency of a thing of value to the agency in the exercise of its functions, adequate compensation for the real property, property rights, or material shall be made.

(b) The compensation shall be paid on vouchers drawn for this purpose payable to the state agency providing the real property, property rights, or material.

(c) A payment made to an agency furnishing real property, property rights, or material shall be credited to the appropriation item or account for that agency from which expenditures of that character were originally made.

(d) If an appropriation item or account as described by Subsection (c) does not exist, the payment shall be credited to the appropriate account of the state agency, as determined by the comptroller.

(e) If the department and the state agency are unable to agree on adequate compensation, the General Land Office shall determine the fair, equitable, and realistic compensation to be paid. (V.A.C.S. Arts. 6674w-3(b)(4), (5).)

Source Law

(4) If the land, property rights, or material to be acquired by the State Department of Highways and Public Transportation are of such a nature that its acquisition under the provisions of this Act will deprive any such department or agency of the State of a thing of value to such department or agency in the exercise of its lawful functions, then adequate compensation therefor shall be made, based upon vouchers drawn for this purpose payable to the furnishing department or agency. Payments received by the furnishing department or agency shall be credited to that department's or agency's current appropriation...
items or accounts from which the expenditures of that character were originally made, or if no such items or accounts from which the expenditures of that character were originally made, or if no such item or account exists, then to an account of such department or agency determined to be appropriate thereto by the Comptroller of Public Accounts.

(5) In the event, but only in the event, the State Department of Highways and Public Transportation and such other department or agency are unable to agree upon adequate compensation, then the General Land Office shall determine the fair, equitable and realistic compensation to be paid.

Revisor's Note

(1) V.A.C.S. Article 6674w-3(b)(4) refers to an acquisition under "this Act," meaning the portion of Chapter 300, Acts of the 55th Legislature, Regular Session, 1957, governing acquisition of state land. The portion of that act governing use of state land is revised in this subchapter and the revised law is drafted accordingly.

(2) V.A.C.S. Articles 6674w-3(b)(4) and (5) refer to a state "department or agency." The revised law substitutes "state agency." See Revisor's Note (3) to Section 203.001.

(3) V.A.C.S. Article 6674w-3(b)(4) refers to the "lawful functions" of a state agency. The revised law omits the reference to "lawful" because an activity of a state agency that is "unlawful" would not be a function of that agency.

(4) V.A.C.S. Article 6674w-3(b)(4) refers to credits to "current" appropriations items or accounts. The revised law omits "current" as unnecessary because in the context of this provision a credit can be made only to an existing appropriation item or account.

(5) V.A.C.S. Article 6674w-3(b)(4) refers to the "Comptroller of Public Accounts." Section 403.001, Government Code, provides that the term "comptroller" in any state statute means the comptroller of public
accounts and the revised law is drafted accordingly.

Revised Law

Sec. 203.060. PURCHASE OF LEASE RIGHTS. (a) Before acquiring property under this subchapter, the department may purchase the right to lease the property to a third party.

(b) The department may make a purchase under Subsection (a) only if the department first determines that the owner is unable to lease or rent the property because of the impending acquisition by the department.

(c) The consideration for the purchase of a lease right under this section may not exceed the fair market rental value of the property as determined by the department and shall be credited against the total compensation due the owner when the department acquires the property.

(d) Payment under this section may be made in periodic increments until the property is acquired by the department. The aggregate total of payments before acquisition may not exceed the department's appraised value of the property.

(e) The department shall adopt rules to implement this section. (V.A.C.S. Art. 6674w-4c.)

Source Law

Art. 6674w-4c. (a) Prior to acquisition of property pursuant to this Act, the State Department of Highways and Public Transportation may purchase the rights to lease the property to third parties, provided that the department first determines that the owner is unable to lease or rent the property by reason of its impending acquisition for highway purposes.

(b) The consideration for the purchase of such rights may not exceed the fair market rental value of the property as determined by the department and shall be credited against the total compensation due the owner at the time the department acquires the property through negotiated purchase or through the exercise of the power of Eminent Domain. Payment under this section may be made in periodic increments until the property is acquired by the department, provided that the aggregate total of payments prior to acquisition may not exceed the department's approved appraised value of the property.

(c) The department shall promulgate reasonable rules for the implementation of this section.
Reviser's Note

V.A.C.S. Article 6674w-4c refers to an acquisition under "this Act," meaning the portion of Chapter 300, Acts of the 55th Legislature, Regular Session, 1957, governing acquisition of property. The portion of that act governing the acquisition of property is revised as this subchapter and the revised law is drafted accordingly.

Revised Law

Sec. 203.061. PAYMENT PROCEDURE. The comptroller may issue a warrant on the appropriate account to pay for real property or an interest in real property when presented with a properly executed deed for the real property or interest. (V.A.C.S. Art. 6674w-2 (part).)

Source Law

Art. 6674w-2. . . .
Upon presentation of a properly executed deed or deeds, the Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account as payment of consideration for such land, estate or interest therein. . . .

Reviser's Note

(1) The source law refers to the "Comptroller of Public Accounts." The revised law substitutes "comptroller" for the reason stated in Reviser's Note (5) to Section 203.059.

(2) V.A.C.S. Article 6674w-2 refers to "an estate or interest" in land. The reference to "estate" is omitted from the revised law because "estate" is included within the meaning of "interest" in real property.

Revised Law

Sec. 203.062. PAYMENT PROCEDURE IF OWNER FAILS TO DELIVER EXECUTED DEED; ESCROW. (a) If the owner of property acquired by
the department under this subchapter fails to deliver an executed deed before payment of consideration, the comptroller may issue a warrant on the appropriate account in payment of the consideration. The consideration shall be placed in escrow with a national or state bank that is:

(1) authorized to do business in this state; and

(2) located in the county of the residence of the owner or the county in which the real property is located.

(b) If there is not a bank that satisfies the requirements of Subsection (a)(2), the consideration shall be placed in a national or state bank authorized to do business in this state in an adjoining county or the nearest available banking facility.

(c) Consideration placed in escrow under this section shall be delivered to the owner on receipt of the properly executed deed.

(V.A.C.S. Art. 6674w-2 (part).)

Source Law

Art. 6674w-2
.
. . In the event any owner fails or refuses to execute or deliver an executed deed before payment of the consideration, the Comptroller of Public Accounts is hereby authorized to issue a State Warrant on the appropriate account in payment of such consideration, which consideration shall be placed in escrow with any National or State Bank, duly authorized to do business within the State of Texas, which is located in the county of the residence of the owner, the county wherein the land is situated, or in case no such banking facility is available, then in the adjoining county or the nearest available banking facility, to be delivered to the owner upon receipt of the duly and properly executed deed or deeds. . . .

Revisor's Note

(1) V.A.C.S. Article 6674w-2 refers to an owner who "fails or refuses" to execute or deliver a deed. The revised law omits the reference to "refuses" as redundant because an owner who refuses to execute or deliver a deed also fails to do so.

(2) V.A.C.S. Article 6674w-2 refers to an owner who fails "to execute or deliver an executed deed." The revised law omits the reference to "execute" as
redundant because an owner who fails to execute a deed also fails to deliver an executed deed.

(3) V.A.C.S. Article 6674w-2 refers to the "Comptroller of Public Accounts." The revised law substitutes "comptroller" for the reason stated in Revisor's Note (5) to Section 203.059.

Revised Law

Sec. 203.063. PAYMENT FOR REAL PROPERTY ACQUIRED BY EMINENT DOMAIN. (a) If the department acquires real property through the exercise of the power of eminent domain, the comptroller may issue a warrant as required by the judgment of the court.

(b) The comptroller may also issue a warrant to be deposited into the court as required by law to entitle the department to take possession of the property. (V.A.C.S. Art. 6674w-2 (part).)

Source Law

Art. 6674w-2

... In the event the State Highway Department acquires any property through the exercise of the power of Eminent Domain, the Comptroller of Public Accounts is hereby authorized to issue such warrants as the judgment of the Court may decree, as well as such warrants necessary to be deposited into the Court to entitle the State Highway Department, in the name of the State of Texas, to take possession of such property, as the law may provide.

Revisor's Note

(1) V.A.C.S. Article 6674w-2 refers to the "Comptroller of Public Accounts." The revised law substitutes "comptroller" for the reason stated in Revisor's Note (5) to Section 203.059.

(2) V.A.C.S. Article 6674w-2 refers to the department by eminent domain taking possession of property "in the name of the State." The quoted provision is omitted from the revised law because under V.A.C.S. Article 6674w-3(a)(2), revised in this chapter as Section 203.051, the acquisition of property under this chapter is "in the name of the state." It is not
necessary to restate that restriction in this section.

Revised Law
Sec. 203.064. PAYMENT PROCEDURES IN ADDITION TO OTHER PROCEDURES AUTHORIZED BY LAW. The payment procedures specified by Sections 203.061, 203.062, and 203.063 are in addition to any other procedure or method authorized for the issuance of a warrant by the comptroller on request of the department. (V.A.C.S. Art. 6674w-2 (part).)

Source Law
Art. 6674w-2. In addition to all existing procedures and methods authorized for the issuance of warrants by the Comptroller of Public Accounts upon the request of the State Highway Department, the following authority is hereby granted . . . .

Revisor's Note
The source law refers to the "Comptroller of Public Accounts." The revised law substitutes "comptroller" for the reason stated in Revisor's Note (5) to Section 203.059.

Revised Law
Sec. 203.065. ACQUISITION OF FREEWAY BY GIFT OR DEVISE.
(a) The commission may acquire by gift or devise a property necessary to locate, construct, maintain, or operate a section of a state highway as a freeway.

(b) In this section, "freeway" means a state highway for which the right of access to or from adjoining real property has been acquired in whole or in part from the owners of the adjoining property by the commission. (V.A.C.S. Art. 1085a, Secs. 2 (part), 3 (part).)

Source Law
Art. 1085a
[Section 1. The State Highway Commission . . . within their respective jurisdictions may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway . . . as a freeway] . . . .
[Sec. 2. For the purposes of this Act, the State
Highway Commission . . . may acquire the necessary property and property rights by] gift, devise, . . . [in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways] . . . .

Sec. 3. "Freeway" means a State highway . . . in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof by the State Highway Commission . . . as hereinabove provided.

Revisor's Note

(1) The revised law substitutes "locate" for "lay out" in Section 1, V.A.C.S. Article 1085a, for the reason stated in Revisor's Note (1) to Section 203.003 of this code.

(2) Section 2, V.A.C.S. Article 1085a, states that the commission may acquire property "in the same manner as such governmental agency [is] now or hereafter may be authorized by law to acquire such property for State highways." The quoted provision is omitted from the revised law as unnecessary. The provisions of law that govern the manner of acquisition of property for highway purposes are revised as this subchapter.

(3) Section 3, V.A.C.S. Article 6674w-2, refers to a "right or easement of access." The reference to "easement" of access is omitted from the revised law because "easement" of access is included within the meaning of "right" of access.

Revised Law

Sec. 203.066. ACQUISITION OF FREEWAY BY COUNTY COMMISSIONERS COURT. (a) A county commissioners court may acquire by gift, devise, purchase, or condemnation a property necessary to locate, construct, maintain, or operate a section of a state highway as a freeway.

(b) In this section, "freeway" has the meaning assigned by Section 203.065(b). (V.A.C.S. Art. 1085a, Secs. 1 (part), 2
(part), 3 (part.)

Source Law

Art.1085a
Sec. 1. ... may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway ... as a freeway ...
Sec. 2. For the purposes of this Act, ... County Commissioners Courts ... may acquire the necessary property and property rights by gift, devise, purchase, or condemnation, in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways ... .
Sec. 3. "Freeway" means a State highway ... in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof ....

Revisor's Note
(1) The revised law substitutes "locate" for "lay out" in Section 1, V.A.C.S. Article 1085a, for the reason stated in Revisor's Note (2) to Section 203.002 of this code.
(2) The definition of "freeway" in Section 3, V.A.C.S. Article 1085a, is applicable to this section and to Section 203.065 of this chapter. The definition is revised in Section 203.065; this section contains a cross-reference to the definition appearing in that section.
(3) Section 2, V.A.C.S. Article 1085a, states that county commissioners courts may acquire property "in the same manner as such governmental agenc[y] [is] now or hereafter may be authorized by law to acquire such property for State highways." The quoted provision is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 203.065 of this code.
Section 1, V.A.C.S. Article 1085a, states:

[N]o existing State highway . . . shall be converted into a freeway except with the consent of the owners of abutting lands, or by the purchase or condemnation of their right of access thereto . . . .

"Freeway" is defined by Section 3 of the article to mean:

a State highway . . . in respect to which the right or easement of access . . . has been acquired . . . from the owners thereof by the State Highway Commission . . . as hereinabove provided.

Section 2 of the article allows acquisition of property by purchase or condemnation. Because "freeway" is defined by the manner in which the right of access is acquired, stating that a highway may be converted into a freeway only in that manner is redundant and omitted from the revised law.

The further statement in Section 1 that consent is not required where a new highway is constructed is also omitted from the revised law as unnecessary because the revised law provides for the acquisition of abutting lands in that circumstance by purchase or condemnation. See Section 203.051 of this chapter.

The omitted law reads:

Art. 1085a
Sec. 1. . . . except that no existing State highway . . . shall be converted into a freeway except with the consent of the owners of abutting lands, or by the purchase or condemnation of their right of access thereto, providing, however, nothing herein shall be construed as requiring the consent of the owners of abutting lands where a State highway . . . is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

[Sections 203.067-203.090 reserved for expansion]
Revised Law

Sec. 203.091. DEFINITION. In this subchapter, "utility" includes a publicly, privately, or cooperatively owned utility that provides telephone, telegraph, communications, electric, gas, heating, water, railroad, storm sewer, sanitary sewer, or pipeline service. (V.A.C.S. Art. 6674w-4(a) (part).)

Source Law

Art. 6674w-4. (a) ... The term "utility" includes publicly, privately, and cooperatively owned utilities engaged in furnishing telephone, telegraph, communications, electric, gas, heating, water, railroad, storm sewer, sanitary sewer or pipeline service. ...

Revised Law

Sec. 203.092. REIMBURSEMENT FOR RELOCATION OF UTILITY FACILITIES. (a) A utility shall make a relocation of a utility facility at the expense of this state if:

(1) relocation of the utility facility is required by improvement of a highway in this state established by appropriate authority as part of the National System of Interstate and Defense Highways; and

(2) the relocation is eligible for federal participation.

(b) By agreement with the utility the department may relocate the utility facility in accordance with this subchapter.

(c) Subsection (a) includes a relocation for an extension of a highway in an urban area.

(d) The cost of relocation includes the entire amount paid by the utility properly attributable to the relocation less:

(1) any increase in the value of the new facility;

(2) the salvage value derived from the old facility; and

(3) any other deduction established by regulations for federal cost participation. (V.A.C.S. Art. 6674w-4(a) (part).)
Art. 6674w-4. (a) Whenever the relocation of any utility facilities is necessitated by the improvement of any highway in this State which has been or may hereafter be established by appropriate authority according to law as a part of the National System of Interstate and Defense Highways, including extensions thereof within urban areas, such relocation shall be made by the utility at the cost and expense of the State of Texas provided that such relocation is eligible for Federal participation. • • • The term "cost of relocation" includes the entire amount paid by such utility properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility, and otherwise as may be fixed by regulations for Federal cost participation. It is further provided that by agreement with the affected utility the State Highway Department may relocate such utility facility in accordance with the provisions hereof.

Sec. 203.093. REIMBURSEMENT FROM STATE HIGHWAY FUND.

(a) Reimbursement of the cost of relocation of the utility facility shall be made from the state highway fund to the utility owning the facility.

(b) This section applies notwithstanding anything to the contrary contained in another law or in a permit, agreement, or franchise issued or entered into by a department, commission, or political subdivision of this state. (V.A.C.S. Art. 6674w-4(a) (part).)

Art. 6674w-4. (a) • • • Reimbursement of the cost of relocation of such facilities shall be made from the State Highway Fund to the utility owning such facilities, anything contained in any other provision of law or in any permit, or agreement or franchise issued or entered into by any department, commission or political subdivision of this State to the contrary notwithstanding. • • •

Sec. 203.094. TIMELY RELOCATION. (a) A utility that is eligible for reimbursement under Section 203.092 or that is eligible for reimbursement under applicable law and the policies of the department for the cost of relocating facilities required by improvement of a segment of the state highway system not subject to
Section 203.092 shall accomplish the relocation of the facility in a timely manner as specified in its relocation agreement with the department.

(b) The department may reduce the reimbursement to the utility by 10 percent for each 30-day period or portion of a 30-day period by which the relocation exceeds the limit specified in the relocation agreement. If the department determines that a delay in relocation is the result of circumstances beyond the control of the utility, full reimbursement shall be paid.

(c) The time limit specified in the relocation agreement may not be less than 90 days. (V.A.C.S. Art. 6674w-4(b).)

Source Law

(b) A utility eligible for reimbursement for the cost of relocating its facilities necessitated by the improvement of the National System of Interstate and Defense Highways pursuant to Subsection (a) of this section or which is otherwise eligible for reimbursement for the cost of relocating facilities necessitated by the improvement of any other segment of the state highway system pursuant to applicable law and the policies of the department shall accomplish the relocation of its facilities in a timely fashion as specified in its relocation agreement with the department. For each 30-day period or portion thereof by which the relocation exceeds the specified limit, the department may reduce the reimbursement to the utility by 10 percent; provided, however, that in no case shall the specified time limit stated in the relocation agreement be less than 90 days; and that if the delay in relocation is determined by the department to be the result of circumstances beyond the control of the utility full reimbursement shall be paid.

Revisor's Note

(1) V.A.C.S. Article 6674w-4(b) refers to a utility eligible for reimbursement "for the cost of relocating its facilities necessitated by the improvement of the National System of Interstate and Defense Highways pursuant to [the portion of the source law revised in this subchapter as Section 203.092]."

This portion of that statute duplicates Section 203.092 of this code, and the revised law substitutes a cross-reference for conciseness.
(2) V.A.C.S. Article 6674w-4(b) refers to "the specified limit," meaning the limit specified in the relocation agreement with the department. The revised law makes this clear.

Revised Law

Sec. 203.095. RULES. The department shall adopt rules to implement this subchapter. (V.A.C.S. Art. 6674w-4(c).)

Source Law

(c) The department shall promulgate reasonable rules for the orderly implementation of this section.

[Sections 203.096-203.110 reserved for expansion]

SUBCHAPTER F. LEASE OF CERTAIN PROPERTY

Revised Law

Sec. 203.111. LEASE FOR PARKING PURPOSES. (a) The commission may lease for parking purposes real property beneath an elevated section of a freeway located on real property for which the commission holds the title and property rights.

(b) Revenue from a lease under this section shall be used for general governmental purposes.

(c) In this section, "freeway" has the meaning assigned by Section 203.065. (V.A.C.S. Art. 1085a, Secs. 2a, 3 (part).)

Source Law

Sec. 2a. The governmental agency which holds the title and property rights to land on which a freeway is located may lease for parking purposes the portions of land situated beneath the elevated sections of the freeway. Revenue from a parking lease authorized by this section shall be used for general governmental purposes.

Sec. 3. "Freeway" means a State highway . . . in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof by the State Highway Commission . . . as hereinabove provided.

Reviser's Note

(1) Section 2a, V.A.C.S. Article 1085a, refers to the "governmental agency which holds the
The revised law substitutes "commission" for governmental agency. V.A.C.S. Article 1085a applied both to the State Highway Commission (see Revisor's Note (2) of the end-of-chapter note) and certain other governmental agencies. This portion of the revised law applies only to the commission. The provisions of V.A.C.S. Article 1085a governing other governmental agencies are revised in this code as Section 311.034.

(2) The definition of "freeway" in Section 3, V.A.C.S. Article 1085a, is applicable to this section and to Section 203.065 of this chapter. The definition is revised in Section 203.065; this section contains a cross-reference to the definition appearing in that section.

Revisor's Note
(End of Chapter)

(1) The revised law omits the statement of purpose contained in V.A.C.S. Article 6674w because it is nonsubstantive and unnecessary. The omitted law reads:

Art. 6674w. PURPOSES. The Legislature finds, determines and declares that the purpose of this Act is to delegate certain additional authority to the State Highway Commission to promote the Public Safety, to facilitate the movement of traffic, to preserve the financial investment of the public in its highways and to promote the National Defense.

(2) The revision omits Section 5, V.A.C.S. Article 1085a, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. These provisions state that a provision of a statute is severable from each other provision of the statute that
can be given effect. As omitted, Section 5 reads:

Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

(3) The revised law omits as unnecessary a portion of V.A.C.S. Article 6674w-5 relating to the effect of that article on prior enacted law. An accepted general principle of statutory construction requires that a statute be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. Under another accepted general principle of statutory construction, prior enacted statutes that are in conflict are impliedly repealed by the later enacted statute. These general principles apply to the revision. The omitted portion of V.A.C.S. Article 6674w-5 reads:

Art. 6674w-5. The powers, authority, jurisdiction and procedures granted to the State Highway Department and State Highway Commission in the foregoing Sections of this Act shall be deemed to provide additional powers, authority, jurisdiction, and procedures to those now existing and conferred by the laws of the State of Texas upon the State Highway Department and State Highway Commission and shall not be regarded as in derogation of any powers, authority, jurisdiction, or procedures now existing under the laws of Texas, except that restrictions placed upon the powers, authority, jurisdiction or procedures of the State Highway Department and State Highway Commission by other laws, which are in derogation of, or inconsistent with the powers, authority, jurisdiction and procedures prescribed in the foregoing Sections of this Act or which would tend to hamper or limit the State Highway Department and State Highway Commission in the lawful execution of the powers and authority granted by this Act for the proper accomplishment of its purposes,
shall be deemed to have been superseded by
the provisions hereof, and, to the extent
that any other law is in conflict with or
inconsistent with the provisions hereof,
the provisions of this Act shall take
precedence and be effective.

[Chapters 204-220 reserved for expansion]

**SUBTITLE B. STATE HIGHWAY SYSTEM**

**CHAPTER 221. GENERAL PROVISIONS**

Sec. 221.001. DEFINITIONS

Sec. 221.002. AGREEMENTS WITH MUNICIPALITIES

Sec. 221.003. IMPROVEMENT OF STATE HIGHWAY SYSTEM

**SUBTITLE B. STATE HIGHWAY SYSTEM**

**CHAPTER 221. GENERAL PROVISIONS**

Revised Law

Sec. 221.001. DEFINITIONS. In this subtitle:

(1) "Highway" includes a public road or part of a
government road and a bridge, culvert, or other necessary structure
related to a public road.

(2) "Improvement" includes construction,
reconstruction, maintenance, and the making of a necessary plan or
survey before beginning construction, reconstruction, or
maintenance.

(3) "State highway system" means the highways in this
state included in the plan providing for a system of state highways
prepared by the director under Section 201.103. (V.A.C.S. Arts.
6674a; 6674b.)

Source Law

Art. 6674a. The term "highway" as used in this
 Act shall include any public road or thoroughfare or
section thereof and any bridge, culvert or other
necessary structure appertaining thereto. The term
"improvement" shall include construction,
reconstruction or maintenance, or partial construction,
reconstruction or maintenance and the making of all
necessary plans and surveys preliminary thereto. The
term "Commission" refers to the State Highway
Commission and the term "Department" refers to the
State Highway Department.

Art. 6674b. All highways in this State included
in the plan providing a system of State Highways as
prepared by the State Highway Engineer in accordance
with Section 11 of Chapter 190 of the General Laws of the Regular Session of the Thirty-fifth Legislature are hereby designated as the "State Highway System."

Revisor's Note

(1) V.A.C.S. Article 6674a provides definitions for the terms "commission" and "department." The revised law omits those definitions because "commission" and "department" are both defined in Section 201.001 of this code, a general definitions section that applies to this chapter.

(2) V.A.C.S. Article 6674a refers to a "road or thoroughfare." The reference to "thoroughfare" is omitted from the revised law because "thoroughfare" is included within the meaning of "road."

(3) V.A.C.S. Article 6674a refers to a public road and a bridge, culvert, or other necessary structure "appertaining thereto." The revised law substitutes "related" for "appertaining thereto" because, in the context of this section, "related to" and "appertaining thereto" are synonymous and "related" is more commonly used.

(4) V.A.C.S. Article 6674a refers to "construction, reconstruction or maintenance, or partial construction, reconstruction or maintenance." The reference to "partial construction, reconstruction or maintenance" is omitted from the revised law because "partial construction, reconstruction or maintenance" is included within the meaning of "construction, reconstruction or maintenance."

(5) V.A.C.S. Article 6674b refers to the "State Highway Engineer." The revised law substitutes "director" for "State Highway Engineer" for the reason stated in the reviser's note to Section 201.003 of this code (explaining the change in the name of this
official to "director of the Texas Department of Transportation") and because Section 201.001 of this code, a general definitions section that applies to this chapter, defines "director" as meaning the executive director of the Texas Department of Transportation.

(6) V.A.C.S. Article 6674b refers to Section 11, Chapter 190, Acts of the 35th Legislature, Regular Session, 1917 (V.A.C.S. Article 6670). The relevant part of that statute is codified in this code in Section 201.103, and the revised law is drafted accordingly.

Revised Law

Sec. 221.002. AGREEMENTS WITH MUNICIPALITIES. The commission and the governing body of a municipality may agree to:

(1) provide for the location, relocation, improvement, control, supervision, and regulation of a designated state highway in the municipality; and

(2) establish the respective liabilities and responsibilities of the commission and the municipality under the agreement. (V.A.C.S. Art. 6673b.)

Source Law

Art. 6673b. The State Highway Commission is hereby authorized and empowered, in its discretion, to enter into contracts or agreements with the governing bodies of incorporated cities, towns, and villages, whether incorporated under the home rule provisions of the Constitution, Special Charter, or under the General Laws, providing for the location, relocation, construction, reconstruction, maintenance, control, supervision, and regulation of designated State highways within or through the corporate limits of such incorporated cities, towns, and villages, and determining and fixing the respective liabilities or responsibilities of the parties resulting therefrom; and such incorporated cities, towns, and villages are hereby authorized and empowered, through the governing bodies of such cities, towns, and villages to enter into such contracts or agreements with the State Highway Commission.
Revisor's Note

(1) V.A.C.S. Article 6673b refers to the "State Highway Commission." The revised law substitutes "commission" for "State Highway Commission" for the reason stated in the revisor's note to Section 201.003 of this code (explaining the change in the name of this agency to "Texas Transportation Commission") and because Section 201.001 of this code, a general definitions section that applies to this chapter, defines "commission" as meaning the Texas Transportation Commission.

(2) V.A.C.S. Article 6673b refers to "enter into contracts or agreements." The reference to "contract" is omitted from the revised law because, in the context of this section, "entering into a contract" is included within the meaning of "agreeing to."

(3) V.A.C.S. Article 6673b refers to "incorporated cities, towns, and villages, whether incorporated under the home rule provisions of the Constitution, Special Charter, or under the General Laws." The revised law substitutes the term "municipality" for "cities, towns, and villages" because that is the term used in the Local Government Code. The revised law omits the reference to the incorporation of a municipality under the home-rule provisions of the constitution, a special charter, or under general law because Section 1.005, Local Government Code, defines a municipality as meaning a "general-law municipality, home-rule municipality, or special-law municipality."

(4) V.A.C.S. Article 6673b refers to the "construction," "reconstruction," and "maintenance" of a designated state highway. The revised law substitutes "improvement" because Section 221.001 of
the revised law defines "improvement" as including "construction, reconstruction, and maintenance."

Revised Law

Sec. 221.003. IMPROVEMENT OF STATE HIGHWAY SYSTEM. (a) Improvement of the state highway system with federal aid shall be made under the exclusive and direct control of the department and with appropriations made by the legislature out of the state highway fund.

(b) The department may improve the state highway system without federal aid either with or without county aid. Improvements made without federal aid must comply with Section 223.045.

(c) The department shall make or prepare any survey, plan, specifications, or estimate for an improvement of the state highway system if any part of the improvement will be made with federal aid.

(d) The commissioners court of a county may not directly control the making of an improvement of the state highway system unless the plan and specifications for the improvement have been approved by the director. (V.A.C.S. Art. 6674d (part).)

Source Law

Art. 6674d. All further improvement of said State Highway System with Federal aid shall be made under the exclusive and direct control of the State Department of Highways and Public Transportation and with appropriations made by the Legislature out of the State Highway Fund. The further improvement of said system without Federal aid may be made by the State Department of Highways and Public Transportation either with or without county aid. Improvements made without Federal aid must comply with Section 8A of this Act. Surveys, plans, specifications and estimates for all further improvement of said system with Federal aid or with Federal and State aid shall be made and prepared by the State Department of Highways and Public Transportation. No further improvement of said system shall be made under the direct control of the commissioners' court of any county unless and until the plans and specifications for said improvement have been approved by the State Engineer-Director for Highways and Public Transportation. . . .
Revisor's Note

(1) V.A.C.S. Article 6674d refers to the "State Department of Highways and Public Transportation." The revised law substitutes "department" for "State Department of Highways and Public Transportation" for the reason stated in the reviser's note to Section 201.003 of this code (explaining the change in the name of this agency to "Texas Department of Transportation") and because Section 201.001 of this code, a general definitions section that applies to this chapter, defines "department" as meaning the Texas Department of Transportation.

(2) V.A.C.S. Article 6674d refers to Section 8A of "this Act." The act referred to is Chapter 186, General Laws, Acts of the 39th Legislature, Regular Session, 1925 (V.A.C.S. Article 6674h-1). That section has been revised in this code as Section 223.045, and the revised law is drafted accordingly.

(3) V.A.C.S. Article 6674d refers to the "State Engineer-Director for Highways and Public Transportation." The revised law substitutes "director" for "State Engineer-Director for Highways and Public Transportation" for the reason stated in the reviser's note to Section 201.003 of this code (explaining the change in the name of this official to "director of the Texas Department of Transportation") and because Section 201.001 of this code, a general definitions section that applies to this chapter, defines "director" as meaning the executive director of the Texas Department of Transportation.

(4) The revised law omits a portion of the second paragraph of V.A.C.S. Article 6674d as expired and unnecessary. The omitted provision states that the act and the section may not be construed as prohibiting
the granting of state aid under the provisions of
Chapter 190, Acts of the 35th Legislature, Regular
Session, 1917. Section 23 of that act (see V.A.C.S.
Article 6694, revised in this code in Section 502.051)
governed the expenditure of funds in the state highway
fund. The granting of state aid is now governed by
various other statutes (see, for example, V.A.C.S.
Article 6674e, revised in this code as Sections 222.001
and 222.002). Further, the provision is unnecessary
because V.A.C.S. Article 6674d does not prohibit the
granting of state aid. The omitted provision reads:

Nothing in this section or this Act
shall be construed as prohibiting the
granting of State aid under the provisions
of Chapter 190, General Laws of the Regular
Session of the Thirty-fifth Legislature and
subsequent amendments thereto, . . .

(5) The revised law omits a portion of V.A.C.S.
Article 6674d as executed. The omitted provision
states that the law does not prevent the completion of
a highway improvement project "already begun" or the
carrying out of a contract for a highway improvement
project "already begun." This refers to a project
already begun on the effective date of the section,
which was enacted in 1925. It appears certain that any
project begun in 1925 would have been completed well
before the effective date of this code. The omitted
provision reads:

... nor shall anything in this Act
prevent the completion of any highway
improvement project already begun or the
carrying out of any contract for such
improvement.

CHAPTER 222. FUNDING AND FEDERAL AID
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CHAPTER 222. FUNDING AND FEDERAL AID

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 222.001. USE OF STATE HIGHWAY FUND. Money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the state highway fund, including money deposited to the credit of the state highway fund under Title 23, United States Code, may be used only:

(1) to improve the state highway system;

(2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department; or

(3) by the Department of Public Safety to police the state highway system and to administer state laws relating to traffic and safety on public roads. (V.A.C.S. Art. 6674e(a) (part).)

Source Law

Art. 6674e. (a) All revenues that are required by the Texas Constitution or Federal law to be used for public roadways and that are deposited in the State Treasury to the credit of the "State Highway Fund", including all Federal aid moneys deposited to the credit of said fund under the terms of the Federal Highway Act . . . shall be subject to appropriation for the specific purposes of the improvement of the State Highway System and the mitigation of adverse
environmental impacts directly resulting from
construction or maintenance of State Highways by the
Texas Department of Transportation. However, direct
appropriations may be made from the State Highway Fund
to the Department of Public Safety for policing the
State Highway System and for the administration of laws
prescribed by the Legislature pertaining to the
supervision of traffic and safety on public roads.

Revisor's Note

(1) V.A.C.S. Article 6674e(a) refers to the
"Texas Department of Transportation." Under Section
201.001(2) of this code, the term "department" in this
title refers to that agency. The revised law uses the
defined term.

(2) V.A.C.S. Article 6674e(a), which was enacted
in 1925, refers to the "Federal Highway Act." Federal
law relating to highways and federal funding for state
highways has been codified and revised many times since
1925; this law is now contained in Title 23 of the
United States Code. The revised law is drafted
accordingly.

(3) The revised law omits the portion of
V.A.C.S. Article 6674e(a) that refers to county aid
money deposited to the credit of the state highway fund
under "this Act," meaning Chapter 186, General Laws,
Acts of the 39th Legislature, Regular Session, 1925.
Section 3 of that act (former V.A.C.S. Article 6674c)
authorized the use of county aid. Section 3 was
repealed by Chapter 13, Acts of the 42nd Legislature,
3rd Called Session, 1932, and was not, at that time,
replaced by other law authorizing county aid. A later
enacted provision does authorize county contributions
for the development and construction of public roads
(V.A.C.S. Article 6674c-1, revised in this chapter as
Section 222.052); however, that article governs the use
of money contributed by a county under that article.
The omitted provision reads:
(4) V.A.C.S. Article 6674e(a) states that "direct appropriations may be made." The revised law omits this reference because the money cannot be used unless it is appropriated.

Revised Law

Sec. 222.002. USE OF STATE HIGHWAY FUND FOR DEPARTMENT FUNCTIONS. Money in the state highway fund that is not required to be spent for public roadways by the Texas Constitution or federal law may be used for any function performed by the department. (V.A.C.S. Art. 6674e(b).)

Source Law

(b) Revenues that are not required by the Texas Constitution or Federal law to be spent for public roadways and that are deposited in the State Highway Fund may be appropriated for any function performed by the Texas Department of Transportation.

Revisor's Note

V.A.C.S. Article 6674e(b) states that "the State Highway Fund may be appropriated." The revised law omits this reference for the reason stated in Revisor's Note (4) under Section 222.001 of this code.

[Sections 222.003-222.030 reserved for expansion]

SUBCHAPTER B. FEDERAL AID

Revised Law

Sec. 222.031. USE OF FEDERAL AID FOR ROAD CONSTRUCTION. Money appropriated by the federal government for public road construction in this state may be spent only:

(1) by and under the supervision of the department;

and

(2) on the state highway system. (V.A.C.S. Art. 6672.)
Art. 6672. Any funds for public road construction in this State appropriated by the Federal Government shall be expended by and under the supervision of the Department only upon a part of the system of State Highways.

Sec. 222.032. USE OF FEDERAL AID FOR TOLL BRIDGE CONSTRUCTION. (a) The department may:

(1) cooperate with the United States Secretary of Transportation in the construction of a toll bridge under 23 U.S.C. Section 129;

(2) spend state highway funds for the purpose described in Subdivision (1);

(3) impose tolls in accordance with 23 U.S.C. Section 129; and

(4) take other necessary or proper action to give effect to the purpose and intent of this section.

(b) The department shall impose tolls in accordance with this section with the goal that the tolls be eliminated, as contemplated or required by 23 U.S.C. Section 129. (V.A.C.S. Art. 6797b, Sec. 1 (part).)

Art. 6797b

Sec. 1. ... and the State Highway Department of this State is authorized and empowered to cooperate with the Federal Bureau of Roads in the construction of such toll bridges under the provisions of said Act of Congress ... ; to appropriate and use State Highway Funds for such purpose; to fix, levy and collect such tolls as provided by the said Act of Congress, to the end that such bridges may become free, as contemplated or provided by the said Act of Congress; and to do all such acts and things as may be necessary or proper to give effect to the intent and purpose of this Act.

Revisor's Note

(1) Section 1, V.A.C.S. Article 6797b, refers to the "State Highway Department of this State." The revised law uses the term "department" for the reason stated in Revisor's Note (1) under Section 222.001.
(2) Section 1, V.A.C.S. Article 6797b, refers to the "Federal Bureau of Roads." Under 23 U.S.C. Section 129, the United States Secretary of Transportation is now responsible for federal aid for toll bridges. The revised law is drafted accordingly.

(3) Section 1, V.A.C.S. Article 6797b, refers to 44 Stat. 1398, which authorized the extension of federal aid for the construction of toll bridges. The revised law substitutes a reference to 23 U.S.C. Section 129, which currently governs federal aid for the construction of toll bridges. Former 44 Stat. 1398 was repealed in 1958 by 72 Stat. 885, enacting Title 23, United States Code.

(4) Section 1, V.A.C.S. Article 6797b, authorizes the department to "appropriate and use" state highway funds. The revised law substitutes "spend" for "appropriate and use." Under Section 6, Article VIII, Texas Constitution, only the legislature may make an appropriation. The revised law makes clear that the source law authorizes only the expenditure of appropriated funds.

(5) Section 1, V.A.C.S. Article 6797b, authorizes the department to "fix, levy and collect" tolls. The revised law substitutes "impose" for "fix, levy and collect" because, as used in the source law, the terms are synonymous and the former is more commonly used.

(6) Section 1, V.A.C.S. Article 6797b, requires the department to fix, levy, and collect tolls "to the end that such bridges may become free," meaning that tolls on the bridges would be eliminated in the future. The revised law clarifies this meaning.

(7) Section 1, V.A.C.S. Article 6797b, refers to "this Act," meaning Chapter 173, Acts of the 41st
Legislature, Regular Session, 1929 (V.A.C.S. Article 6797b), the relevant portion of which is revised as this section. The source law is drafted accordingly.

(8) The revised law omits as expired and unnecessary the portion of Section 1, V.A.C.S. Article 6797b, accepting the provisions and benefits of 44 Stat. 1398, which authorized the extension of federal aid for the construction of toll bridges. The federal statute has been repealed and superseded by 29 U.S.C. Section 129 (see Revisor's Note (3), above), and other portions of Article 6797b make clear that the use of the federal funds is conditioned by the provisions of the federal law under which they are granted. The omitted provision reads:

The provisions and benefits of the Act of Congress authorizing the extension of Federal Aid for construction of toll bridges on highways forming a part of the Federal system, under certain conditions and limitations, 44 United States Statutes 1398, approved March 3, 1927, be and the same is hereby accepted . . . .

Revised Law

Sec. 222.033. INTERSTATE TOLL BRIDGES. (a) Section 222.032 applies to a bridge over a stream forming the boundary of this state and an adjoining state.

(b) If the bridge is constructed jointly by this state and the adjoining state, the commission may cooperate with the appropriate authorities of the adjoining state in imposing tolls in accordance with this section. (V.A.C.S. Art. 6797b, Secs. 1 (part), 2.)

Source Law

Sec. 1. . . . [The State Highway Department of this State is authorized and empowered to cooperate with the Federal Bureau of Roads in the construction of such toll bridges under the provisions of said Act of Congress,] including inter-state bridges over streams constituting the boundary line between the State of Texas and an adjoining State . . . .

Sec. 2. This Act shall include inter-state bridges over streams forming the boundary line of the
State of Texas and another state and when such bridge
or bridges are constructed jointly by the State of
Texas and an adjoining State the Highway Commission
shall have authority to cooperate and join with the
appropriate authorities of such adjoining state in
fixing, levying and collecting such tolls to carry out
the provisions of this Act and the Act of Congress.

Revisor's Note

(1) Section 2, V.A.C.S. Article 6797b, refers to
the "Highway Commission." In 1991, the name of the
State Highway Commission was changed to the Texas
Transportation Commission. See the revisor's note
under Section 201.003 of this code. Under Section
201.001 of the revised law, the term "commission" in
this title refers to that agency. The revised law uses
the defined term.

(2) Section 2, V.A.C.S. Article 6797b,
authorizes the commission to "cooperate and join with
the appropriate authorities." The revised law omits
"join" because the meaning of "join" is contained
within the meaning of "cooperate."

(3) Section 2, V.A.C.S. Article 6797b,
authorizes the commission to cooperate in "fixing,
levying and collecting" tolls. The revised law
substitutes "imposing" for the reason stated in
Revisor's Note (5) under Section 222.032.

[Sections 222.034-222.050 reserved for expansion]

SUBCHAPTER C. FUNDING FROM OTHER POLITICAL SUBDIVISIONS

Revised Law

Sec. 222.051. LOCAL FINANCING AND REIMBURSEMENT. (a) A
governmental unit that has the authority to build roads may finance
the construction of an approved project for the state highway
system.

(b) If funds become available, the department may contract
to reimburse the governmental unit that provided financing for the
Art. 6673m. A unit of government that has the authority to build roads may finance the construction of an approved project for the state highway system. If funds become available, the department may make contracts to reimburse the governmental unit that provided the financing for the road project.

Sec. 222.052. LOCAL CONTRIBUTIONS. (a) The governing body of a political subdivision of this state may contribute funds to be spent by the commission in the development and construction of the public roads and state highway system within the political subdivision.

(b) The commission may accept a contribution made under Subsection (a).

(c) In this section, "political subdivision" includes a county or a political subdivision of a county. (V.A.C.S. Art. 6674c-1.)

Art. 6674c-1. Any county, or any other political subdivision of this State, or political subdivision of any county, acting through its governing agency, may make, and the State Highway Commission, in its discretion, may accept, voluntary contributions of available funds from such county, or any other political subdivision of this State, or political subdivision of any county for expenditure by the State Highway Commission in the proper development and construction of the public roads and State Highway System within such county, or any other political subdivision of this State, or political subdivision of any county.

(1) V.A.C.S. Article 6674c-1 refers to the "State Highway Commission." The revised law uses the term "commission" for the reason stated in Revisor's Note (1) under Section 222.033.

(2) The revised law adds a definition of "political subdivision" for the convenience of the
reader and to avoid frequent, unnecessary repetition of the substance of the definition.

Revisor's Note
(End of Chapter)

V.A.C.S. Article 6673e-2, enacted as Section 3, Chapter 301, Acts of the 55th Legislature, Regular Session, 1957, dedicates certain additional funds to the acquisition of rights-of-way. These additional funds were provided for by Section 2 of that act and remitted to the then Highway Department under Section 10, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (V.A.C.S. Article 6675a-10, codified in this code in Chapter 502). Section 2 of the 1957 act amended several provisions of law, increasing specified registration fees. V.A.C.S. Article 6673e-2 is omitted from the revised law because any additional funds attributable to these increases have been spent in the four intervening decades.

Also note that, since 1957, vehicle registration fees have been increased several times. In many cases the basis on which the fees are collected has changed. For example, in 1957, vehicle registration fees were based on vehicle weight. Currently, many of these fees are based on the vehicle's model year. It would be impossible to determine what portion of a vehicle registration fee collected now is attributable to the fee increase authorized in 1957.

The omitted law reads:

Art. 6673e-2. From and after the effective date of this Act, the Texas Highway Department shall expend the additional funds provided for by Section 2 of this Act, which is derived from Section 10 of Chapter 88, Acts of the Forty-first Legislature, Second Called Session, 1929, as amended, for the acquisition of rights of way.
CHAPTER 223. BIDS AND CONTRACTS FOR HIGHWAY PROJECTS

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CHAPTER 223. BIDS AND CONTRACTS FOR HIGHWAY PROJECTS

SUBCHAPTER A. COMPETITIVE BIDS

Revised Law

Sec. 223.001. CONTRACT REQUIRING COMPETITIVE BIDS. The department shall submit for competitive bids each contract for:
(1) the improvement of a highway that is part of the state highway system; or
(2) materials to be used in the construction or maintenance of that highway. (V.A.C.S. Art. 6674h (part).)

Source Law

Art. 6674h. All contracts proposed to be made by the State Department of Highways and Public Transportation for the improvement of any highway constituting a part of the State Highway System or for materials to be used in the construction or maintenance thereof shall be submitted to competitive bids.

Revisor's Note

V.A.C.S. Article 6674h refers to the "State Department of Highways and Public Transportation." In 1991, the name of the agency was changed by amendment to Article 6663, Revised Statutes (Section 1.01, Chapter 7, Acts of the 72nd Legislature, 1st Called Session, 1991), to the Texas Department of Transportation. The revised law refers to "department" because that term is defined for purposes of this title as the "Texas Department of Transportation" by Section 201.001.

Revised Law

Sec. 223.002. NOTICE BY PUBLICATION. (a) The department shall publish notice of the time and place at which bids on a contract will be opened and the contract awarded.
(b) The notice must be published in a newspaper published in the county in which the improvement is to be made once a week for at least two weeks before the time set for awarding the contract.
and in two other newspapers that the department may designate.

(c) Instead of the notice required by Subsection (b), if the contract involves an amount less than $100,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.

(d) If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper in the county:

(1) nearest the county seat of the county in which the improvement is to be made; and

(2) in which a newspaper is published. (V.A.C.S. Art. 6674h (part).)

Source Law

. . . Notice of the time when and place where such contracts will be let and bids opened shall be published in some newspaper published in the county where the improvement is to be done once a week for at least two weeks prior to the time set for the letting said contract and in two other newspapers that the department may designate. Provided, however, that on contracts involving less than One Hundred Thousand ($100,000.00) Dollars such advertising may be limited to two successive issues of any newspaper published in the county in which the work is to be done, and if there is no newspaper in the county in which the work is to be done then said advertising shall be for publication in some newspaper in some county nearest the county seat of the county in which the work is to be done. . . .

Revised Law

Sec. 223.003. NOTICE BY MAIL. (a) A person may apply to have the name of the person placed on a mailing list to receive notice of any proposed contracts.

(b) The commission shall mail the notice to each person on that mailing list.

(c) The commission may require each applicant to deposit with the commission not more than $25 a year to cover costs of mailing notices. (V.A.C.S. Art. 6674h (part).)

Source Law

. . . Provided further, that any person, firm or corporation may make application to have the name of
said applicant placed upon a mailing list to receive
notices of lettings of any contracts provided for
herein; and notices of said lettings shall be mailed by
the State Highway and Public Transportation Commission
to all persons, firms or corporations on said mailing
list. The Commission shall have the right to require
all applicants to deposit with the commission a sum of
not exceeding Twenty-five ($25.00) Dollars per year to
cover costs of mailing notices.

Revisor's Note
V.A.C.S. Article 6674h refers to the "State
Highway and Public Transportation Commission." In
1991, the name of the commission was changed by
amendment to Article 6663, Revised Statutes (Section
1.01, Chapter 7, Acts of the 72nd Legislature, 1st
Called Session, 1991), to the Texas Transportation
Commission. The revised law refers to "commission"
because that term is defined for purposes of this title
as the "Texas Transportation Commission" by Section
201.001.

Revised Law
Sec. 223.004. FILING, OPENING, AND REJECTION OF BIDS. (a)
Except as provided by Section 223.005, a bid submitted under this
subchapter must be sealed and filed with the director in Austin and
shall be opened at a public hearing of the commission.
(b) All bidders may attend the opening and all bids shall be
opened in their presence.
(c) A copy of each bid shall be filed with the county in
which the improvement is to be made.
(d) The department may reject any or all bids. (V.A.C.S.
Art. 6674i (part).)

Source Law
Art. 6674i. The State Department of Highways and
Public Transportation shall have the right to reject
any and all such bids. All such bids shall be sealed,
and filed with the State Engineer-Director for Highways
and Public Transportation at Austin, Texas, and shall
be opened at a public hearing of the State Highway and
Public Transportation Commission. All bidders may
attend and all bids shall be opened in their presence.
Copies of all such bids shall be filed with the county
Revisor's Note

V.A.C.S. Article 6674i refers to the "State Engineer-Director for Highways and Public Transportation." In 1991, the name of the engineer-director was changed by amendment to Article 6663, Revised Statutes (Section 1.01, Chapter 7, Acts of the 72nd Legislature, 1st Called Session, 1991), to the executive director of the Texas Department of Transportation. The revised law refers to "director" because that term is defined for purposes of this title as the "executive director of the Texas Department of Transportation" by Section 201.001.

Revised Law

Sec. 223.005. BIDS ON CONTRACTS INVOLVING LESS THAN $100,000. (a) Bids on a contract involving an amount less than $100,000 may, in the commission's discretion, be received at a public hearing by the district engineer at the headquarters for the district in which the improvement is to be made.

(b) All bids received under this section shall be tabulated and forwarded to the commission and may be accepted or rejected by the commission.

(c) If the bids are accepted, the commission shall award the contract to the lowest bidder, subject to Section 223.045.

(d) The commission shall adopt rules governing bids received by a district engineer. Rules adopted by the commission for bids received in Austin by the commission do not apply to bidders submitting bids to district engineers. (V.A.C.S. Art. 6674i (part).)

Source Law

... Provided however, on contracts involving less than One Hundred Thousand ($100,000.00) Dollars bids may in the discretion of the Commission be received at a public hearing by the District Engineer at the District Headquarters. All bids so received by the
District Engineer shall be tabulated and forwarded to the Commission, and the Commission shall have the right to accept or reject same, and if accepted, award the contract to the lowest bidder, subject to the requirement of Section 8A of this Act. It shall be the duty of the Commission to prescribe rules and regulations on all bidders on bids received by District Engineers, but the rules and regulations required by the Commission for bids received at Austin by said Commission shall not apply to bidders submitting bids to District Engineers.

Revisor's Note

(1) V.A.C.S. Article 6674i refers to "Section 8A of this Act." That statute is codified in this code as Section 223.045, and the revised law is drafted accordingly.

(2) V.A.C.S. Article 6674i refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 223.006. CONTRACTOR'S BOND. A successful bidder under this subchapter shall post a bond in an amount provided by law conditioned on the faithful compliance with the bidder's bid and performance of the contract and made payable to the department for the use and benefit of the state highway fund. (V.A.C.S. Art. 6674j (part).)

Source Law

Art. 6674j. The successful bidder or bidders . . . shall give bond in such amounts as is now provided by law, conditioned for the faithful compliance with his bid and performance of the contract and payable to the State Highway Department for the use and benefit of the State Highway Fund.

Revised Law

Sec. 223.007. CONTRACTS. (a) The commission shall prescribe the form of the contract and may include any matter the
commission considers advantageous to the state.

(b) Contract forms shall be uniform as near as possible.

(c) A contract must be:

(1) made in the name of the state;
(2) signed by the director;
(3) approved by at least two members of the commission; and
(4) signed by the successful bidder. (V.A.C.S. Arts. 6674j (part), 6674k, 6674l (part).)

Source Law

Art. 6674j. The successful bidder or bidders shall enter into written contracts with said department . . . .

Art. 6674k. The State Highway Commission shall prescribe the form of such contracts and may include therein such matters as they may deem advantageous to the State. Such forms shall be uniform, as near as may be.

Art. 6674l. Every such contract for highway improvement under the provisions of this Act shall be made in the name of the State of Texas, signed by the State Highway Engineer, approved by at least two members of the State Highway Commission and signed by the contracting party . . . .

Revised Law

Sec. 223.008. NO LIABILITY IN EXCESS OF AVAILABLE FUNDS. A contract may not be made under this subchapter that will create a liability on the state in excess of funds available for that purpose under Subchapter A, Chapter 222. (V.A.C.S. Art. 6674l (part).)

Source Law

... and no such contract shall be entered into which will create a liability on the part of the State in excess of funds available for expenditure under the terms of this Act.

Revisor's Note

V.A.C.S. Article 6674l refers to funds available for expenditure under the terms of "this Act." The act referred to is Chapter 186, General Laws, Acts of the 39th Legislature, Regular Session, 1925. The
provisions of that act relating to funds available for expenditure are codified in this subchapter and Subchapter A, Chapter 222, of this code and the revised law is drafted accordingly.

Revised Law

Sec. 223.009. PARTIAL PAYMENT. A contract may provide for partial payments to the contractor. The aggregate amount of payments at any time may not exceed 95 percent of the value of the improvement made. (V.A.C.S. Art. 6674m (part).)

Source Law

Art. 6674m. Said contracts may provide for partial payments to an amount not exceeding ninety-five per cent (95%) of the value of the work done. . . .

Revised Law

Sec. 223.010. DEPOSIT AND INVESTMENT OF RETAINED AMOUNT.

(a) Five percent of the contract price shall be retained until the entire improvement has been completed and accepted.

(b) At the request of the contractor and with the approval of the department and the state treasurer, the amount retained may be deposited under a trust agreement with a state or national bank domiciled in this state and selected by the contractor.

(c) The department shall provide a trust agreement that protects the interests of the state.

(d) The bank, acting as escrow agent and by instructions from the contractor, may reinvest the retained amount in a certificate of deposit issued by a state or national bank domiciled in this state, bank time deposit, or other similar investment prescribed by the trust agreement.

(e) Interest earned under the trust agreement shall be paid to the contractor unless specified otherwise under the trust agreement.

(f) The escrow agent is responsible for all investments and amounts resulting from the deposits of the retained amount until
released from that responsibility under the trust agreement.

(g) The contractor shall pay all expenses incident to the
deposit and all charges made by the escrow agent for custody of the
securities and forwarding of interest on those securities. Those
expenses or charges may not apply to the contract or to the state.
(V.A.C.S. Art. 6674m (part).)

Source Law

... Five per cent (5%) of the contract price shall be
retained until the entire work has been completed and
accepted. Provided, that at the request of the
contractor and with the approval of the State Highway
Department and the State Treasurer the five per cent
(5%) retained amount may be deposited under the terms
of a trust agreement with a state or national bank
domiciled in Texas as selected by the contractor. Said
bank, acting as escrow agent and by instructions from
the contractor, may reinvest the retained amount in
certificates of deposit issued by state or national
banks domiciled in Texas, bank time deposits, or other
similar investments prescribed by the trust agreement.
Interest earned on said funds shall be paid to the
contractor unless otherwise specified under the terms
of said trust agreement. The escrow agent shall be
responsible for all investments and funds as a result
of the deposits of the retained amounts until released
from such responsibility as instructed by the
provisions of said trust agreement. The State Highway
Department shall provide a trust agreement that will
protect the interests of the State of Texas. All
expenses incident to the deposit and all charges made
by the escrow agent for custody of the securities and
forwarding of interest thereon shall be paid solely by
the contractor. No such expense or charge shall apply
to either the contract or the State of Texas.

[Sections 223.011-223.040 reserved for expansion]

SUBCHAPTER B. CONTRACT PROVISIONS

Revised Law

Sec. 223.041. ENGINEERING AND DESIGN CONTRACTS. (a) The
department's policy regarding the regular use of private sector
professional services for preliminary and construction engineering
and engineering design shall achieve a balance between the use of
department employees and the use of private contractors if the
costs are equivalent.

(b) The office of the state auditor shall determine relevant
costs to be considered under Subsection (a).
(c) The commission may provide for hearings at which private sector complaints relating to the selection process are heard.

(V.A.C.S. Art. 6674g-1.)

Source Law

Art. 6674g-1. The policy of the department regarding the regular use of private sector professional services for preliminary and construction engineering and engineering design shall achieve a balance between the use of department employees and the use of private contractors, provided that the costs are equivalent. Relevant costs to be considered shall be determined by the office of the state auditor. The Commission may provide for hearings at which private sector complaints relating to the selection process shall be heard.

Revised Law

Sec. 223.042. PRIVATIZATION OF MAINTENANCE CONTRACTS. (a) Of the amount spent in a fiscal year by the department for maintenance projects, the department shall spend not less than 50 percent through contracts awarded by competitive bids.

(b) Money spent for maintenance projects to which this section does not apply are included when computing the amount of expenditures for maintenance projects in a fiscal year.

(c) The department shall consider all of its direct and indirect costs in determining the cost of providing the services. The department shall use the cost accounting procedures and instructions developed by the State Council on Competitive Government under Section 15.06(5), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), in determining its cost. On request, the State Council on Competitive Government shall provide technical assistance to the department about the cost accounting procedures and instructions.

(d) Subsection (a) does not apply unless the department determines that a function of comparable quality and quantity can be purchased or performed at a savings by using private sector contracts.

(e) The department shall file a report with the Legislative Budget Board on September 1 of each fiscal year detailing the
contracts awarded by the department under this section during the
previous fiscal year.

(f) The commission shall adopt rules to administer this
section.

(g) In this section, "maintenance project" means any routine
or preventive maintenance activity. The term includes mowing,
concrete removal and replacement, illumination maintenance,
guardrail repair, fence repair, litter pick-up, herbicide spraying,
pothole repair, silt and erosion control or repair, sign
installation, highway overlaying, paint and bead striping, rest
area maintenance, and installation of raised pavement markings.

(h) This section does not apply to the purchase of materials
for maintenance projects. (V.A.C.S. Art. 6674g, Secs. 1, 2
(part), 3, 4, 5.)

Source Law

Art. 6674g
Sec. 1. In this article, "maintenance project"
means any routine or preventive maintenance activity,
including mowing, concrete removal and replacement,
illumination maintenance, guardrail repair, fence
repair, litter pick-up, herbicide spraying, pothole
repair, silt and erosion control or repair, sign
installation, highway overlaying, paint and bead
striping, rest area maintenance, and installation of
raised pavement markings.

[Sec. 2.]
(e) Not less than 50 percent of the dollar
amount of expenditures by the department for
maintenance projects for the fiscal year ending August
31, 1996, and for all subsequent fiscal years shall be
expended through contracts awarded by the competitive
bidding process.

(f) Funds expended for maintenance projects to
which this article does not apply are included when
computing the dollar amount of expenditures for
maintenance projects in a fiscal year.

(g) A requirement of a minimum dollar amount of
expenditures by the department for maintenance projects
within a fiscal year as provided in this section shall
not apply unless the department determines that a
function of comparable quality and quantity can be
purchased or performed at a savings through utilization
of private sector contracts.

(h) The department shall consider all of its
direct and indirect costs in determining the cost of
providing the services. The department shall use the
cost-accounting procedures and instructions developed
by the state auditor under Section 13.04(a), State
Purchasing and General Services Act (Article 601b,
Vernon's Texas Civil Statutes), in determining its
cost. On request, the state auditor shall provide
technical assistance to the department about the
cost-accounting procedures and instructions.

Sec. 3. This article does not apply to purchases of materials for maintenance projects.

Sec. 4. The board shall adopt rules to administer this article.

Sec. 5. The department shall file a report with the Legislative Budget Board on September 1 of each fiscal year detailing the contracts awarded by the department under this section during the previous fiscal year.

Revisor's Note

(1) Section 2(h), V.A.C.S. Article 6674g, requires the department to use the "cost-accounting procedures and instructions developed by the state auditor under Section 13.04(a), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes). . . ." It also requires the state auditor, on request, to provide technical assistance to the department about those procedures and instructions. The law referred to was repealed by Section 68(a)(3), Chapter 684, Acts of the 73rd Legislature, Regular Session, 1993. However, Section 41 of Chapter 684 established the State Council on Competitive Government, which was given authority similar to the authority exercised by the state auditor under the repealed law. That authority is found in Section 15.06(5), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes). In order to give effect to Section 2(h), the revised law refers to the cost accounting procedures and instructions developed by the State Council on Competitive Government under Section 15.06(5), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

(2) The revised law omits Sections 2(a)-(d), V.A.C.S. Article 6674g, as executed. Those provisions relate to expenditures for maintenance project contracts awarded by the competitive bidding process.
before September 1, 1995. The omitted provisions read:

Sec. 2. (a) Not less than 30 percent of the dollar amount of expenditures from the fiscal year ending August 31, 1992, by the department for maintenance projects shall be expended through contracts awarded by the competitive bidding process.

(b) Not less than 35 percent of the dollar amount of expenditures from the fiscal year ending August 31, 1993, by the department for maintenance projects shall be expended through contracts awarded by the competitive bidding process.

(c) Not less than 40 percent of the dollar amount of expenditures from the fiscal year ending August 31, 1994, by the department for maintenance projects shall be expended through contracts awarded by the competitive bidding process.

(d) Not less than 45 percent of the dollar amount of expenditures from the fiscal year ending August 31, 1995, by the department for maintenance projects shall be expended through contracts awarded by the competitive bidding process.

Revised Law

Sec. 223.043. CITIZEN'S PREFERENCE IN EMPLOYMENT. A citizen of the United States and of the county in which construction, maintenance, or improvement of a designated state highway is being proposed shall be given preference in employment to perform manual labor. (V.A.C.S. Art. 6674p, Sec. 1 (part).)

Source Law

... That citizens of the United States and of the county wherein the work is being proposed shall always be given preference in such employment . . . .

Revisor's Note

The revised law omits part of Section 1 and omits Section 2, V.A.C.S. Article 6674p, as impliedly repealed. That law was enacted in 1931 (Chapter 46, Acts of the 42nd Legislature, Regular Session), and was never amended. It authorizes the State Highway Commission (now the Texas Transportation Commission), to require contracts for the construction, maintenance, or improvement of a designated state highway to contain
a provision requiring wages of not less than 30 cents an hour.

The legislature later enacted V.A.C.S. Article 5159a, relating to payment of the prevailing wage rate, and also enacted the Texas Minimum Wage Act (Chapter 62, Labor Code). Additionally, the current General Appropriations Act requires the Texas Department of Transportation to require contractors and subcontractors to pay at least the federal minimum wage for maintenance and construction work. (I-315, Chapter 1051, Acts of the 73rd Legislature, Regular Session, 1993.) Those later enactments impliedly repealed portions of V.A.C.S. Article 6674p, and those portions are omitted. The omitted provisions read:

Art. 6674p
Sec. 1. Hereafter the State Highway Commission in letting contracts for the construction, maintenance or improvement of any designated State Highway, shall be authorized to require that all contracts for any such work, contain a provision that no person will be employed, by the contractor, to perform manual labor in the course of the construction, maintenance or improvement of any such highway at a wage of less than thirty cents per hour, and that any violation of any such provision of the contract by the contractor, sub-contractor, or other person subject to such provision of the contract, shall authorize the Commission to withhold from any money due the contractor a sufficient sum to pay any person such minimum wage for any labor performed, or the Commission may, for the benefit of any such person, recover such sum on the bond of the contractor, if it does not have in its possession money owing the contractor, applicable for such purposes. . . . provided also that all other departments, bureaus, commissions and institutions of the State of Texas in all construction work of every character requiring employment of day labor shall likewise be authorized and empowered to exercise the same authority herein conferred on the State Highway Commission.

Sec. 2. Hereafter, in advertising for bids for the construction, maintenance or improvement of any designated State Highway, the Commission, in the event it desires to exercise the authority herein conferred to require a provision for such minimum wage, shall so state in the advertisement, so that all bidders may be
aware of such requirement in submitting
bids for such work.

Revised Law
Sec. 223.044. INMATE LABOR FOR IMPROVEMENT PROJECTS. (a)
The commission may contract with the Texas Board of Criminal
Justice for the provision of inmate labor for a state highway
system improvement project.
(b) The contract must be made in conformity with Chapter
771, Government Code. (V.A.C.S. Art. 6674c.)

Source Law
Art. 6674c. The commission may contract with the
Texas Board of Corrections for the provision of inmate
labor for a state highway system improvement project.
Contracts made pursuant to this article must be made in
conformity with The Interagency Cooperation Act, as
amended (Article 4413(32), Vernon's Texas Civil
Statutes).

Reviser's Note
(1) V.A.C.S. Article 6674c refers to the "Texas
Board of Corrections." The name of that board was
changed to the Texas Board of Criminal Justice by
Section 10.01, Chapter 16, Acts of the 72nd
Legislature, Regular Session, 1991. The revised law is
drafted accordingly.
(2) V.A.C.S. Article 6674c refers to "The
Interagency Cooperation Act, as amended (Article
4413(32), Vernon's Texas Civil Statutes)." That act
has been codified as Chapter 771, Government Code. The
revised law is drafted accordingly.

Revised Law
Sec. 223.045. STEEL PREFERENCE PROVISIONS IN IMPROVEMENT
CONTRACTS. A contract awarded by the department for the
improvement of the state highway system without federal aid must
contain the same preference provisions for steel and steel products
that are required under federal law for an improvement made with
federal aid. (V.A.C.S. Art. 6674h-1.)

Source Law

Art. 6674h-1. All contracts awarded by the State Department of Highways and Public Transportation for the improvement of the State Highway System when the improvement is made without Federal aid must contain the same preference provisions for steel and steel products that are required under Federal law when the improvement is made with Federal aid.

Revised Law

Sec. 223.046. USE OF FLY ASH AND BOTTOM ASH FOR ROAD CONSTRUCTION. Design standards, guidelines, and specifications of the department, a county, or a municipality shall require that contract specifications for a road construction project allow for the use of fly ash and bottom ash resulting from combustion of coal or other fossil fuels and used for paving, bridge construction, and other appropriate road construction unless that use is technically inappropriate according to sound engineering principles or increases the cost of that construction. (V.A.C.S. Art. 6674i-3, Sec. 1.)

Source Law

Art. 6674i-3
Sec. 1. The design standards, guidelines, and specifications of the State Department of Highways and Public Transportation, counties, and municipalities shall require that contract specifications for road construction projects allow for the use of fly ash and bottom ash arising from combustion of coal or other fossil fuels used for paving, bridge construction, and other appropriate road construction unless such use is found to be technically inappropriate in accordance with sound engineering principles or increases the cost of such construction.

Revisor's Note

The revised law omits Section 2, V.A.C.S. Article 6674i-3, as executed. That provision requires the revision of design standards, guidelines, and specifications for road construction projects by January 1, 1992. The omitted provision reads:

Sec. 2. Each procuring state, county, and municipal entity shall revise its design standards, guidelines, and
specifications for road construction projects, if necessary to comply with this article, by January 1, 1992.

Revised Law

Sec. 223.047. PREFERENCE FOR RUBBERIZED ASPHALT PAVING MADE FROM SCRAP TIRES. (a) If the department, a county, or a municipality uses rubberized asphalt paving, the department, county, or municipality shall use scrap tires converted to rubberized asphalt paving by a facility in this state if available.

(b) In comparing bids submitted for road construction that require paving, the department, a county, or a municipality may give a preference to a bid that provides for using, as a part of the paving material, rubberized asphalt paving described by Subsection (a) if the cost of that paving material does not exceed by more than 15 percent the bid cost of alternative paving materials for the same job. The cost of the materials must be determined by a life-cycle cost benefit analysis.

(c) In this section:

(1) "Rubberized asphalt" means an asphalt material containing at least 15 percent by weight of a reacted whole scrap tire.

(2) "Scrap tire" means a tire that can no longer be used for its original intended purpose. (V.A.C.S. Art. 6674i-l.)

Source Law

Art. 6674i-l. (a) In this article:

(1) "Scrap tire" means a tire that can no longer be used for its original intended purpose.

(2) "Rubberized asphalt" means an asphalt material containing at least 15 percent by weight of a reacted whole scrap tire.

(b) If the State Department of Highways and Public Transportation, a county, or a municipality uses rubberized asphalt paving, the department, county, or municipality electing to use rubberized asphalt shall use scrap tires converted to rubberized asphalt paving by a facility in this state if that paving material is available.

(c) In comparing bids submitted for road construction that require paving, the department, county or municipality may give a preference to bids the paving materials portion of which includes the use of rubberized asphalt paving made from scrap tires by a facility in this state if the cost of those materials based on life-cycle cost benefit analysis does not
exceed by more than 15 percent the bid cost based on
life-cycle cost benefit analysis of alternative paving
materials for the same job.

Revised Law

Sec. 223.048. TIME OF PAYMENT. The department may not pay a
contractor for highway improvement, construction, or maintenance
before the 10th day of the month after the month in which the work
is performed or the material is used. The department shall make
payment as soon after that date as is practical. (V.A.C.S. Art.
6674m-1.)

Source Law

Art. 6674m-1. Payment to a contractor for
highway improvement, construction, or maintenance may
not be made sooner than the 10th day of the calendar
month after the month the work is performed or the
material is used. The department shall make payment as
soon thereafter as is practical.

[Sections 223.049-223.100 reserved for expansion]

SUBCHAPTER C. EXPEDITED HIGHWAY IMPROVEMENT CONTRACTS

Revised Law

Sec. 223.101. DEFINITIONS. In this subchapter:

(1) "Highway emergency" means a situation or condition
of a designated state highway that:

   (A) poses an imminent threat to life or property
of travelers; or

   (B) substantially disrupts the orderly flow of
traffic and commerce.

(2) "Highway improvement contract" means a contract
awarded by the department for the construction, repair, or
maintenance of a designated state highway or any part of that
highway. (V.A.C.S. Art. 6674h-2, Sec. 2 (part).)

Source Law

Sec. 2. As used in this Act:

(3) "Emergency" means any situation or
condition of a designated state highway, resulting from
a natural or man-made cause, which poses an imminent
threat to life or property of the travelling public or
which substantially disrupts the orderly flow of
traffic and commerce.

(5) "Highway improvement contract" means
any contract let by the State Department of Highways
and Public Transportation for the construction,
reconstruction, repair, or maintenance of a designated
state highway or any part of such highway facility.

Revisor's Note

(1) The revised law omits the definitions of
"commission," "department," and "engineer-director"
provided by Sections 2(1), (2), and (4), V.A.C.S.
Article 6674h-2, because those definitions duplicate
the definitions provided by Section 201.001 of this
code. The omitted provisions read as follows:

Sec. 2. As used in this Act:
(1) "Commission" means the
State Highway and Public Transportation
Commission.
(2) "Department" means the
State Department of Highways and Public
Transportation.
(4) "Engineer-director" means
the State Engineer-Director for Highways
and Public Transportation.

(2) The revised law omits the term
"reconstruction" used in Section 2(5), V.A.C.S. Article
6674h-2, because that term is included in the meaning
of "construct."

Revised Law
Sec. 223.102. AWARD OF EMERGENCY HIGHWAY IMPROVEMENT
CONTRACT. As an alternative to the procedure provided by
Subchapter A, in a highway emergency the department may award a
highway improvement contract in accordance with rules adopted by
the commission, which may include:

(1) contractor eligibility;
(2) notification of prospective bidders;
(3) bidding requirements;
(4) procedures for awarding the contract;
(5) bonding or other requirements to ensure
satisfactory performance by the contractor and the protection of claimants supplying labor and materials used in performance;

(6) contract form and content; and

(7) provision for a waiver of or exception to a procedure or requirement adopted under this section. (V.A.C.S. Art. 6674h-2, Secs. 1, 3.)

Source Law

Art. 6674h-2
Sec. 1. It is the express purpose of this Act to provide an alternate procedure for the expedited award of highway improvement contracts to meet emergency conditions in which essential corrective or preventive action would be unreasonably hampered or delayed by compliance with other laws.

Sec. 3. (a) In the case of an emergency as defined in Subdivision (3) of Section 2 of this Act and notwithstanding any other provision of law, the department may award a highway improvement contract in accordance with administrative rules promulgated by the commission.

(b) Such rules may include but are not limited to:

(1) contractor eligibility;
(2) notification of prospective bidders;
(3) bidding requirements;
(4) letting procedures;
(5) bonding or other requirements to ensure satisfactory performance by the contractor and the protection of claimants supplying labor and materials used in performance;
(6) contract form and content; and
(7) provision for waiver of or exception to a procedure or requirement promulgated pursuant to this section.

Revised Law

Sec. 223.103. CERTIFICATION OF EMERGENCY. (a) Before awarding a contract under this subchapter, the director or a person the director designates must certify in writing a description of the highway emergency.

(b) A person designated under Subsection (a) may not occupy a position below the level of deputy director. (V.A.C.S. Art. 6674h-2, Sec. 4(a).)

Source Law

Sec. 4. (a) Prior to the award of a contract under the authority of this Act, the engineer-director or his designee not below the level of deputy state engineer-director must certify in writing the fact and
nature of the emergency giving rise to the award.

Revisor's Note
The revised law refers to the "deputy director" instead of the "deputy state engineer-director" for consistency and because that is the title used for that position in the current General Appropriations Act.

Revised Law
Sec. 223.104. CONTRACT REQUIREMENTS. (a) A contract awarded under this subchapter must:

(1) be in the name of the state;
(2) be signed by the director or a person the director designates; and
(3) have attached a copy of the certification required by Section 223.103.

(b) A person designated under Subsection (a) may not occupy a position below the level of district engineer. (V.A.C.S. Art. 6674h-2, Sec. 4(b).)

Source Law
(b) The contract shall be in the name of the State of Texas, be signed by the engineer-director or his designee not below the level of district engineer, and have attached as an exhibit a copy of the certification described in Subsection (a) of this section.

Revised Law
Sec. 223.105. NOTIFICATION OF COMMISSION. Not later than the fifth working day after the date on which the contract is awarded, the director shall notify in writing each member of the commission of the details of the highway emergency and the award of the contract. (V.A.C.S. Art. 6674h-2, Sec. 4(c).)

Source Law
(c) Not later than the fifth working day following the date on which the contract is awarded, the engineer-director shall furnish each member of the commission written notification of the details of the emergency conditions and the award.
CHAPTER 224. ACQUISITION, CONSTRUCTION, AND MAINTENANCE

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CHAPTER 224. ACQUISITION, CONSTRUCTION, AND MAINTENANCE

SUBCHAPTER A. ACQUISITION GENERALLY

Revised Law

Sec. 224.001. ACQUISITION BY DEPARTMENT. The department shall acquire by purchase, gift, or eminent domain any right-of-way necessary for the national system of interstate and defense highways. (V.A.C.S. Art. 6702-1, Sec. 4.301(f).)

Source Law

(f) The State Department of Highways and Public Transportation is authorized and directed to acquire by purchase, gift, or condemnation all rights-of-way necessary for the National System of Interstate and Defense Highways.

Reviser's Note

Section 4.301(f), V.A.C.S. Article 6702-1, refers to the "State Department of Highways and Public Transportation." The revised law substitutes "department" for "State Department of Highways and Public Transportation" for the reason stated in the reviser's note to Section 201.003 of this code (explaining the change in the name of this agency to "Texas Department of Transportation") and because Section 201.001 of this code, a general definitions section that applies to this chapter, defines "department" as meaning the Texas Department of Transportation.

Revised Law

Sec. 224.002. ACQUISITION BY COUNTY OR MUNICIPALITY GENERALLY. (a) A county or municipality shall acquire, in the manner provided by law, the highway right-of-way that is requested by the department.

(b) Chapter 21, Property Code, governs the procedure for an acquisition by eminent domain. (V.A.C.S. Art. 6702-1, Secs. 4.301(b) (part), (d).)
Source Law

(b) ... In the event of condemnation by the county, the procedure shall be the same as that set out in Chapter 21, Property Code, as amended. ...

(d) A county or city is authorized and directed to acquire the right-of-way for the highways as are requested and authorized by the State Department of Highways and Public Transportation as provided by existing laws, and in the event condemnation is necessary, the procedure shall be the same as that set out in Chapter 21, Property Code, as amended.

Revisor's Note

Section 4.301(b), V.A.C.S. Article 6702-1, refers to "city." The revised law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code.

Revised Law

Sec. 224.003. ACQUISITION BY COMMISSIONERS COURT. (a) The commissioners court of a county may acquire by purchase or eminent domain any real property, including a right-of-way, or material, including timber, earth, stone, or gravel, that the commission determines is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended. Real property acquired for streambed diversion may not exceed 100 feet in width.

(b) The commission shall furnish to the commissioners court the plats or field notes of the real property and the description of any required materials. After receiving the plats, notes, or description, the commissioners court may make the acquisition in accordance with those documents.

(c) The acquisition is on behalf of the state with title to the State of Texas.

(d) The commissioners court may exercise the power of eminent domain within the limits of a municipality only with the prior consent of the municipality's governing body.

(e) The county may pay for the acquisition from the county road and bridge fund, a special road fund, or any other available
Sec. 4.301. (a) Whenever, in the judgment of the State Highway and Public Transportation Commission, the use or acquisition of any land for road or right-of-way purposes, timber, earth, stone, gravel, or other material is necessary or convenient to any road to be constructed, reconstructed, maintained, widened, straightened, or lengthened, or land not exceeding 100 feet in width for streambed diversion in connection with the locating, relocating, or construction of a designated state highway by the State Highway and Public Transportation Commission, the land or material may be acquired by purchase or condemnation by the commissioners court. This authority includes the power to exercise the right of eminent domain by any commissioners court within the boundaries of a municipality with the prior consent of the governing body of the municipality. The county in which the state highway is located may pay for the acquisition out of the county road and bridge fund or any available county funds.

(b) Any commissioners court may secure by purchase or by condemnation on behalf of the State of Texas any new or wider right-of-way or land not exceeding 100 feet in width for streambed diversion in connection with the locating, relocating, or construction of a designated state highway or land or lands for material or borrow pits to be used in the construction, reconstruction, or maintenance of state highways and may pay for the acquisition out of the county road and bridge fund or out of any special road funds or any available county funds. This authority includes the power to exercise the right of eminent domain by any commissioners court within the boundaries of a municipality with the prior consent of the governing body of the municipality. The State Highway and Public Transportation Commission shall furnish to the commissioners court the plats or field notes of the right-of-way or land and the description of the materials as may be required, after which the commissioners court may purchase or condemn the right-of-way or land or material, with title to the State of Texas, in accordance with the field notes. . . .

Revisor's Note

(1) Sections 4.301(a) and (b), V.A.C.S. Article 6702-1, refer to the "State Highway and Public Transportation Commission." The revised law substitutes "commission" for "State Highway and Public Transportation Commission" for the reason stated in the revisor's note to Section 201.003 of this code (explaining the change in the name of this agency to "Texas Transportation Commission") and because Section
201.001 of this code, a general definitions section that applies to this chapter, defines "commission" as meaning the Texas Transportation Commission.

(2) Section 4.301(b), V.A.C.S. Article 6702-1, refers to "lands for material or borrow pits." The reference to "borrow pits" is omitted from the revised law because that terminology is included within the meaning of the revised law terminology of "any ... land, or material ... necessary ... in connection with the construction ... ."

Revised Law
Sec. 224.004. STATE'S USE OF EMINENT DOMAIN. (a) If the commissioners court does not acquire a right-of-way under Section 224.003, the commission shall immediately serve the commissioners court with an order identifying the right-of-way by field notes and requesting the commissioners court to acquire the right-of-way.

(b) Not later than the 10th day after the date the order is served, the commission shall direct the attorney general to initiate eminent domain proceedings on behalf of the state to acquire the right-of-way.

(c) Venue is in the county in which the right-of-way is located. The district or county attorney for that county shall initiate the eminent domain proceedings.

(d) Chapter 21, Property Code, governs the procedure for the eminent domain proceeding except that the county judge appoints the special commissioners. (V.A.C.S. Art. 6702-1, Sec. 4.301(b) (part).)

Source Law
(b) ... If the right-of-way in any county is in the judgment of the State Highway and Public Transportation Commission necessary for the construction of a part of a designated state highway and the commissioners court of that county fails or refuses to secure by purchase or by condemnation for or on behalf of the State of Texas the right-of-way or part of it, immediately and as speedily as possible, after being served with a copy of an order of the State Highway and Public Transportation Commission
identifying by field notes the part of the highway
necessary for the construction of the designated state
highway and requesting the commissioners court to
secure the right-of-way, then not later than the 10th
day after the day the notice is served the State
Highway and Public Transportation Commission shall
direct the attorney general to institute condemnation
proceedings in the name of the State of Texas for the
purpose of securing the right-of-way. The condemnation
proceedings shall be instituted by the county or
district attorney of the county in which the land is
situated and the venue of the proceedings shall be in
the county in which the land is situated, and
jurisdiction and authority to appoint three
disinterested landowners of the county as commissioners
is conferred on the county judge of the county in which
the land is situated, and otherwise the condemnation
shall be according to the provisions of Chapter 21,
Property Code, as amended.

Revisor's Note
Section 4.301(b), V.A.C.S. Article 6702-1, refers
to the appointment of "three disinterested landowners
of the county" as commissioners for the eminent domain
proceeding. That reference is omitted from the revised
law because it duplicates the substance of Section
21.014, Property Code, which applies to the proceeding.

Revised Law
Sec. 224.005. PARTICIPATION BY DEPARTMENT. (a) In the
acquisition of a right-of-way requested by the department in
cooperation with local officials for a highway designated by the
commission as a United States highway or state highway, the
department shall pay to the county or municipality not less than 90
percent of the value, as determined by the department, of the
right-of-way or the net cost of the right-of-way, whichever amount
is less.

(b) If the acquisition is by eminent domain, the
participation by the department shall be based on the final
judgment if the department has been notified in writing before the
filing of the suit and given prompt notice as to all action taken
in the suit. The department is entitled to become a party at any
time for any purpose, including the right of appeal. (V.A.C.S.
Art. 6702-1, Sec. 4.301(c).)
(c) In the acquisition of all rights-of-way authorized and requested by the State Department of Highways and Public Transportation in cooperation with local officials for all highways designated by the State Highway and Public Transportation Commission as United States or state highways, the State Department of Highways and Public Transportation is authorized and directed to pay to the counties and cities not less than 90 percent of the value as determined by the State Department of Highways and Public Transportation of the requested right-of-way or the net cost of the right-of-way, whichever is the lesser amount. If condemnation is necessary, the participation by the State Department of Highways and Public Transportation shall be based on the final judgment, conditioned that the department has been notified in writing prior to the filing of the suit and prompt notice is also given as to all action taken in the suit. The department has the right to become a party at any time for all purposes, including the right of appeal, at any stage of the proceedings.

Revisor's Note

Section 4.301(c), V.A.C.S. Article 6702-1, refers to "city." The revised law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code.

Revised Law

Sec. 224.006. PAYMENT TO COUNTY OR MUNICIPALITY. (a) On delivery to the department of acceptable instruments conveying to the state the requested right-of-way, the department shall prepare and transmit to the comptroller vouchers covering the payment to the county or municipality of the department's share of the cost of acquiring the right-of-way.

(b) The comptroller shall issue warrants on the appropriate account covering the state's obligation as evidenced by the vouchers. (V.A.C.S. Art. 6702-1, Sec. 4.301(e).)

Source Law

(e) On delivery to the State Department of Highways and Public Transportation of acceptable instruments conveying to the state the requested right-of-way, the State Department of Highways and Public Transportation shall prepare and transmit to the comptroller of public accounts vouchers covering the reimbursement to the county or city for the department's share of the cost of providing the right-of-way, and the comptroller of public accounts is
authorized and directed to issue warrants on the
appropriate account covering the state's obligations as
evidenced by the vouchers.

Revisor's Note
(1) Section 4.301(e), V.A.C.S. Article 6702-1,
refers to the "comptroller of public accounts." The
revised law substitutes the term "comptroller" because
Section 403.001, Government Code, defines "comptroller"
in any state statute to mean the comptroller of public
accounts.
(2) Section 4.301(e), V.A.C.S. Article 6702-1,
refers to "city." The revised law substitutes the term
"municipality" for "city" because that is the term used
in the Local Government Code.

Revised Law
Sec. 224.007. PURCHASE OF LEASE RIGHTS. (a) Before
acquiring property under this subchapter, the department may
purchase the right to lease the property to a third party.
(b) The department may make a purchase under Subsection (a)
only if the department first determines that the owner is unable to
lease or rent the property because of the impending acquisition by
the department.
(c) The consideration for the purchase of a lease right
under this section may not exceed the fair market rental value of
the property as determined by the department and shall be credited
against the total compensation due the owner when the department
acquires the property.
(d) Payment under this section may be made in periodic
increments until the property is acquired by the department. The
aggregate total of payments before acquisition may not exceed the
department's appraised value of the property.
(e) This section shall be implemented in accordance with
applicable administrative rules and policies of the department.
(V.A.C.S. Art. 6702-1, Sec. 4.301(g).)
(g)(1) Prior to acquisition of property pursuant to this section, the county or city may purchase the rights to lease the property to third parties, provided that the city or county first determines that the owner is unable to lease or rent the property by reason of its impending acquisition for highway purposes.

(2) The consideration for the purchase of such rights may not exceed the fair market rental value of the property as determined by the city or county and approved by the State Department of Highways and Public Transportation and shall be credited against the total compensation due the owner at the time the property is acquired through purchase or condemnation. Payments under this subsection may be made in periodic increments until the property is acquired, provided that the aggregate total of payments prior to acquisition may not exceed the approved appraised value of the property as determined by the State Department of Highways and Public Transportation.

(3) Exercise of the authority granted by this subsection shall conform with applicable administrative rules and policies of the State Department of Highways and Public Transportation.

Revisor's Note

Section 4.301(g), V.A.C.S. Article 6702-1, refers to "city." The revised law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code.

Revised Law

Sec. 224.008. UTILITY RELOCATION COSTS. In the acquisition of a highway right-of-way by or for the department, the cost of relocating or adjusting utility facilities, which cost may be eligible under law, is a cost of the acquisition. (V.A.C.S. Art. 6674n-3, Sec. 1.)

Source Law

Art. 6674n-3
Sec. 1. In the acquisition of all highway rights-of-way by or for the Texas Highway Department, the cost of relocating or adjusting utility facilities which cost may be eligible under the law is hereby declared to be an expense and cost of right-of-way acquisition.

Revisor's Note

(1) Section 1, V.A.C.S. Article 6674n-3, refers to an "expense and cost" of right-of-way acquisition.
The reference to "expense" is omitted from the revised law because that term is included within the meaning of "cost."

(2) Section 2, V.A.C.S. Article 6674n-3, validated certain actions of a county or city taken in connection with paying the costs of relocating utility facilities in an acquisition of a right-of-way. This provision is omitted from the revised law because it served its purpose on the day it took effect and, thus, is executed law. Section 311.031(a)(2), Government Code (Code Construction Act), applicable to the revised law, provides that the repeal of a statute does not affect any validation previously made under the statute. The omitted validation reads:

Sec. 2. All contracts or agreements heretofore made and entered into by the various counties and cities for the purposes stated above are hereby ratified and validated.

[Sections 224.009-224.030 reserved for expansion]

SUBCHAPTER B. CONSTRUCTION AND MAINTENANCE GENERALLY

Revised Law

Sec. 224.031. DUTY OF DEPARTMENT. (a) The department has exclusive and direct control of all improvement of the state highway system.

(b) The department shall prepare and pay for surveys, plans, specifications, and estimates for all construction and improvement of the state highway system. (V.A.C.S. Art. 6674q-4 (part).)

Source Law

Art. 6674q-4. All further improvement of the State Highway System shall be made under the exclusive and direct control of the State Department of Highways and Public Transportation. Surveys, plans and specifications and estimates for all construction and improvement of the system shall be made, prepared and paid for by the State Department of Highways and Public Transportation. . . .
Sec. 224.032. DUTY OF COMMISSION. (a) In the development and maintenance of the state highway system, the commission shall provide for the:

(1) efficient maintenance of the system;

(2) construction, in cooperation with the United States to the extent of federal aid to the state, of durable highways of the greatest public necessity;

(3) construction of highways to perfect and extend a correlated system of state highways, independently from state funds; and

(4) construction of highways to provide access to significant new naval military facilities and to provide for the state highway system in impacted regions.

(b) Subsection (a) shall be implemented from funds available to the department except that Subsection (a)(4) shall be implemented only from the state highway fund.

(c) In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).

Source Law

Art. 6674q-2. . . . The terms "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985.

Art. 6674q-4. . . . In the development of the System of State Highways and the maintenance thereof, the State Highway and Public Transportation Commission shall from funds available to the State Department of Highways and Public Transportation, provide:

(a) For the efficient maintenance of all highways comprising the State System.

(b) For the construction, in cooperation with the Federal Government to the extent of Federal Aid to the state, of highways of durable type of the greatest public necessity.

(c) For the construction of highways, perfecting and extending a correlated system of State Highways, independently from state funds.

(d) For the construction of highways from appropriations from the State Highway Fund to provide
access to significant new naval military facilities and
to provide for the state highway system in impacted
regions.

Revised Law

Sec. 224.033. COUNTY IMPROVEMENT OF STATE SYSTEM. (a) The
commissioners court of a county may contract with the department
for the improvement by the county of the state highway system.
(b) In this section, "improvement" means a project or
activity:

(1) appurtenant to a state highway and including
drainage facilities, surveying, traffic counts, driveways,
landscaping, signs, lights, or guardrails; or

(2) involving maintenance of a state highway and
appurtenant facilities. (V.A.C.S. Art. 6702-1, Sec. 2.012.)

Source Law

Sec. 2.012. (a) The commissioners court of a
county may contract with the State Department of
Highways and Public Transportation for the improvement
of a segment of the state highway system by the county.
(b) In this section, "improvement" means
projects or activities:

(1) appurtenant to a state highway and
including drainage facilities, surveying, traffic
counts, driveways, landscaping, signs, lights, or
guardrails; or

(2) involving maintenance of state
highways and appurtenant facilities.

Revisor's Note

(End of Subchapter)

(1) V.A.C.S. Article 6674q-1 states the policy
of the state to acquire highways previously financed
and constructed by counties and road districts and to
compensate those entities for the acquisition. That
 provision is omitted from the revised law because it is
nonsubstantive. The omitted article reads:

Art. 6674q-1. It is expressly
recognized and declared that all highways
now or heretofore constituting a part of
the system of State Highways and that all
roads not constituting a part of such
system, which have been constructed in
whole or in part from the proceeds of
bonds, warrants, or other evidence of
indebtedness issued by counties of the
State of Texas, or by defined road
districts of the State of Texas, under the
laws authorizing the same, have been and
are and will continue to be beneficial to
the State of Texas at large, and have
contributed to the general welfare,
settlement, and development of the entire
state, and that, by reason of the
foregoing, a heavy and undue burden was
placed, and still rests, upon the counties
and defined road districts and their
inhabitants, and both a legal and moral
obligation rests upon the state to
compensate and reimburse such counties and
defined road districts which, aforesaid,
have performed functions resting upon the
state, and have paid expenses which were
and are properly state expenses; all for
the use and benefit of the state, and to
the extent provided herein that the state
provide funds for the further construction
of roads not designated as a part of the
State Highway System.

Having heretofore, by an Act of the
Legislature (Chapter 13, Acts of the Third
Called Session of the 42nd Legislature in
1932), taken over, acquired, and purchased
the interest and equities of the various
counties and defined road districts in and
to the highways constituting a part of the
system of then designated State Highways,
it is further declared to be the policy of
the state to take over, acquire, purchase,
and retain the interest and equities of the
various counties and defined road districts
in and to the highways, not previously
taken over, acquired, and purchased and
constituting on January 2, 1939, a part of
the system of designated State Highways,
and to acquire and purchase the interest
and equities of the various counties and
defined road districts in and to the roads
not constituting a part of the system of
designated State Highways as of January 2,
1939, and under the provisions of this Act
to acquire such interest and equities in
such roads hereafter to be constructed with
money furnished by the state, and to
reimburse said counties and districts
therefor, and to provide for the
acquisition, establishment, construction,
extension and development of the system of
designated State Highways of Texas, from
some source of income other than the
revenues derived from ad valorem taxes, it
being expressly provided herein that the
state is not assuming, and has not assumed,
any obligation for the construction,
extension, and development of any of the
highways thus acquired and purchased which
do not constitute a part of the system of
designated State Highways. And it is
hereby determined that the further
provisions of this Act constitute fair,
just, and equitable compensation,
repayment, and reimbursement to said
counties and defined districts and for
their aid and assistance to the state in
the construction of State Highways and for the construction of said roads which are ancillary to, but do not constitute a part of said System of State Highways, and fully discharges the legally implied obligations of the state to compensate, repay, and reimburse the agencies of the state for expenses incurred at the instance and solicitation of the state, as well as for expenses incurred for the benefit of the state, and fully discharges the state's legally implied obligation to such counties and defined road districts to provide additional funds for the further construction of roads not designated as a part of the State Highway System.


V.A.C.S. Article 6674a defines "highway" and V.A.C.S. Article 6674b defines "state highway system." Those definitions are codified in Section 221.001 of this code, which applies to this chapter. The omitted law reads:

Art. 6674q-2. By the expression "defined road districts" or "road districts" or "districts" used in this Act, is meant any defined road district of the state or any Justice or Commissioners Precinct acting as a road district or any road district located in one or more than one county.

By the expression "roads" or "road" as used in this Act, is meant roads, road beds, bridges, and culverts.

By the expression "highways," "State Highways" and "State Designated Highways" are meant roads which prior to January 2, 1939, had become a part of the System of designated State Highways, including roads still constituting a part of such system on said date and those which theretofore constituted a part of such system, but whose status had been lost through change, relocation or abandonment and including roads concerning which the State Highway Commission had prior to January 2, 1939, indicated its intention to designate, evidencing such intention in the official records or files.

All roads which prior to January 2,
1941, had not become a part of the system of State Designated Highways, for convenience in this Act, are called "lateral roads."

The term "Board" as used in this Act, when the contrary is not clearly indicated, shall mean the "Board of County and District Road Indebtedness."

The term "fund" as used in this Act, when the contrary is not clearly indicated, shall mean the "County and Road District Highway Fund."

The expression "eligible obligations" as used in this Act shall mean obligations, the proceeds of which were actually expended on State Designated Highways.

(3) V.A.C.S. Article 6674q-6 provides for the comptroller of public accounts to allocate funds from a gasoline tax to various state funds. That provision is omitted from the revised law because it is executed law, the various laws on which it was based having been repealed. The omitted article reads:

Art. 6674q-6. Each month the Comptroller of Public Accounts after computing and ascertaining the maximum amount of refunds that may be due by the state on the business of selling gasoline, as provided in Section 17, Chapter 88, General Laws, Acts of the Second Called Session of the 41st Legislature, as amended by Chapter 104, General Laws, Acts of the Regular Session of the 42nd Legislature, shall deduct same from the total occupation or excise tax paid on the business of selling gasoline, as imposed by Section 17, Chapter 98, General Laws, Acts of the Regular Session of the 42nd Legislature, as amended, and beginning with said taxes collected on or after October 1, 1932, shall, after deducting the said maximum amount of refunds, allocate and place the remainder of said occupation or excise tax on the business of selling gasoline, in the State Treasury as provided by law, in the proportion as follows: one-fourth (1/4) of such occupation or excise tax shall go to, and be placed to the credit of, the Available Free School Fund; one-fourth (1/4) of the same shall go to, and be placed to the credit of a fund to be known as the "County and Road District Highway Fund", subject to the provisions and limitations of Section 3 of this Act; the remainder of such occupation or excise tax shall go to, and be placed to the credit of the State Highways Fund, for the construction and maintenance of the public roads of the state, constituting and comprising the System of State Highways of Texas, as designated by the State Highway
Commission of Texas.

(4) V.A.C.S. Article 6674q-8 provides that V.A.C.S. Article 6674q-1 et seq. may not be construed to authorize the state to assume the indebtedness of a county or road district. The mechanism for the compensation from the state to the counties and road districts for the acquisition of highways was contained in V.A.C.S. Article 6674q-7, which was last amended in 1947 and finally allowed to expire in 1979. V.A.C.S. Article 6674q-8 is omitted from the revised law because it is executed law. The omitted article reads:

Art. 6674q-8. No provision of this Act shall be construed to authorize the giving or lending of the credit of the state to any county or district or to pledge the credit of the state in any manner whatever for the payment of any of the outstanding road indebtedness, herein referred to, of the counties or districts of the state. It is hereby declared that all eligible indebtedness, as herein defined, shall remain indebtedness of the respective counties or defined road districts which issued it, and said counties or defined road districts shall remain liable on said indebtedness according to its terms and tenor; and it is not the purpose or intention of this Act, or any part hereof, to obligate the State of Texas, directly or indirectly or contingently, for the payment of any such obligations, or that the State of Texas should assume the payment of said obligations; and this Act is not to be construed as obligating the State of Texas to the holders of any of said obligations to make any payment of the same, or any part thereof, nor shall such holders have any rights to enforce the appropriation of any of the moneys hereinabove provided for, nor shall any provision hereof constitute a contract on the part of the state to make money available to any county for the construction of additional lateral roads. The provisions hereof are intended solely to compensate, repay, and reimburse said counties and districts for the aid and assistance they have given to the state in furnishing, advancing and contributing money for building and constructing State Highways.

(5) V.A.C.S. Article 6674q-8a refers to the issuance of bonds by navigation districts to finance
the construction of bridges. That provision is omitted from the revised law because it is executed law. The omitted article reads:

Art. 6674q-8a. All bonds heretofore issued by navigation districts of this state, which mature on or after January 1, 1933, and insofar as amounts of same were actually expended in the construction of bridges across any stream or streams or any other waterways upon any highway that constituted and comprised a part of the system of Designated State Highways on September 17, 1932, shall hereafter be included within and eligible under the provisions of Chapter 13 of the Acts of the 42nd Legislature of Texas, passed at its Third Called Session, as amended by the Acts of the 43rd Legislature of Texas, Regular Session, to the extent that the proceeds of the sale of said bonds shall have been actually expended in the construction of such bridges and in such cases the outstanding bonds of said navigation districts in an amount equal to the amount so expended by such navigation districts shall be redeemed under the same conditions as are provided by said Chapter 13, Acts of the 42nd Legislature of Texas, Third Called Session, as amended by the Acts of the 43rd Legislature of Texas, Regular Session, for the redemption of county and road district bonds.

It is expressly provided that the Board of County and District Road Indebtedness shall not be authorized to give the bonds herein referred to preference over other similar bonds eligible under said Bond Act; and it is further expressly provided that said Board in determining the amount of bonds eligible for assumption shall take into consideration the amount of the bond money expended for the construction of said bridge, and the balance due on said amount of bonds used in the construction of said bridge, at the effective date of this Act; and in no event shall said Board be authorized to assume in excess of the balance due on the bonds for the said bridge construction at the effective date of this Act.

(6) V.A.C.S. Article 6674q-9 refers to the disposition of title to highways in the event that succeeding legislatures continue to implement the policy embodied by V.A.C.S. Article 6674q-1 et seq. to acquire highways previously financed and constructed by counties and road districts by compensating those
entities for the acquisition. The mechanism for that compensation, V.A.C.S. Article 6674q-7, was last amended in 1947 and was finally allowed to expire in 1979. That part of V.A.C.S. Article 6674q-9 is omitted from the revised law because it is executed law.

V.A.C.S. Article 6674q-9 refers to the disposition of abandoned highway right-of-way. That part of the article is omitted from the revised law because it was impliedly repealed by V.A.C.S. Article 6673a (codified in this code as Subchapter B, Chapter 202). See State v. Easley, 404 S.W.2d 296 (Tex. 1966).

V.A.C.S. Article 6674q-9 states that V.A.C.S. Article 6674q-1 et seq. does not impose a duty on or grant permission to the state to "maintain or lay out" roads outside the state highway system and that the authority as to those roads remains "undisturbed in the several Commissioners Courts as agents of the state." That part of the article is omitted from the revised law because it adds no substance to the law but simply states what is already obvious in the context of applicable law.

The omitted law reads:

Art. 6674q-9. If succeeding Legislatures shall continue to carry out the policy herein defined by authorizing a similar appropriation of funds from time to time, (a) then whenever the eligible obligation shall have been fully paid as herein provided, as to or for any county or defined road district according to the provisions of this Act, then, and in that event, the title and possession of all roads, road beds, bridges, and culverts in such county or defined road district, which are included in the system of Designated State Highways, shall automatically vest in fee simple in the State of Texas; in the event of any subsequent physical change therein, such title and possession shall extend to any such change so made; and (b) whenever the interest and principal necessary to retire the outstanding indebtedness owed for lateral roads shall have been fully paid as herein provided, as to, or for any county or defined road district, according to the provisions of
this Act, then, and in that event, the
title of all roads, road beds, bridges, and
culverts in such county or defined road
district, pertaining to the lateral roads
constructed with the proceeds of such
indebtedness, shall automatically vest in
the State of Texas; but the possession
thereof shall remain in such county or defined road district, and in the event of
any subsequent physical change therein,
such title and possession shall extend to
any such change so made; provided that when
the right-of-way, or any part thereof,
pertaining either to a State Highway or a
lateral road, has been abandoned because of
the abandonment of such road for all public
purposes, and such right-of-way, or any
part thereof, was donated by the owner of
the land for right-of-way purposes, then,
and in that event, the title to the said
right-of-way shall vest in said owner, his
heirs or assigns; provided, however, that
nothing in this Act shall prevent the State
Highway Commission from changing or
abandoning any State Highway, and if the
Commission shall change or abandon any
State Highway in any county, the
Commissioners Court of such county shall
have the right to assume jurisdiction over
such portion of such highway so abandoned
by the State Highway Commission. Likewise,
the title to additional lateral roads, when
constructed, shall vest in the State of
Texas. Provided, however, that this Act
neither imposes the obligation on, nor
confers the right in, the State of Texas,
to maintain and lay out any roads except
those constituting a part of the designated
State Highway System as hereinabove in this
Act defined. The obligation to maintain or
lay out all other roads, including lateral
roads and additional lateral roads as
declared in this Act, shall remain
undisturbed in the several Commissioners
Courts as agents of the state.

(7) The revision omits V.A.C.S. Article
6674q-10, providing that the Act is severable, because
that provision duplicates Section 311.032, Government
Code (Code Construction Act), applicable to the revised
law, and Section 312.013, Government Code. These
provisions state that a provision of a statute is
severable from each other provision of the statute that
can be given effect. The omitted article reads:

Art. 6674q-10. If any Section,
sub-section, paragraph, sentence, clause,
or provision of this Act shall, for any
reason, be held invalid, such invalidity
shall not affect any other portion of this
Act or the application of such Section,
sub-section, paragraph, sentence, clause, or provision to any other person or situation but this Act shall be construed and enforced as if such invalid provisions had not been contained therein.

(8) The revised law omits as unnecessary V.A.C.S. Article 6674q-11a, relating to the cumulative effect of V.A.C.S. Article 6674q-1 et seq. and to the resolution of conflicts with other law in favor of those articles. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision. Another general rule is that a statute automatically has the effect of prevailing over prior conflicting enactments. The provision is, of course, ineffective to prevail over subsequent legislation.

The omitted article reads:

Art. 6674q-11a. This Act shall be cumulative of all other valid laws on the subject, but in the event of a conflict between any provision of this Act and any other Act, the provisions of this Act shall prevail.

[Sections 224.034-224.060 reserved for expansion]

SUBCHAPTER C. CONTRACT WITH TRANSPORTATION CORPORATION

Revised Law

Sec. 224.061. DEFINITIONS. In this subchapter:

(1) "Construction" includes improvement.

(2) "Highway" includes an improvement to a highway.

(3) "Improvement" includes landscaping. (V.A.C.S. Art. 6674r-2, Sec. 7.)

Source Law

Sec. 7. In this article:

(1) "Construction" includes improvement, including landscaping.

(2) "Highway" includes improvements to a highway.
Sec. 224.062. AUTHORITY TO CONTRACT. The commission may contract with a transportation corporation created by the commission under Chapter 431 for the purpose of acquiring highways to be constructed by the corporation. (V.A.C.S. Art. 6674r-2, Sec. 1.)

Sec. 224.063. SUFFICIENCY OF FUNDS. (a) Before contracting under this subchapter, the commission shall determine that it will have sufficient funds available in the year of acquisition to meet its financial obligations under the contract.

(b) Payment of any obligation in the contract is contingent on a legislative appropriation for that purpose in the year the obligation is due, and the contract must state that fact. (V.A.C.S. Art. 6674r-2, Sec. 3.)
and the contract shall state that payment is contingent
upon an appropriation by the legislature in the year
payment is due.

Revised Law

Sec. 224.064. TERMS AND CONDITIONS. (a) The commission
shall determine the terms of a contract under this subchapter.

(b) The contract may not extend for a period of more than
six years after the date of execution.

(c) The contract must provide that:

1. the highway to be acquired is free of debts, liens, or other encumbrances at the time of acquisition;
2. the highway to be constructed meets minimum design criteria prescribed by the commission;
3. construction contracts are awarded through competitive bidding to the low bidder;
4. priority of construction is assigned to particular highway segments;
5. particular highway segments are opened to the public on completion of construction under right of entry even if consideration has not been paid by the commission; and
6. the highway right-of-way is fully landscaped before acquisition by the commission. (V.A.C.S. Art. 6674r-2, Secs. 2, 4.)

Source Law

Sec. 2. A contract entered into under authority of this article shall not extend for a period of more than six years from the date of execution, and shall provide that the highway to be acquired pursuant to the contract shall be free of debts, liens, and encumbrances at the time of acquisition.

Sec. 4. The commission shall determine the terms and conditions of any contract entered into under authority of this article. Without limiting the other terms and conditions that may be imposed in such a contract, any such contract shall provide that the highway to be constructed by the transportation corporation meet commission minimum design criteria, that construction contracts be awarded through competitive bidding to the low bidder, that priority of construction be assigned to particular segments of the highway, that particular segments of the highway be opened to the public upon completion of construction under right of entry even though consideration has not
yet been paid by the commission, that the highway right-of-way be fully landscaped prior to acquisition by the commission, and may contain such other covenants as may be determined by the commission to be desirable.

Revisor's Note
Section 4, V.A.C.S. Article 6674r-2, provides that the "commission shall determine the terms and conditions of any contract" and provides that a contract "may contain such other covenants as may be determined by the commission to be desirable." The reference to "conditions" is omitted from the revised law because "conditions" is included within the meaning of "terms." The reference to the contract containing other covenants is omitted from the revised law because that concept is included within the grant of authority to determine the terms.

Revised Law
Sec. 224.065. CONSTRUCTION MANAGEMENT SERVICES. (a) The commission may contract with a transportation corporation constructing a highway for the commission to supervise the construction of the highway and provide construction management services for the corporation.

(b) The transportation corporation shall pay the commission for the supervision and management services at the time the services are provided. (V.A.C.S. Art. 6674r-2, Sec. 5.)

Source Law
Sec. 5. The commission may enter into contracts with transportation corporations constructing highways on behalf of the commission to supervise construction and provide construction management services for the transportation corporation. The transportation corporation shall pay the commission for such supervision and management services at the time such services are rendered.

Revised Law
Sec. 224.066. ADDITIONAL POWERS. In addition to the powers granted under this subchapter, the commission has any other power
that is reasonable and necessary to allow it to contract with a transportation corporation for the construction of a highway as provided by this subchapter. (V.A.C.S. Art. 6674r-2, Sec. 6.)

Sec. 6. The commission shall have such other powers as may be reasonable and necessary to enable it to contract with transportation corporations for the construction of highways as provided in this article.

[Sections 224.067-224.090 reserved for expansion]

SUBCHAPTER D. DETOUR ROADS

Revised Law

Sec. 224.091. DETOUR ROAD REQUIRED. (a) If construction on a part of the state highway system causes the closing of a road to traffic, the department shall select, improve, and maintain an all-weather detour road for the convenience of the public.

(b) A detour road shall be used and controlled under the same conditions and authority as that exercised over the state highway system. (V.A.C.S. Art. 6674o, Sec. 1 (part).)

Source Law

Art. 6674o Sec. 1. From and after the taking effect of this Act, it shall be the duty of the State Highway Department, wherever construction on any part of the State System of Highways is being carried on and it becomes necessary to close such roads under construction to traffic, to provide for the convenience of the public by the selection and improvement and maintenance of an all-weather detour road, to be used and controlled during the period of such State use under like conditions and authority as exercised over parts of the designated system of State Highways . . . .

Revised Law

Sec. 224.092. DUTIES OF COMMISSION. The commission shall provide for the:

(1) equipment and maintenance of a detour road in a manner adequate for the convenience and safety of normal traffic using the road; and

(2) posting of necessary signs at each end of the
1 detour road for the guidance and convenience of the public.
2 (V.A.C.S. Art. 66740, Secs. 1 (part), 3 (part).)

Source Law

Sec. 1. . . . and the Highway Commission shall
provide for the equipment of such detour roads in a
manner adequate to the convenience and safety of the
normal traffic diverted thereupon . . . .

Sec. 3. In all such provisions for detour roads
by State Highway Commission . . . it shall be the duty
of the public at each end of such detour road, and
provide with reasonable adequacy for the maintenance of
the detour roads in a manner to respond to normal
traffic requirements passing over such State
highways . . . .

Revised Law

Sec. 224.093. DUTY OF COUNTY. A county shall cooperate with
the commission as necessary to adequately provide for the traffic
requirements of the public in the selection and maintenance of a
detour road in the county. (V.A.C.S. Art. 66740, Sec. 1 (part).)

Source Law

Sec. 1. . . . counties are hereby required to
render the State Highway Commission such cooperation as
may be necessary for adequate provision for the traffic
requirements of the public in the selection and
maintenance of all such detour roads in or through the
county.

[Sections 224.094-224.120 reserved for expansion]

SUBCHAPTER E. INTERSTATE BRIDGES

Revised Law

Sec. 224.121. CONDITION FOR IMPLEMENTATION. The department
may implement this subchapter only if:

(1) another state has enacted a statute providing for
the acquisition, construction, and maintenance of a bridge
described by Section 224.122 and for the use of the bridge by the
public without charge; and

(2) the bridge connects designated highways of this
state and the other state. (V.A.C.S. Art. 6797a, Sec. 2.)
Sec. 2. The provisions of this Act shall not apply in any instance wherein any such State adjoining the State of Texas has not enacted a statute making provisions for the acquirement, construction and maintenance of such bridge as between such State and the State of Texas and for the use of such bridge by the public without charge, nor where such bridge does not connect designated highways of the respective State and the State of Texas.

Sec. 224.122. INTERSTATE BRIDGE AUTHORIZED. The department may spend or allocate aid from any available money to acquire, construct, or maintain a bridge across a stream that is a boundary between this and another state in an amount not to exceed one-half of the amount necessary to acquire, construct, or maintain the bridge. (V.A.C.S. Art. 6797a, Sec. 1.)

Sec. 3. The State Highway Department of the State of Texas is hereby authorized and empowered to make an allotment of aid from any moneys available and to expend funds of said department to acquire, construct and maintain any bridge across or spanning any stream or portion of any stream constituting a boundary between the State of Texas and any other State in an amount not to exceed one half of the amount necessary to acquire, construct or maintain any such bridge, subject to the provisions hereof.

Sec. 224.123. AUTHORITY TO CONTRACT. The department by the authority of the governor may agree with appropriate departments of an adjoining state and the United States to implement this subchapter for the purpose of furnishing substantial bridges across this state's boundaries for the use of the traveling public without charge. (V.A.C.S. Art. 6797a, Sec. 3.)
substantial bridges across our State boundaries for its use, without charge.

Revisor's Note
Section 3, V.A.C.S. Article 6797a, refers to the authority "to enter into negotiations with, and consummate contracts and agreements with such departments." The references to entering into "negotiations with" and to "contracts" are omitted from the revised law because those concepts are included within the meaning of "agreement."

Revisor's Note
(End of Subchapter)

(1) Section 4, V.A.C.S. Article 6797a, states the purpose and intent of the article and requests a federal law to provide assistance to the states in acquiring and constructing interstate bridges. The revised law omits that provision both because it is executed law and because the purpose and intent is stated adequately in the substance of the law. The omitted section reads:

Sec. 4. It is the purpose and intent of this Act to furnish to the traveling public, bridges across our State Boundary for its use without charge, and to elicit the co-operation of each State adjoining the State of Texas, in enacting a similar statute to this Act and to assent to the provisions of an Act of the Sixty-Fourth Congress of the United States, approved July 11, 1916, and being "An Act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes"; and to ask an Act of the Congress of the United States whereby bridges spanning streams which are boundaries between the States and connecting designated highways of such States, may be condemned for public use and travel without charge and to provide the manner of such condemnation and to provide for and make appropriations for acquiring, constructing and the maintenance of such bridges.

(2) Section 4-a, V.A.C.S. Article 6797a, authorizes the commission to acquire bridges across the
Red River under certain conditions. The revised law
omits that provision because it is executed law. The
omitted section reads:

Sec. 4-a. In the event the Highway
Commissions of the States adjoining the
State of Texas are unwilling, or are unable
by the provisions of their laws, to join
with Texas in acquiring bridges and
franchises across Red River: Then in such
event the Highway Commission of Texas is
authorized to acquire such bridges and
franchises as may cross the northern
boundary of Texas over Red River, without
the joinder of such neighboring States or
their Highway Commissions. Provided,
however, that in such purchase the
replacement value of the physical
properties only shall constitute the
purchase price, and in no event shall more
than Fifty Thousand Dollars ($50,000) be
expended; and provided, further, that the
Highway Commission of Texas is hereby
authorized only to purchase such bridges as
may have owned a right of operation
existing for forty (40) years or more prior
to the date of this Act.

(3) V.A.C.S. Article 6797c authorizes the
commission to remove highway bridges obstructing
construction of the intracoastal waterway and then to
replace them. The revised law omits that provision
because it is executed law. The omitted article reads:

Art. 6797c. The State Highway
Commission of Texas, at the request of the
United States Government, or any of its
authorized agents, is hereby authorized,
out of any funds available for such
purpose, to remove Highway Bridges
obstructing the construction of the
Intracoastal Waterway of Louisiana and
Texas now being dredged by the United
States Government, and to replace and
maintain such of said Bridges as the State
Highway Commission of Texas deems
necessary, to be paid for out of any funds
available for such purpose.

CHAPTER 225. STATE HIGHWAY NAMES

SUBCHAPTER A. STATE HIGHWAY NAMES IN GENERAL

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Sec. 225.002. MEMORIAL DESIGNATION OF HIGHWAY BY LOCAL

GOVERNMENT ........................................ 567
Sec. 225.001. PROHIBITION ON NAMING HIGHWAY. The commission may not designate a part of the highway system, including a bridge or street, by a name, including the name of a living or dead individual or for an organization or event, or by a symbol other than the regular highway number. (V.A.C.S. Art. 6673e-4, Sec. 2.)

Sec. 225.002. MEMORIAL DESIGNATION OF HIGHWAY BY LOCAL GOVERNMENT. (a) A local government may assign a memorial or other identifying designation to a part of the highway system. 

(b) A part of the highway system assigned a designation
under Subsection (a) may be marked only with the regular highway number. (V.A.C.S. Art. 6673e-4, Sec. 3.)

Source Law

Sec. 3. Local governmental units may assign a memorial or other identifying designation to any part or parts of the highway system; provided, however, that any part or parts of the highway system that are named or identified locally will be marked only with the regular highway number.

Revised Law

Sec. 225.003. APPLICATION FOR AND SITE SELECTION OF MEMORIAL MARKER. (a) A local government planning a memorial designation must submit an application to the director completely describing:

(1) the nature and objectives of the designation; and

(2) any marker to be erected.

(b) A marker may not be erected earlier than the 91st day after the date the director approves an application to allow the department to select and prepare a proper site. (V.A.C.S. Art. 6673e-4, Sec. 6.)

Source Law

Sec. 6. When a memorial designation is planned by a local governmental unit or units, the sponsor or sponsors shall submit to the state highway engineer a complete description of the nature and objectives of the dedication, and the type and full description of the marker or markers to be erected. If approved by the state highway engineer, a period of 90 days shall be required from the date of approval to the actual erection of the marker or markers, in order for the department to select and prepare a proper site or sites.

Revisor's Note

Section 6, V.A.C.S. Article 6673e-4, refers to the "state highway engineer." The revised law substitutes the term "director" for the reasons described in the revisor's note to Section 201.003.

Revised Law

Sec. 225.004. MEMORIAL MARKER. (a) A local government may purchase and furnish to the department a suitable locally
identifying memorial marker.

(b) If the director approves the size and type of a marker, the department, on request, may erect the marker at a place most suitable to the department's maintenance operations.

(c) If two or more local governments cooperate in seeking a continuous memorial or other identifying designation, they may furnish to the department markers to be erected at each end of the designated limits and at intermediate sites so that markers are approximately 75 miles apart.

(d) The department shall maintain the grounds for a marker. The local government shall repair or replace a marker. (V.A.C.S. Art. 6673e-4, Secs. 4, 5, 7.)

Source Law

Sec. 4. Local governmental units may purchase and furnish to the department a suitable locally-identifying memorial marker of a size and type which must be approved by the state highway engineer. Upon request, the department may erect such marker at a place most suitable to the department's maintenance operations.

Sec. 5. When two or more local governmental units cooperate in seeking a single continuous memorial designation for a highway through their limits, markers may be furnished to the department to be erected at each end of the designated limits, and at such intermediate sites that markers shall be approximately 75 miles apart.

Sec. 7. The maintenance of grounds surrounding the markers shall be the responsibility of the department, but repairs or replacement of the markers shall be made by the sponsoring governmental unit.

Reviser's Note

Section 4, V.A.C.S. Article 6673e-4, refers to the "state highway engineer." The revised law changes the name of the office to the executive director of the Texas Department of Transportation for the reason described by the reviser's note under Section 225.003.

Revised Law

Sec. 225.005. DESIGNATION OF HISTORICAL ROUTE. (a) The department shall mark with a historical name a farm-to-market or
ranch road that follows a historical route if:

(1) a county historical commission applies to the Texas Historical Commission and the department for the marking of the road; and

(2) the Texas Historical Commission certifies that the name has been in common usage in the area for at least 50 years.

(b) The evidence to support a certification under Subsection (a) must:

(1) be submitted by the county historical commission applying for the designation; and

(2) include an affidavit from each of at least five longtime residents of the area.

(c) The department shall prepare and install signs along the road that indicate the road's historical name. The county historical commission applying for the designation shall pay the cost of preparing the signs. (V.A.C.S. Art. 6673e-4, Sec. 8A.)

Source Law
Sec. 8A. (a) Notwithstanding any other provision of this Act, a county historical commission may apply to the Texas Historical Commission and the department for the marking with a historical name of a farm-to-market or ranch road that follows a historical route.

(b) Before the department may mark the road with the historical name, the Texas Historical Commission must certify that the name has been in common usage in the area for at least 50 years. The certification must be based on evidence submitted by the applying county historical commission, which must include affidavits from at least five long-time residents of the area.

(c) On certification by the Texas Historical Commission, the department shall prepare and install along the road signs indicating the road's historical name. The applying county historical commission shall pay for the preparation of the signs.

Revised Law
Sec. 225.006. EFFECT ON OTHER LAWS. This subchapter does not:

(1) supersede or conflict with an existing statute regulating the marking of a road or street; or

(2) void or supersede the authority of a local
governmental agency to regulate and mark a road or street. 
(V.A.C.S. Art. 6673e-4, Sec. 8.)

Source Law

Sec. 8. This act shall not supersede nor be in conflict with any existing statutes regulating the signing and marking of roads or streets nor shall it void or supersede the authority of local governmental agencies to regulate and sign roads and streets within their jurisdiction.

Reviser's Note
(End of Subchapter)

Section 1, V.A.C.S. Article 6673e-4, provides definitions to be used in this subchapter. These definitions are identical to the definitions set out in Section 201.001 of this code, which is a general definitions section that applies to this subchapter, and, therefore, are omitted as unnecessary. The omitted provisions read:

Section 1. In this Act, unless the context requires a different definition:
(1) "Commission" means the State Highway Commission.
(2) "Department" means the Texas Highway Department.

[Sections 225.007-225.020 reserved for expansion]

SUBCHAPTER B. SPECIFIC STATE HIGHWAY NAMES

Revised Law

Sec. 225.021. GENERAL PROVISIONS. (a) The department shall repair and replace each marker required by this subchapter and maintain the grounds for the marker.

(b) The department may accept a grant or donation to assist in financing the construction and maintenance of a marker.

(V.A.C.S. Arts. 6673e-5, Secs. 3(d), (e); 6673e-6, Secs. 2(d), (e); 6673e-7, Secs. 2(d), (e); 6673e-8, Secs. 2(d), (e); 6673e-9, Secs. 2(d), (e); 6673e-10, Secs. 2(d), (e).)

Source Law

[Art. 6673e-5]
(d) The department is responsible for repair and
replacement of the markers and for maintenance of the grounds surrounding each marker.

(e) The department may accept grants and donations from individuals and other entities to assist in financing the construction and maintenance of the markers.

[Art. 6673e-6]

(d) The department is responsible for repair and replacement of the markers and for maintenance of the grounds surrounding each marker.

(e) The department may accept grants and donations from individuals and other entities to assist in financing the construction and maintenance of the markers.

[Art. 6673e-7]

(d) The department is responsible for repair and replacement of the markers and for maintenance of the grounds surrounding each marker.

(e) The department may accept grants and donations from individuals and other entities to assist in financing the construction and maintenance of the markers.

[Art. 6673e-8]

(d) The department is responsible for repair and replacement of the markers and for maintenance of the grounds surrounding each marker.

(e) The department may accept grants and donations from individuals and other entities to assist in financing the construction and maintenance of the markers.

[Art. 6673e-9]

(d) The department is responsible for repair and replacement of the markers and for maintenance of the grounds surrounding each marker.

(e) The department may accept grants and donations from individuals and other entities to assist in financing the construction and maintenance of the markers.

[Art. 6673e-10]

(d) The department is responsible for repair and replacement of the markers and for maintenance of the grounds surrounding each marker.

(e) The department may accept grants and donations from individuals and other entities to assist in financing the construction and maintenance of the markers.

Revised Law

Sec. 225.022. TEXAS VIETNAM VETERANS MEMORIAL HIGHWAY. (a)

To honor the Texas citizens who served in the United States armed forces during the Vietnam War, the part of U.S. Highway 83 located in Texas is the Texas Vietnam Veterans Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Texas Vietnam Veterans Memorial Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end
of the memorial highway and at appropriate intermediate sites along
the highway. The intermediate sites may not be farther apart than
100 miles. (V.A.C.S. Art. 6673e-5, Secs. 1, 2, 3(a), (b), (c).)

Source Law

Art. 6673e-5
Sec. 1. To honor the Texas citizens who served
in the United States armed forces during the Vietnam
War, the legislature determines that it is appropriate
to designate the only United States highway in Texas
that spans the entire length of the state from north to
south as the Texas Vietnam Veterans Memorial Highway.
Sec. 2. The segment of U.S. Highway 83 that is
located in Texas, stretching from Brownsville through
the Panhandle, is designated the Texas Vietnam Veterans
Memorial Highway.
Sec. 3. (a) The State Department of Highways
and Public Transportation shall design and construct
memorial markers to be placed along U.S. Highway 83
indicating its designation as the Texas Vietnam
Veterans Memorial Highway.
(b) The markers shall include the highway number
and any other information that the department
determines is appropriate to demonstrate the purpose of
the memorial.
(c) Markers shall be erected at each end of the
highway in Texas, and at intermediate sites that the
department determines are appropriate. The
intermediate sites may not be farther apart than 100
miles.

Revisor's Note
Sections 1 and 2, V.A.C.S. Article 6673e-5,
contain geographic descriptions of U.S. Highway 83.
References to the location of the highway are omitted
from the revised law because the location of the
highway and its designation as U.S. Highway 83 exist
independently of this statute.

Revised Law
Sec. 225.023. NOLAN RYAN EXPRESSWAY. (a) The part of State
Highway 288 between the Brazoria County line and Freeport is the
Nolan Ryan Expressway.
(b) The department shall design and construct memorial
markers indicating the highway number, the designation as the Nolan
Ryan Expressway, and any other appropriate information.
(c) The department shall erect a memorial marker at each end
of the memorial highway and at appropriate intermediate sites along
the highway. (V.A.C.S. Art. 6673e-6, Secs. 1, 2(a), (b), (c).)

Source Law
Art. 6673e-6
Sec. 1. State Highway 288, from the Brazoria County line to Freeport, is designated the Nolan Ryan Expressway.
Sec. 2. (a) The State Department of Highways and Public Transportation shall design and construct memorial markers to be placed along State Highway 288 indicating its designation as the Nolan Ryan Expressway.
(b) The markers shall include the highway number and any other information that the department determines is appropriate.
(c) Markers shall be erected at each end of the highway and at intermediate sites that the department determines are appropriate. The intermediate sites may not be farther apart than 100 miles.

Revisor's Note
The requirement that intermediate markers be spaced a minimum of 100 miles apart, found in Section 2(c), V.A.C.S. Article 6673e-6, is omitted because the expressway is less than 100 miles long.

Revised Law
Sec. 225.024. SAM HOUSTON PARKWAY. (a) Beltway 8 in Harris County is the Sam Houston Parkway.
(b) The department shall construct markers indicating the designation as the Sam Houston Parkway and other appropriate information.
(c) The department may design the markers in coordination with a local entity. The department has final authority to approve the design of the markers.
(d) The department shall erect a marker every five miles along the beltway except at sites where the department determines the placement of a marker is not feasible. (V.A.C.S. Art. 6673e-7, Secs. 1, 2(a), (b), (c), (f).)

Source Law
Art. 6673e-7
Sec. 1. Beltway 8 in Harris County is designated the Sam Houston Parkway.
Sec. 2. (a) The State Department of Highways and Public Transportation shall construct markers to be placed along Beltway 8 indicating its designation as the Sam Houston Parkway.
(b) The markers shall include information that the department determines is appropriate.
(c) Markers shall be erected every five miles except at sites where the department determines the placement of a marker is not feasible.
(f) Markers may be designed by the department in coordination with a local entity. The department shall have final authority to approve the design of the markers.

Revised Law

Sec. 225.025. SENATOR LLOYD BENTSEN HIGHWAY. (a) The part of U.S. Highway 59 from its intersection with Interstate Highway 45 to its intersection with Interstate Highway 35 is the Senator Lloyd Bentsen Highway.
(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Senator Lloyd Bentsen Highway, and any other appropriate information.
(c) The department shall erect a memorial marker at each end of the memorial highway and at appropriate intermediate sites along the highway. The intermediate sites may not be farther apart than 100 miles. (V.A.C.S. Art. 6673e-8, Secs. 1, 2(a), (b), (c)).

Source Law

Art. 6673e-8
Sec. 1. U.S. Highway 59 from its intersection with U.S. Interstate Highway 45 in Houston to its intersection with U.S. Interstate Highway 35 in Laredo is designated the Senator Lloyd Bentsen Highway.
Sec. 2. (a) The Texas Department of Transportation shall design and construct memorial markers to be placed along U.S. Highway 59 indicating its designation as the Senator Lloyd Bentsen Highway.
(b) The markers shall include the highway number and any other information that the department determines is appropriate.
(c) Markers shall be erected at each end of the highway and at intermediate sites that the department determines are appropriate. The intermediate sites may not be farther apart than 100 miles.
Revisor's Note

(1) Section 1, V.A.C.S. Article 6673e-8, refers to "U.S. Interstate Highway." Reference to "U.S." is omitted from the revised law to maintain consistency with other sections of this subchapter. "U.S." is within the meaning of "Interstate Highway."

(2) Section 1, V.A.C.S. Article 6673e-8, refers to the location of the intersection of U.S. Highway 59 and Interstate 45 (in Houston) and the intersection of U.S. Highway 59 and Interstate 35 (in Laredo). The references to the cities where the highways intersect are unnecessary because the beginning and the end of Senator Lloyd Bentsen Highway are definitely identified as being at the named intersections.

Revised Law

Sec. 225.026. FARM-TO-MARKET ROAD 390; SCENIC HIGHWAY. (a)

Farm-to-Market Road 390 in Washington County is a scenic highway.

(b) The department shall design and construct markers indicating the highway number, the designation as a scenic highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the scenic highway and at appropriate intermediate sites along the highway. (V.A.C.S. Art. 6673e-9, Secs. 1, 2(a), (b), (c).)

Source Law

Art. 6673e-9

Sec. 1. Farm-to-Market Road 390, in Washington County, is designated as a scenic highway.

Sec. 2. (a) The State Department of Highways and Public Transportation shall design and construct appropriate markers to be placed along Farm-to-Market Road 390 indicating its designation as a scenic highway.

(b) The markers shall include the highway number and any other information that the department determines is appropriate.

(c) Markers shall be erected at each end of the highway and at intermediate sites that the department determines are appropriate.
Sec. 225.027. 10TH MOUNTAIN DIVISION HIGHWAY. (a) The 10th Mountain Division Memorial Highway is:

(1) the part of U.S. Highway 290 from Interstate Highway 35 to State Highway 95;
(2) the part of State Highway 95 from U.S. Highway 290 to State Highway 71; and
(3) the part of State Highway 71 from State Highway 95 to Interstate Highway 35.

(b) The department shall design and construct memorial markers to be placed along the memorial highway indicating the highway number, the designation as the 10th Mountain Division Memorial Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at appropriate intermediate sites along the highway. (V.A.C.S. Art. 6673e-10, Secs. 1, 2(a), (b), (c).)

Art. 6673e-10

Sec. 1. The portions of United States Highway 290 from Interstate Highway 35 to State Highway 95, State Highway 95 from United States Highway 290 to State Highway 71, and State Highway 71 from State Highway 95 to Interstate Highway 35 are designated the 10th Mountain Division Memorial Highway.

Sec. 2. (a) The State Department of Highways and Public Transportation shall design and construct memorial markers to be placed along United States Highway 290 and State Highways 71 and 95 indicating their designation as the 10th Mountain Division Memorial Highway.

(b) The markers shall include the highway number and any other information that the department determines is appropriate.

(c) Markers shall be erected at each end of the highway and at intermediate sites that the department determines are appropriate.

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SUBTITLE C. COUNTY ROADS AND BRIDGES
CHAPTER 251. GENERAL COUNTY AUTHORITY
RELATING TO ROADS AND BRIDGES
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law
Sec. 251.001. DEFINITIONS. In this chapter as applied to a
public road:

(1) "Abandon" means to relinquish the public's right
of way in and use of the road.

(2) "Discontinue" means to discontinue the maintenance
of the road.

(3) "Vacate" means to terminate the existence of the
road by direct action of the commissioners court of a county.

(V.A.C.S. Art. 6702-1, Sec. 2.002(f).)

Source Law

(f) As used in this subchapter:
(1) "Discontinue" means to discontinue the
maintenance of a public road.
(2) "Abandon" means to relinquish the
public's right of way in and use of a public road.
(3) "Vacate" means to terminate the
existence of a public road by direct action of the
commissioners court of a county.

Revised Law

Sec. 251.002. PUBLIC ROADS. A public road or highway that
has been laid out and established according to law and that has not
been discontinued is a public road. (V.A.C.S. Art. 6702-1, Sec.
2.001.)

Source Law

Sec. 2.001. Public roads and highways that have
not been discontinued but have been laid out and
established according to law are declared to be public
roads.

Revised Law

Sec. 251.003. CONSTRUCTION AND MAINTENANCE OF PUBLIC ROADS.

(a) The commissioners court of a county may:

(1) make and enforce all necessary rules and orders
for the construction and maintenance of public roads;

(2) hire the labor and purchase the machinery and
equipment needed to construct and maintain public roads; and

(3) use any necessary material most convenient to
build, repair, or maintain public roads, regardless of the location
or extent of the material.

(b) The court may enter any necessary order for the use of
inmates of the county jails to work on the county roads or to build
bridges. (V.A.C.S. Art. 6702-1, Secs. 2.002(b), 4.003(b) (part).)

Source Law

[Sec. 2.002]
(b) The commissioners court may:
(1) make and enforce all reasonable and necessary rules and orders for the construction and maintenance of public roads except as prohibited by law;
(2) hire the labor and purchase the machinery and equipment needed to construct and maintain public roads; and
(3) use any necessary material most convenient to build, repair, or maintain public roads regardless of the location or extent of the material.

[Sec. 4.003]
(b) ... for working public roads or building bridges. The court may make the necessary orders ... for using convict labor for these purposes.

Revisor's Note
(1) Section 2.002(b), V.A.C.S. Article 6702-1, provides that a commissioners court may make and enforce rules and orders "except as prohibited by law." The revised law omits the phrase "except as prohibited by law" as unnecessary. Another statute prohibiting certain actions would be effective without a specific exception in the revised law.

(2) Section 4.003(b), V.A.C.S. Article 6702-1, refers to "convict labor." The revised law substitutes "inmates of the county jails" for consistency with the terminology of the Penal Code.

Revised Law

Sec. 251.004. COMMISSIONERS AS ROAD SUPERVISORS. (a) The county commissioners are the supervisors of the public roads in a county unless the county adopts an optional system of administering the county roads under Chapter 252.

(b) A county commissioner serving as a road supervisor shall supervise the public roads in the commissioner's precinct at least once each month. (V.A.C.S. Art. 6702-1, Sec. 2.009(a) (part).)
Sec. 2.009. (a) Except when road commissioners are employed, the county commissioners shall be supervisors of public roads in their respective counties, and each commissioner shall supervise the public roads within his commissioner's precinct once each month. . . .

Reviser's Note

Section 2.009(a), V.A.C.S. Article 6702-1, states that the county commissioners are road supervisors of the county "[e]xcept when road commissioners are employed." The revised law substitutes for that phrase "unless the county adopts an optional method of administering the county roads under Chapter 252." Chapter 252 includes four optional systems for administering the county roads, including the use of road commissioners. Each of those four systems is inconsistent with the assignment of the county commissioners as road supervisors under Section 2.009(a), and the revised law reflects this fact.

Revised Law

Sec. 251.005. COMMISSIONER'S ROAD REPORT. (a) A county commissioner serving as a road supervisor shall make a sworn report to each regular term of the commissioners court showing:

(1) the condition of each road or part of a road and of each culvert and bridge in the commissioner's precinct;

(2) the amount of money held by overseers available to be spent on the roads in the precinct;

(3) the number of mileposts and fingerboards in the precinct defaced or torn down;

(4) any new road that should be opened in the precinct;

(5) any bridges, culverts, or other improvements necessary to place the roads in the precinct in good condition, and the probable cost of the improvements; and
(6) the name of each overseer who has failed to work on the roads or who in any way neglected to perform the overseer's duties.

(b) The report shall be entered in the minutes of the commissioners court to be considered in improving public roads and determining the amount of taxes imposed for public roads.

(c) The report shall be submitted, together with each contract made by the court since its last report for any work on any road, to the grand jury at the first term of the district court occurring after the report is made to the commissioners court.

(V.A.C.S. Art. 6702-1, Secs. 2.009(a) (part), (b), (c).)

Source Law

(a) ... He shall also make a sworn report to each regular term of the commissioners court held in his county during the year, showing:
(1) the condition of all roads and parts of roads in his precinct;
(2) the condition of all culverts and bridges;
(3) the amount of money remaining in the hands of overseers subject to be expended on the roads within his precinct;
(4) the number of mileposts and fingerboards defaced or torn down;
(5) what, if any, new roads of any kind should be opened in his precinct and what, if any, bridges, culverts, or other improvements are necessary to place the roads in his precinct in good condition and the probable cost of the improvements; and
(6) the name of every overseer who has failed to work on the roads or who in any way neglected to perform his duty.

(b) The report shall be spread on the minutes of the court to be considered in improving public roads and determining the amount of taxes levied for public roads.

(c) The supervisor's report shall be submitted, together with all contracts made by the court since its last report for any work on any road, to the grand jury at the first term of the district court occurring after the report is made to the commissioners court.

Reviser's Note

Section 2.009, V.A.C.S. Article 6702-1, from which the source law to this section is taken, applies only to a county in which the commissioners serve as road supervisors. Accordingly, this section is drafted to apply only to those counties.
Sec. 251.006. OBTAINING MATERIAL FOR PUBLIC ROADS. (a) The commissioners court of a county may condemn material necessary to construct, repair, or maintain public roads if the owner of the material rejects the price that the court determines to be a fair price.

(b) The commissioners court shall appoint commissioners to condemn the material. A condemnation commissioner is entitled to a fee of $2 for each day of service. The fee shall be paid on order of the commissioners court from the same fund from which payment for the materials is made.

(c) The condemnation commissioners shall hold a hearing to set a fair and reasonable value for the material according to the current method for pricing or valuing the material. The compensation awarded by the condemnation commissioners for the material shall be paid to the owner of the material or deposited with the county treasurer to the owner's credit. When the payment or deposit is made, the county has the right to enter on and use the material.

(d) If the owner of the material or the county is not satisfied with the compensation awarded, the owner or county may appeal the award in the manner provided for appeal of a condemnation case.

(e) Payment for material needed for the general system of county roads shall be made from the county road and bridge fund or from the proceeds of any county bond issue. Payment for material to be used for the benefit of a defined district or political subdivision of the county shall be made from the district or subdivision's funds derived from the sale of bonds or the collection of special taxes. (V.A.C.S. Art. 6702-1, Secs. 2.002(c), (d)).

(c) Under the following procedure, the commissioners court may condemn the material necessary to build, repair, or maintain public roads, but only if
the owner of the material rejects what the court
determines to be a fair price:

(1) commissioners appointed by the court
to condemn the materials shall hold a hearing and fix a
fair and reasonable value for the material based on the
current method for pricing or valuing the material;

(2) compensation awarded by the
commissioners for material shall be paid to the owner
or deposited with the county treasurer to the credit of
the owner, and when so paid or deposited the county
shall have the right to enter on and use the material;
if the owner or the county is not satisfied with the
compensation awarded, the owner or the county may
appeal as in condemnation cases; and

(3) the commissioners appointed to condemn
the property are entitled to receive $2 for each day
they may be involved in condemning the material
involved, to be paid out of the same fund from which
payment is made for materials on the order of the
commissioners court.

(d) If material is needed for the general system
of county highways, payment shall be made from the road
and bridge fund or from the proceeds of any county
issue of bonds. If material is to be used for the
benefit of any defined district or political
subdivision of the county, the cost of the material
shall be paid from that district or subdivision's funds
arising through the sale of bonds or the collection of
special taxes.

Reviser's Note

Section 2.002(d), V.A.C.S. Article 6702-1, refers
to the system of "county highways." The revised law
substitutes "county roads" for "county highways"
because the terms are synonymous in the context of this
section and "county road" is the general term used in
this subtitle of the revised law.

Revised Law

Sec. 251.007. CLASSIFICATION OF COUNTY ROADS. (a) The
commissioners court of each county shall classify each public road
in the county as a first-class, second-class, or third-class road.

(b) A county may not reduce a first-class or second-class
road to a lower class.

(c) A first-class road must be not less than 40 feet wide or
more than 100 feet wide. The causeway on a first-class road must
be at least 16 feet wide.

(d) A second-class road and a causeway on a second-class
road must meet the requirements applicable to a first-class road.
A third-class road must meet the requirements applicable to a first-class road, except that:

1. A third-class road may be less than 40 but not less than 20 feet wide; and
2. The causeway on a third-class road may be less than 16 but not less than 12 feet wide. (V.A.C.S. Art. 6702-1, Secs. 2.007(a) (part), (c).)

Source Law
Sec. 2.007. (a) The commissioners court shall classify all public roads in their counties as follows:
1. First-class roads shall be not less than 40 feet nor more than 100 feet wide; and all causeways made at least 16 feet wide;
2. Second-class roads shall conform to the requirements of first-class roads except that they may not be less than 40 feet wide;
3. Third-class roads may not be less than 20 feet wide and the causeway not less than 12 feet wide; otherwise they shall conform to the requirements of first-class roads.
(c) A first-class or second-class road may not be reduced to a lower class.

Revised Law
Sec. 251.008. General requirements for county roads. A public road of any class must:
1. Be clear of all obstructions;
2. Have all stumps over six inches in diameter cut down to not more than six inches of the surface and rounded off; and
3. Have all stumps of six inches or less in diameter cut smooth with the ground. (V.A.C.S. Art. 6702-1, Sec. 2.007(a) (part).)

Source Law
(a) . . .
(1) First-class roads shall be clear of all obstructions . . . ; all stumps over six inches in diameter shall be cut down to six inches of the surface and rounded off, all stumps six inches in diameter and under cut smooth with the ground, . . . ;
(2) Second-class roads shall conform to the requirements of first-class roads . . . ;
(3) Third-class roads . . . shall conform to the requirements of first-class roads.)
Sec. 251.009. CATTLE GUARDS ON COUNTY ROADS IN CERTAIN COUNTIES; OFFENSE. (a) The commissioners court of a county with a population of less than 60,000 may authorize the construction of cattle guards on a county road of any class. A cattle guard authorized under this section is not an obstruction of the road.

(b) The commissioners court shall establish plans and specifications for a standard cattle guard to be used on the county roads. The plans and specifications must be plainly written and supplemented by drawings as necessary and must be available for inspection by the residents of the county.

(c) A person who constructs a cattle guard on a county road that does not conform to the plans and specifications established under Subsection (b) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than $5 or more than $100.

(d) The commissioners court may construct a cattle guard on a county road of any class and may pay for its construction from the county road and bridge fund if the court finds that the construction of the cattle guard is in the best interest of the residents of the county. (V.A.C.S. Art. 6702-1, Secs. 2.007(b), (d), (e).)

Source Law

(b) Any county in this state containing a population of less than 60,000 inhabitants according to the most recent federal census may by a majority vote of the commissioners court authorize the construction of cattle guards across any or all of the first-class, second-class, or third-class roads in said county, and the cattle guards may not be classed or considered as obstructions on the roads.

(d) The commissioners court of any county coming under this section shall provide proper plans and specifications for a standard cattle guard to be used on the roads of the county. The plans and specifications shall be plainly written, supplemented by drawings as may be necessary, and shall be available to the inspection of the citizens of the county. After the commissioners court provides the proper plans and specifications for a standard cattle guard to be used on the roads of the county, any person constructing any cattle guard that is not in accordance with the approved plans and specifications prepared by the
commissioners court is guilty of obstructing the roads of the county, and the person responsible for the improper construction of the cattle guards commits a misdemeanor and shall be fined not less than $5 nor more than $100.

(e) The commissioners court of any county coming under the provisions of this section may construct cattle guards on the first-class, second-class, and third-class roads of the county and may pay for the construction out of the road and bridge funds of the county when in its judgment it believes the construction of the cattle guards to be in the best interest of the citizens of the county.

Revisor's Note

(1) Section 2.007(b), V.A.C.S. Article 6702-1, describes a population number that is to be determined according to the most recent federal census. The revised law omits the reference to the federal census because the reference is unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

(2) Section 2.007(b), V.A.C.S. Article 6702-1, states that a commissioners court may "by a majority vote" take a certain action. The revised law omits the quoted phrase as unnecessary because, unless a law provides otherwise, every action or decision of a public body is made by majority vote.

(3) Sections 2.007(d) and (e), V.A.C.S. Article 6702-1, refer to the "citizens" of a county. The revised law substitutes "residents" for "citizens" because, in the context of this section, "citizen" and "resident" are synonymous and "resident" is more commonly used.

Revised Law

Sec. 251.010. GATES ON THIRD-CLASS AND NEIGHBORHOOD ROADS; OFFENSES. (a) A person who owns real property on which a
third-class road or a neighborhood road established under Section 251.053 is located for which the right-of-way was obtained without cost to the county may erect a gate across the road when necessary. The person shall place a permanent hitching post and stile block on each side of the gate within 60 feet of the gate. The gate must be:

(1) at least 10 feet wide;
(2) free of obstructions above the gate;
(3) constructed so that opening and shutting the gate will not cause unnecessary delay to a person using the road; and
(4) constructed with a fastening to hold the gate open until a person using the gate passes through it.

(b) The property owner shall keep the gate and the approaches to the gate in good order.

(c) A person who erects a gate across a road specified by Subsection (a) and who wilfully or negligently fails to comply with a requirement of this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than $5 or more than $20. Each week that the person fails to comply with this section constitutes a separate offense.

(d) A person who wilfully or negligently leaves open a gate on a road specified by Subsection (a) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than $5 or more than $20. (V.A.C.S. Art. 6702-1, Secs. 2.007(f), (g).)

Source Law

(f) The owners of land across which a third-class or neighborhood road may run, when the right-of-way for the road has been acquired without cost to the county, may erect gates across the road when necessary, the gates to be not less than 10 feet wide and free of obstructions at the top.

(g) Any person placing a gate on or across any third-class road or on or across any road designated by Section 2.006 of this Act shall be required to keep the gate and the approaches to it in good order. The gate shall be not less than 10 feet wide and so constructed as to cause no unnecessary delay to the traveling public in opening and shutting the gate. The person shall provide a fastening to hold the gate open until the passengers go through; the person shall place a
permanent hitching post and stile block on each side of
and within 60 feet of the gate. Any person who places
a gate on or across a third-class road or on or across
any road designated by Section 2.006 and who shall
wilfully or negligently fail to comply with any
requirement of this section commits an offense and
shall be fined not less than $5 nor more than $20 for
each offense, and each week of failure is a separate
offense. Whoever wilfully or negligently leaves open
any gate on or across any third-class road or on or
across any road so designated by Section 2.006 of this
Act commits an offense and shall be fined as previously
provided by this section.

Revisor's Note

Section 2.007(g), V.A.C.S. Article 6702-1, refers
to a road designated under Section 2.006 of that
article. Section 2.006 is codified in this chapter as
Section 251.053, and the revised law is drafted
accordingly.

Revised Law

Sec. 251.011. DETOUR ROADS. (a) The commissioners court of
a county shall establish detour roads for the convenience of the
public when a county road that is not part of the state highway
system must be closed to traffic for road construction. When a
county detour road is in use, the county has the same authority
over the road as over an established public road.

(b) The commissioners court shall:

(1) post all signs necessary for the convenience and
guidance of the public at each end of a county detour road; and

(2) maintain a county detour road so that it is
reasonably adequate for normal traffic requirements. (V.A.C.S.
Arts. 6702-1, Sec. 2.302; 66740, Secs. 2, 3 (part).)

Source Law

[Art. 6702-1]
Sec. 2.302. The commissioners court has the
responsibility to select and maintain detour roads and
to post all necessary signs when county roads not part
of the state system of highways are under construction
as provided by Chapter 25, Acts of the 41st
Legislature, Regular Session, 1929 (Article 66740,
Vernon's Texas Civil Statutes).

[Art. 66740]
Sec. 2. From and after the taking effect of this
Act, it shall be the duty of any County Commissioners' Court in this State wherever construction upon any part of the County System of Public Roads, not parts of the designated State System of Highways, is being carried on and it becomes necessary to close such roads under construction to traffic, to provide for the convenience of the public by the selection and use of a detour road, to be controlled and maintained during the period of such county use under like conditions of authority as exercised over an established public road.

Sec. 3. ... in all provisions for detour roads by County Commissioners' Courts it shall be the duty of the ... Commissioners' Court ... to post all necessary signboards for the convenience and guidance of the public at each end of such detour road, and provide with reasonable adequacy for the maintenance of the detour roads in a manner to respond to normal traffic requirements passing over ... such county roads.

Revised Law

Sec. 251.012. COUNTY AUTHORITY IN MUNICIPALITY. (a) With the approval of the governing body of a municipality, the commissioners court of a county may spend county money to finance the construction, improvement, maintenance, or repair of a street or alley in the county that is located in the municipality, including the provision of:

(1) necessary roadbed preparation or material;
(2) paving or other hard covering of the street or alley; or
(3) curbs, gutters, bridges, or drainage facilities.

(b) County work authorized by this section may be done or financed:

(1) by the county through the use of county equipment;
(2) by an independent contractor with whom the county has contracted;
(3) by the county as an independent contractor with the municipality; or
(4) by the municipality, with the municipality to be reimbursed by the county.

(c) A county acting under this section has, to the extent practicable, the same powers and duties relating to imposing assessments for the construction, improvement, maintenance, or
repair as the municipality would have if the municipality were to 
finance and undertake that activity.

(d) A county acting under Subsection (b) may not spend bond 
proceeds for the construction of a new road in a municipality 
unless the construction is specifically authorized in the election 
approving the issuance of the bonds, regardless of the source of 
the money used to acquire the equipment used to construct the road.

(e) The authority granted by this section is in addition to 
the authority of a county provided by a local road law. (V.A.C.S. 
Art. 6702-1, Sec. 2.010.)

Source Law
Sec. 2.010. (a) The commissioners court of a 
county may expend county funds to finance the 
construction, improvement, maintenance, or repair of a 
street or alley located in the county within the limits 
of an incorporated city or town if the work on the 
street or alley is done with the consent and approval 
of the governing body of the city or town.
(b) The authority of the county to finance the 
construction, improvement, maintenance, or repair of 
the street or alley includes the authority to provide 
any necessary roadbed preparation or material, paving 
or other hard covering of the street or alley, curbing 
or guttering, or bridges or drainage facilities.
(c) The construction, improvement, maintenance, 
or repair may be done or financed:
(1) by the county through the use of 
county equipment; provided, however, that a county 
acting under this subsection may not expend bond funds 
for the construction of new roads within the 
incorporated limits of a city or town unless such 
construction is specifically authorized in the election 
approving the issuance of such bonds regardless of the 
source of the funds used to acquire that equipment;
(2) by an independent contractor with whom 
the county has contracted or by the county as an 
independent contractor with the city; or
(3) by the city or town, with the city or 
town to be reimbursed by the county.
(d) A county acting under this section has, to 
the extent practicable, the same powers and duties 
regarding the levying of assessments for the 
construction, improvement, maintenance, or repair that 
the city or town would have if the city or town were to 
finance and undertake the construction, improvement, 
maintenance, or repair.
(e) The authority granted under this section is 
in addition to any authority granted to a county under 
the laws of this state or by a local road law and shall 
not limit the authority of that county granted under 
such laws.
Revisor's Note

(1) Section 2.010, V.A.C.S. Article 6702-1, refers to an "incorporated city or town." The revised law substitutes the term "municipality" for references to a city or town because that is the term used in the Local Government Code.

(2) Section 2.010(e), V.A.C.S. Article 6702-1, provides that the authority granted under that section is in addition to and does not limit authority granted under state law, including a local road law. The revised law omits the general reference to state law as unnecessary. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision. The reference to a local road law is retained to clarify that the local law does not supersede this section in a county covered by the local law.

Revised Law

Sec. 251.013. ROAD NAMES AND ADDRESS NUMBERS. (a) The commissioners court of a county by order may adopt uniform standards for naming public roads located wholly or partly in unincorporated areas of the county and for assigning address numbers to property located in unincorporated areas of the county. The standards apply to any new public road that is established.

(b) The commissioners court of a county by order may adopt a name for a public road located wholly or partly in an unincorporated area of the county and may assign address numbers to property located in an unincorporated area of the county for which there is no established address system.

(c) If an order adopted under this section conflicts with a
municipal ordinance, the municipal ordinance prevails in the territory in which it is effective.

(d) A commissioners court may adopt an order under this section only after conducting a public hearing on the proposed order. The court shall give public notice of the hearing at least two weeks before the date of the hearing. (V.A.C.S. Art. 6702-1, Sec. 2.011.)

Source Law

Sec. 2.011. (a) In this section, "road" means any public road, street, or highway that is entirely or partially located in an unincorporated area.

(b) The commissioners court of a county may by order adopt uniform standards for naming roads and assigning address numbers to property located in unincorporated areas of the county. The standards are applicable to any new roads that may be established.

(c) The commissioners court of a county may by order adopt names for roads and assign address numbers to any property located in unincorporated areas of the county for which there is no established address system.

(d) If an order adopted under this section conflicts with a municipal ordinance, the municipal ordinance prevails within the geographical area in which the municipal ordinance is effective.

(e) The commissioners court may adopt an order under this chapter only after conducting a public hearing on the proposed order. The court shall provide at least two weeks' public notice of the hearing.

Revisor's Note

Section 2.011, V.A.C.S. Article 6702-1, refers to a "public road, street, or highway." The revised law substitutes "public road" for that phrase. The reference to "highway" is omitted because under Section 2.001 of V.A.C.S. Article 6702-1, revised in this chapter as Section 251.002, the term "public road" includes a public highway. The reference to "street" is omitted because the general term "public road" as used in this chapter clearly includes public streets.

Revised Law

Sec. 251.014. COUNTY IMPROVEMENT OF STATE HIGHWAY. The commissioners court of a county may contract with the department
for the county to carry out a project or activity for the
improvement of a segment of the state highway system if the project
or activity:

(1) is appurtenant to a state highway, including
   surveying, making a traffic count, or landscaping or an activity
   relating to a drainage facility, driveway, sign, light, or
   guardrail; or

(2) involves maintenance of a state highway or
   appurtenant facility. (V.A.C.S. Art. 6702-1, Sec. 2.012.)

Source Law

Sec. 2.012. (a) The commissioners court of a
county may contract with the State Department of
Highways and Public Transportation for the improvement
of a segment of the state highway system by the county.
(b) In this section, "improvement" means
projects or activities:
(1) appurtenant to a state highway and
   including drainage facilities, surveying, traffic
   counts, driveways, landscaping, signs, lights, or
   guardrails; or
(2) involving maintenance of state
   highways and appurtenant facilities.

Revisor's Note

Section 2.012, V.A.C.S. Article 6702-1, refers to
the "State Department of Highways and Public
Transportation." The revised law substitutes
"department" for the name of the agency because in this
title "department" is defined by Section 201.001 of
this code to mean "Texas Department of Transportation,"
the current name of the former "Texas Department of
Highways and Public Transportation." See the revisor's
note to Section 201.003 of this code.

Revised Law

Sec. 251.015. ASSISTING OTHER GOVERNMENTAL ENTITY. The
commissioners court of a county may use county road equipment,
construction equipment, including trucks, and employees necessary
to operate the equipment to assist another governmental entity on a
project if:
(1) the cost does not exceed $3,000;

(2) the use of the equipment or employees does not interfere with the county's work schedule; and

(3) the county pays only the costs that the county would pay if the county did not assist the governmental entity.

(V.A.C.S. Art. 2352j.)

Source Law

Art. 2352j. A commissioners court of a county may use its road equipment, other construction equipment, including trucks, and employees necessary to operate the equipment to assist another governmental entity on any project so long as the cost does not exceed $3,000 if:

(1) the use of the equipment or employees does not interfere with the county's work schedule; and

(2) the county does not pay any costs related to the use of the equipment or employees that the county would not pay if the assistance were not given to the other governmental entity.

[Sections 251.016-251.050 reserved for expansion]

SUBCHAPTER B. ESTABLISHING AND CLOSING ROADS

Revised Law

Sec. 251.051. GENERAL AUTHORITY OF COMMISSIONERS COURT. (a)

The commissioners court of a county shall:

(1) order that public roads be laid out, opened, discontinued, closed, abandoned, vacated, or altered; and

(2) assume control of streets and alleys in a municipality that does not have an active de facto municipal government.

(b) A unanimous vote of the commissioners court is required to:

(1) close, abandon, or vacate a public road; or

(2) alter a public road, except to shorten it from end to end.

(c) The commissioners court of a county may not discontinue a public road until a new road designated by the court as a replacement is ready to replace it.

(d) The commissioners court may not discontinue, close, or
abandon an entire first-class or second-class road unless the road
has been vacated or unused for at least three years. (V.A.C.S.
Art. 6702-1, Sec. 2.002(a).)

Source Law

Sec. 2.002. (a) The commissioners court shall:
(1) order that public roads be laid out,
opened, discontinued, closed, abandoned, vacated, or
altered except that:
(A) a public road may not be
discontinued until a new road designated by the
commissioners court as a replacement road is ready to
replace it;
(B) a public road may not be closed,
abandoned, and vacated, nor may it be altered except to
shorten the distance from end to end, unless the action
to be taken be by unanimous vote of all elected
commissioners; and
(C) an entire first-class or
second-class road may not be discontinued, closed, or
abandoned except on vacation or nonuse for a period of
three years; and
(2) assume control of streets and alleys
in all cities and incorporated towns that have no
active de facto municipal government.

Revisor's Note

Section 2.002(a), V.A.C.S. Article 6702-1, refers
to "cities and incorporated towns." The revised law
substitutes the term "municipality" for that phrase
because that is the term used in the Local Government
Code for those entities.

Revised Law

Sec. 251.052. PUBLIC APPLICATION FOR NEW ROAD OR ROAD
CHANGE. (a) The residents of a precinct may apply for a new road
or a change in an existing road by presenting to the commissioners
court a petition signed by:
(1) eight property owners in the precinct, if the
application is to request a new road or that a road be
discontinued; or
(2) one property owner in the precinct, if the
application is for a change in a road other than discontinuing the
road.
(b) A petition presented under Subsection (a)(1) must
specify the beginning and termination points of the proposed new road or road to be discontinued.

(c) The commissioners court may not grant an order on an application made under this section unless the applicants give notice of their intent to apply by posting, at the courthouse door and at two other places in the vicinity of the affected route, a written notice of their intent for at least 20 days before the date the application is made. (V.A.C.S. Art. 6702-1, Sec. 2.003.)

Source Law

Sec. 2.003. (a) Citizens may apply for a new road or a change in an existing road by presenting to the commissioners court a petition signed by:

(1) eight landowners in the precinct if the request is for a new road or to discontinue an existing road; or

(2) one landowner in the precinct if the request is for a change in a road.

(b) The petition must specify the beginning and termination points of a proposed new road or a road to be discontinued.

(c) Before the commissioners court may grant an order based on an application described by Subsection (a) of this section, the applicants must first give notice of their intent to apply by a written advertisement of their intent posted on the courthouse door and at two other places in the vicinity of the route affected for at least 20 days.

Revisor's Note

Section 2.003(a), V.A.C.S. Article 6702-1, refers to "citizens" of a precinct. The revised law substitutes "residents" for "citizens" because, in the context of this section, the terms are synonymous and "resident" is more commonly used.

Revised Law

Sec. 251.053. NEIGHBORHOOD ROADS. (a) As provided by this section, a commissioners court may declare as a public road:

(1) any line between the locations of any persons;

(2) any section line; or

(3) any practical route that is convenient to property owners while avoiding hills, mountains, or streams through any enclosures.
(b) A person who owns real property to which there is no public road or other public means of access may request that an access road be established connecting the person's real property to the county public road system by making a sworn application to the commissioners court requesting the court to establish the road.

The application must:

1. designate the lines sought to be opened;
2. include the names and places of residence of the persons that would be affected by the establishment of the road; and
3. describe why the road is necessary.

(c) After an application is filed, the county clerk shall issue notice to the sheriff or constable commanding that officer to summon each property owner affected by the application. The sheriff or constable shall serve the summons and make a return in the manner in which process is served in a civil action in a justice court. A property owner summoned must appear at the next regular term of the commissioners court if the property owner elects to contest the application.

(d) At a regular term of court following the service of the summons under Subsection (c), the commissioners court may hear evidence as to the truth of the application. If the court determines that the applicants do not have access to their real property and premises, the court may issue an order declaring the lines designated in the application, or other lines established by the court, to be a public road. The court may direct the public road to be opened by the property owners and to remain open for a width of not less than 15 feet or more than 30 feet on each side of a designated line. The marked trees or other objects used to designate the lines or the corners of the survey may not be removed or defaced. Notice of the court's order shall be served immediately on the property owners and a return of the notice made in the manner provided by Subsection (c) for a return under that subsection. A copy of the order shall be filed in the deed records.
in the office of the county clerk.

(e) Damages to property owners incident to the opening of a road under this section shall be assessed by a jury of property owners in the manner provided for other public roads. The county shall pay all costs incurred in connection with the proceedings to open a road under this section.

(f) The commissioners court is not required to maintain a road established under this section using county employees but shall make the road initially suitable for use as an access public road.

(g) In the case of a public road established under this section that involves an enclosure of 1,280 acres or more, a person who for 12 months after the person receives notice of the court's order issued under Subsection (d) fails, neglects, or refuses to leave open the person's real property free from all obstructions for 15 feet on the person's side of the line designated by the order commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed $20 for each month that the person fails, neglects, or refuses to do so after the first 12 months after the person receives the notice. (V.A.C.S. Art. 6702-1, Sec. 2.006.)

Source Law

Sec. 2.006. (a) The commissioners court may declare as a public highway any line between different persons or landowners, any section line, or any practicable route (a practicable route being one convenient to landowners while at the same time avoiding hills, mountains, or streams through any and all enclosures), subject to the following conditions.

(b) One or more persons, firms, or corporations, who are landowners into whose land there is no public road or public means of access and who desire an access road connecting their land with the county public road system, may make a sworn application to the commissioners court for an order establishing the road, designating the lines sought to be opened and the names and residences of the persons affected by the proposed access road, and stating the facts that show a necessity for the road.

(c) After the application is filed, the county clerk shall issue a notice to the sheriff or constable commanding him to summon those landowners affected by the application. Those summoned must appear at the next regular term of the commissioners court if they desire to contest the application. The notice shall be
served and returned as in the service of citations in
civil actions in justice courts.

(d) At a regular term of the court after due
service of the notice, the court may hear evidence as
to the truth of the application, and if it appears that
the applicants have no means of access to their land
and premises, it may issue an order declaring the lines
designated in the application or the lines as may be
fixed by the commissioners court to be a public highway
and may direct the public highway to be opened by the
owners and left open for a space of not less than 15
feet or more than 30 feet on each side of a designated
line, but the marked trees and other objects used to
designate the lines and the corners of surveys may not
be removed or defaced. Notice of the order shall be
immediately served on the owners and return of the
notice shall be made as previously provided in this
section. A copy of the order shall be filed in the
deed records in the office of the county clerk of the
county.

(e) The damages to the landowners shall be
assessed by a jury of landowners, as for other public
roads, and all costs attending the proceedings in
opening the road shall be paid by the county. The
commissioners court is not required to keep the road
worked by the roadhands as in the case of other public
roads but shall place the roads in the first instance
in condition for use as access public roads.

(f) Once the commissioners court has designated
a public road under this section that involves an
enclosure of 1280 acres or more, a person or owner who
fails, neglects, or refuses for 12 months after legal
notice to leave open his land free from all
obstructions for 15 feet on his side of the designated
line commits an offense and shall be fined not more
than $20 per month after the first 12 months.

Revisor's Note

(1) Section 2.006, V.A.C.S. Article 6702-1,
refers to the establishment of a "public highway." The
revised law substitutes "public road" for "public
highway" because the term "public road" is defined in
Section 2.001 of V.A.C.S. Article 6702-1, revised as
Section 251.002 of this chapter, to include "public
highway," and "public road" is the general term used
throughout this subtitle of the revised law relating to
county roads.

(2) Section 2.006(b), V.A.C.S. Article 6702-1,
refers to "persons, firms, or corporations" that own
land. The references to "firms" and "corporations" are
omitted from the revised law because under Section
311.005(2), Government Code (Code Construction Act),
"person" is defined to include a corporation or any other legal entity. That definition applies to the revised law.

Revised Law

Sec. 251.054. LAYING OUT NEW ROADS BY JURY OF VIEW. (a) A new road ordered by the commissioners court of a county must be laid out by a jury of view consisting of five property owners appointed by the commissioners court. The jury of view shall lay out the road to the greatest advantage of the public and shall survey and describe the road. The commissioners court may order the county surveyor to cooperate with the jury. The jury shall make a report of its proceedings, including its field notes, survey, or other description of the road, to the court at its next term after the jury has completed its duties.

(b) Not later than the 10th day after the date the commissioners court appoints a jury of view, the clerk of the court shall prepare and deliver to the sheriff two copies of the appointing order, endorsed with the date of that order, for each person appointed. Not later than the 20th day after the date the sheriff receives the copies, the sheriff shall serve one copy of the order on each person appointed in person or by leaving it at the person's usual place of residence. The sheriff shall make the return of service to the clerk on the duplicate copy, stating the date and manner of service or the reason that service was not completed, as applicable.

(c) A person summoned as a juror of view who fails or refuses to perform the service required by law as a juror is liable to the county for a fine of $10. The fine may be recovered by the county attorney or district attorney through a judgment obtained in the name of the county.

(d) Before assuming the duties of a juror of view, each person appointed must take the following oath: "I, _________________, do solemnly swear that I will lay out the road now directed to be laid
out by the order to us directed from the commissioners court, according to law, without favor or affection, malice or hatred, to the best of my skill and knowledge. So help me God."

(e) The jury of view shall issue a written notice of the time at which it will lay out the road or assess damages incidental to the opening of the road. Not later than the fifth day before the date set out in the notice for action by the jury, the notice must be served on each property owner, or the property owner's agent or attorney, through whose real property the road may pass. Notice to a property owner who is not a resident of the county may be given by publication of the notice in a newspaper of circulation in the county once a week for four consecutive weeks before the road is established. Cost of publication shall be paid as directed by order of the commissioners court.

(f) At or before the time set out in the notice for action by the jury of view, a property owner may present to the jury a written statement of the damages claimed by the property owner incidental to the opening of the road. The jury shall assess the damages incurred by each property owner and return the assessment and the statement of damages claimed by the property owner with the jury's report. If the commissioners court approves the report and orders the road to be opened, it shall consider the jury's assessment of damages and the property owner's statement and allow the property owner just damages and adequate compensation for the real property taken. If no objection is made to the jury's report and the court considers the road sufficiently important, the court may take action to open the road after the court:

(1) makes payment of any compensation allowed to property owners or secures a special deposit with the county treasurer to the property owners for any compensation allowed; and

(2) notifies the property owners of the payment or deposit.

(g) A property owner may appeal the assessment of damages in the manner provided for an appeal from a justice court. An appeal
is limited to the issue of the amount of damages incurred by the property owner and may not prevent the opening of the road.
(V.A.C.S. Art. 6702-1, Sec. 2.004.)

Source Law

Sec. 2.004. (a) New roads ordered by the commissioners court must be laid out by a jury of view, appointed by the court and consisting of five landowners. The court may order the cooperation of the county surveyor. The jury of view shall lay out, survey, and describe the road to the greatest advantage of the public and make a written report containing the field notes, survey or description of the road, and the jury's proceedings to the next term of the court.

(b) When juries of view are appointed, the clerk of the court shall make out and deliver to the sheriff duplicate copies of the appointing order not later than the 10th day after the day the appointment was made, endorsing on those copies the date of the order. The sheriff shall serve the order on each juror in person or by leaving one of the copies at the appointee's usual place of abode. The sheriff shall make the service not later than the 20th day after the day he receives the copies and shall make his return to the clerk on the duplicate copies, stating the date and manner of service or the cause of his failure to make the service. Any person summoned as a juror of view who fails or refuses to perform the service required of him by law as a juror forfeits and shall pay for each failure the sum of $10, to be recovered by judgment on motion of the district or county attorney in the name of the county.

(c) The jurors shall first take the following oath: "I, , do solemnly swear that I will lay out the road now directed to be laid out by the order to us directed from the commissioners court, according to law, without favor or affection, malice or hatred, to the best of my skill and knowledge. So help me God."

(d) The jury shall issue a written notice of the time when they will proceed to lay out the road or when they will assess the damages incidental to the opening of the road. The notice shall be served on each landowner, his agent, or attorney, through whose land the road may run, not later than the fifth day before the day set in the notice. If the owner is a nonresident of the county, the notice may be given by publication in a newspaper published in the county. The notice must be published once a week for four consecutive weeks, and the road may be established after four weeks' publication. The cost of publishing shall be paid as directed by the judgment of the court.

(e) At the time stated in the notice or previous to that time, the owner may present to the jury a written statement of the damages claimed by him, incidental to the opening of the road, and the jury shall proceed to assess the damages, returning its assessment and the claimant's statement with its report. If the commissioners court approves the report and orders the road to be opened, it shall consider the assessment and damages by the jury and the claimant's statement and allow to the owner just damages and adequate compensation for the land taken. When the damages and compensation are paid or secured by special
deposit with the county treasurer to the credit of the
owner and after notice of the payment or deposit to the
owner, and if no objection is made to the jury's
report, the court may proceed to have the road opened,
if it is considered to be of sufficient importance.
The owner may appeal from the assessment as in cases of
appeal from judgment of justice courts, but the appeal
shall not prevent the road from being opened, but shall
be only to fix the amount of damages.

Revised Law

Sec. 251.055. EXTENDING FARM-TO-MARKET ROAD IN ADJOINING
COUNTY. A county that determines that it would significantly
benefit from the extension of a farm-to-market road in an adjoining
county may contract with the adjoining county for the extension and
agree to pay all or part of the cost that the adjoining county
necessarily incurs in extending the road. (V.A.C.S. Art. 6702-2.)

Source Law

Art. 6702-2. If a county finds that a
significant benefit to the county would occur if a
farm-to-market road in an adjoining county were
extended, the county may contract with the adjoining
county to pay all or a part of the expenses that the
adjoining county necessarily incurs in relation to the
extension of the road.

Revised Law

Sec. 251.056. ROADS ACROSS PUBLIC REAL PROPERTY. (a) A
public road may not be opened across real property owned and used
or intended for use for public purposes by a state institution and
not subject to sale under the general law of this state without the
consent of the governing body of the institution and the approval
of the governor.

(b) The authority in charge of real property described by
Subsection (a) may close a road opened on that real property before
September 1, 1925, if the authority considers it necessary to
protect the interests of the state. An institution that closes a
road under this subsection shall compensate the county in which the
real property is located in an amount equal to the amount paid by
the county to condemn the real property, as shown by the records of
the commissioners court, together with eight percent interest.
Sec. 2.005. A public road may not be opened across land owned and used or intended for actual use by the state, educational, eleemosynary, or other public state institutions for public purposes and not subject to sale under the general laws of the state, without the consent of the trustees of the institution and the approval of the governor. The roads opened before September 1, 1925, across the land may be closed by the authorities in charge of the land whenever they consider it necessary to protect the interests of the state, on repayment to the county where the land is situated, with eight percent interest, the amount actually paid out by the county for the condemnation of the land as shown by the records of the commissioners court.

Reviser's Note
Section 2.005, V.A.C.S. Article 6702-1, refers to "state, educational, eleemosynary, or other public state institutions." The revised law omits the references to "educational" and "eleemosynary" as unnecessary because those institutions are included in the term "state institution." The reference to "public" is omitted as unnecessary because a state institution is a public institution.

Revised Law
Sec. 251.057. ABANDONMENT OF COUNTY ROAD. (a) A county road is abandoned when its use has become so infrequent that one or more adjoining property owners have enclosed the road with a fence continuously for at least 20 years. The abandoned road may be reestablished as a public road only in the manner provided for establishing a new road.

(b) This section does not apply to:

(1) a road to a cemetery; or

(2) an access road that is reasonably necessary to reach adjoining real property. (V.A.C.S. Art. 6702-1, Sec. 2.008.)

Source Law
Sec. 2.008. (a) Whenever the use of a county road has become so infrequent that the adjoining
landowner or landowners have enclosed the road with a fence and the road has been continuously under fence for a period of 20 years or more, the public has no further easement or right to use the road unless and until the road is reestablished in the same manner as required for the establishment of a new road.

(b) This section does not apply to roads to a cemetery or access roads reasonably necessary to reach adjoining land.

Revisor's Note

Section 2.008(a), V.A.C.S. Article 6702-1, states that "the public has no further easement or right to use" certain roads. The revised law replaces that phrase with a statement that a road is "abandoned" because Section 2.002(f), V.A.C.S. Article 6702-1, revised in Section 251.001 of this chapter, is defined to mean substantially the same thing.

Revised Law

Sec. 251.058. CLOSING, ABANDONING, AND VACATING PUBLIC ROAD.

(a) A property owner may not enjoin the entry or enforcement of an order of a commissioners court, acting at the request of any person or on its own initiative, to close, abandon, and vacate a public road or portion of a public road unless the property owner is entitled to an injunction because:

(1) the person owns property that abuts the portion of the road being closed, abandoned, and vacated; or

(2) the portion of the road being closed, abandoned, and vacated provides the only ingress to or egress from the person's property.

(b) Title to a public road or portion of a public road that is closed, abandoned, and vacated to the center line of the road vests on the date the order is signed by the county judge in the owner of the property that abuts the portion of the road being closed, abandoned, and vacated. A copy of the order shall be filed in the deed records of the county and serves as the official instrument of conveyance from the county to the owner of the abutting property.
(c) This section does not deprive a person whose property abuts the road at a point other than the portion of the road being closed, abandoned, and vacated of a right to seek compensation for damages caused by:

(1) any depreciation in the value of the property; or

(2) any impairment to the property owner's right of ingress to or egress from the property. (V.A.C.S. Art. 6702-1, Sec. 2.002(e).)

Source Law

(e) If a commissioners court, acting either upon the request of one or more parties or on its own initiative, by order closes, abandons, and vacates a public road or part thereof, no property owner shall be entitled to enjoin the entry or enforcement of said order unless the property owner might otherwise be entitled to said injunctive relief because the property of such owner abuts the portion of the road being closed, abandoned, and vacated or because ingress or egress to such owner's property is only available by use of said portion of the subject road; provided, however, this subsection shall not deprive a property owner whose property abuts the subject road at a point other than the portion of the road being closed, abandoned, and vacated or because ingress or egress to the owner's property is only available by use of said portion of the subject road. Title to the public road or part thereof that is closed, abandoned, and vacated and that abuts an owner's property, to the center line of the road, vests, on the date the order is signed by the county judge, in such abutting property owner. A copy of the order shall be filed of record in the deed records of the county and shall act as the official instrument of conveyance from the county to the abutting property owner.

[Sections 251.059-251.080 reserved for expansion]

SUBCHAPTER C. COUNTY BRIDGES

Revised Law

Sec. 251.081. GENERAL AUTHORITY TO ERECT AND MAINTAIN BRIDGES. The commissioners court of a county may erect and maintain any necessary bridge in the county and make any necessary appropriation for that purpose. (V.A.C.S. Art. 6702-1, Sec. 2.201.)
Sec. 2.201. The commissioners courts have authority to cause all necessary bridges to be built and kept in repair in their respective counties and to make necessary appropriations of money of the counties for that purpose.

Sec. 251.082. ERECTION OF JOINT COUNTY BRIDGES. On equitable terms agreed to by the commissioners courts of the counties, two or more counties jointly may erect a bridge over a stream that forms the boundary between counties or at any other location at which the counties choose to erect a bridge. (V.A.C.S. Art. 6702-1, Sec. 2.203.)

Sec. 2.203. If any stream constitutes in whole or in part the boundary line between two or more counties or if two or more counties are jointly interested in the construction of a bridge, whether over a stream or elsewhere, the counties may jointly erect bridges on equitable terms that the commissioners court of each county may agree on.

Sec. 251.083. ERECTING AND MAINTAINING BRIDGE IN MUNICIPALITY. (a) The commissioners court of a county may erect a bridge in a municipality in the manner authorized by law for the erection of a bridge outside a municipality.

(b) The commissioners court and the governing body of the municipality may agree to erect the bridge jointly. The county or the municipality may issue bonds to pay its proportionate share of any resulting debt.

(c) The commissioners court of a county that owns a bridge located in a municipality shall maintain the bridge in good condition. The duty imposed by this subsection does not affect the municipality's liability for an injury caused by a defective condition of the bridge. (V.A.C.S. Arts. 2356, 2357.)

Art. 2356. Said court may erect bridges within the corporate limits of any city or town to the same
extent and under the same conditions now prescribed by law for the construction of bridges outside the limits of any city or town. Said court and the governing body of any city or town may co-operate in the erection of a bridge within the corporate limits of a city or town, and jointly erect such bridge upon terms and conditions mutually agreed upon; and either or both the city and county may issue its bonds to pay its proportionate part of the debt by complying with the requirements of the law regulating the issuance of bonds by counties and cities and towns.

Art. 2357. The commissioners court of counties owning bridges, situated within the corporate limits of cities and towns, shall keep the same in repair. This article shall not affect or diminish the liability of town and city corporations for injuries caused by defective condition of such bridges situated within the city limits.

Revisor's Note
(1) V.A.C.S. Articles 2356 and 2357 refer to "city" and "town." The revised law substitutes the term "municipality" for "city or town" because that is the term used in the Local Government Code.

(2) V.A.C.S. Article 2356 refers to "[s]aid court." The revised law substitutes "commissioners court" based on the original statute, prior to the 1925 codification, added by Section 1, Chapter 107, Acts of the 24th Legislature, 1895, which specifies the "commissioners court."

(3) V.A.C.S. Article 2356 provides that a county or municipality may issue bonds "by complying with the requirements of the law regulating the issuance of bonds by counties and cities and towns." The revised law omits the quoted phrase as unnecessary because the general provisions regulating the issuance of bonds apply whenever a county or municipality is authorized to issue bonds, whether or not the statute authorizing issuance makes reference to those provisions.

[Sections 251.084-251.100 reserved for expansion]
SUBCHAPTER D. ACQUISITION OF
RIGHT-OF-WAY FOR COUNTY ROADS

Revised Law

Sec. 251.101. CONDEMNATION FOR COUNTY ROAD IN MUNICIPALITY.

(a) A county may exercise the power of eminent domain in a
municipality with the prior consent of the governing body of the
municipality to condemn and acquire real property, a right-of-way,
or an easement in public or private real property that the
commissioners court determines is necessary or convenient to any
road that forms or will form a connecting link in the county road
system or in a state highway.

(b) This section does not authorize the condemnation of
property used for cemetery purposes.

(c) A condemnation proceeding under this section must be
instituted under the direction of the commissioners court and in
the name of the county. The procedure established by Chapter 21,
Property Code, governs condemnation under this section.

(d) An appeal from the finding and assessment of damages by
the condemnation commissioners may not suspend work by the county
in connection with which the real property, right-of-way, or
easement is sought to be acquired. In an appeal, the county is not
required to give a bond for costs or other purposes. (V.A.C.S.
Art. 6702-1, Sec. 4.302.)

Source Law

Sec. 4.302. (a) The right of eminent domain
within the boundaries of a municipality with prior
consent of the governing body of the municipality is
conferred on counties of the state for the purpose of
condemning and acquiring land, right-of-way, or
easement in land, private or public, except property
used for cemetery purposes, where the land,
right-of-way, or easement is in the judgment of the
commissioners court of the county necessary or
convenient to any road that forms or will form a
connecting link in the county road system or a
connecting link in a state highway.

(b) All condemnation proceedings shall be
instituted under the direction of the commissioners
court and in the name of the county, and the procedure
shall be the same as that set out in Chapter 21,
Property Code, as amended. Appeal from the finding and
assessment of damages by the commissioners appointed
for that purpose may not suspend work by the county in
connection with which the land, right-of-way, or
easement is sought to be acquired. In case of appeal,
counties may not be required to give a bond for costs
or other purposes.

Revised Law

Sec. 251.102. COST OF RELOCATING OR ADJUSTING UTILITY
FACILITY. A county shall include the cost of relocating or
adjusting an eligible utility facility in the expense of
right-of-way acquisition. (V.A.C.S. Art. 6702-1, Sec. 4.303.)

Source Law

Sec. 4.303. The county should include the cost
of relocating or adjusting eligible utility facilities
in the expense of right-of-way acquisition.

Revised Law

Sec. 251.103. RELOCATING WATER LINE. A county may pay for
relocating a water line owned by a water control and improvement
district if:

(1) the relocation is necessary to complete
construction or improvement of a farm-to-market road; and

(2) the district agrees to pay the county for the
relocation costs:

(A) within 20 years; and

(B) with interest at a rate equal to the rate
paid by the county on its road and bridge fund time warrants.

(V.A.C.S. Art. 1581f.)

Source Law

Art. 1581f. The counties of the State of Texas
are hereby authorized to pay for the relocation of
water lines owned by water control and improvement
districts when such relocation is necessary to complete
the construction or improvement of Farm-to-Market Roads
as defined by Subsection 4-b of Article XX of Chapter
184, Acts of the Forty-seventh Legislature, Regular
Session, 1941, as amended, provided the water control
and improvement district which owns the water lines to
be relocated agrees to repay the county for the cost of
relocating the water lines within twenty (20) years
with interest thereon at a rate equal to that paid by
the county on their Road and Bridge Fund time warrants.
Revisor's Note

V.A.C.S. Article 1581f refers to a farm-to-market road as defined by Subsection 4-b, Article XX, Chapter 184, Acts of the 47th Legislature, Regular Session, 1941 (Article 7083a, Vernon's Texas Civil Statutes).

V.A.C.S. Article 7083a was repealed by Section 9(i)(1), Chapter 752, Acts of the 67th Legislature, Regular Session, 1981. Accordingly, the revised law omits the cross-reference.

[Sections 251.104-251.150 reserved for expansion]

SUBCHAPTER E. COUNTY TRAFFIC REGULATIONS

Revised Law

Sec. 251.151. AUTHORITY OF COMMISSIONERS COURT. The commissioners court of a county may regulate traffic on a county road or on real property owned by the county that is under the jurisdiction of the commissioners court. (V.A.C.S. Art. 6702-1, Sec. 2.301(a)(1).)

Source Law

Sec. 2.301. (a)(1) The commissioners court of any county may regulate and restrict traffic on county roads and on other county-owned land under its jurisdiction.

Revisor's Note

Sec. 2.301(a)(1), V.A.C.S. Article 6702-1, provides that the commissioners court may "regulate and restrict" traffic. The revised law omits "restrict" because "restrict" is included within the meaning of "regulate."

Revised Law

Sec. 251.152. PUBLIC HEARING REQUIRED. (a) Except as provided by Section 251.159, before the commissioners court may issue a traffic regulation under this subchapter, the commissioners court must hold a public hearing on the proposed regulation.
(b) The commissioners court shall publish notice of the hearing in a newspaper of general circulation in the county. The notice must be published not later than the seventh or earlier than the 30th day before the date of the hearing. (V.A.C.S. Art. 6702-1, Sec. 2.301(a)(2).)

Source Law

(2) Except as provided by Subdivision (3) of this subsection, the commissioners court shall hold a public hearing before issuing any traffic regulation under this Act. The court shall give advance notice of the proposed regulation by publishing notice of the hearing in a newspaper of general circulation in the county. The notice must be published not later than the seventh day or earlier than the 30th day before the day of the hearing.

Reviser's Note

Section 2.301(a)(2), V.A.C.S. Article 6702-1, refers to the adoption of county traffic regulations under "this Act." In the revised law, the county's authority to adopt traffic regulations is found, for the most part, in this subchapter. The revised law is drafted accordingly to refer to "this subchapter" in place of "this Act."

Revised Law

Sec. 251.153. LOAD LIMITS ON COUNTY ROADS AND BRIDGES. (a) The commissioners court of a county may establish load limits for any county road or bridge.

(b) The commissioners court may authorize a county traffic officer, sheriff, deputy sheriff, constable, or deputy constable to weigh a vehicle to ascertain whether the vehicle's load exceeds the limit prescribed by the commissioners court. (V.A.C.S. Art. 6702-1, Sec. 2.301(b)(2).)

Source Law

(2) The commissioners court may establish load limits for any road or bridge and may authorize the county traffic officer, if one or more officers have been appointed, or any sheriff, deputy sheriff, constable, or deputy constable to weigh vehicles for the purpose of ascertaining whether a vehicle is loaded
in excess of the prescribed limit.

Revised Law

Sec. 251.154. MAXIMUM REASONABLE AND PRUDENT SPEEDS ON COUNTY ROADS. (a) The commissioners court of a county, by order entered on the minutes of the court, may determine and set a maximum reasonable and prudent speed for a vehicle travelling on any segment of a county road, including a road or highway intersection, railroad grade crossing, curve, or hill.

(b) In determining the maximum reasonable and prudent speed, the commissioners court shall consider all circumstances on the affected segment of the road, including the width and condition of the road surface and the usual traffic on the road.

(c) The maximum reasonable and prudent speed set by the commissioners court under this section may be lower than the maximum speed set by law for a vehicle travelling on a public highway.

(d) A speed limit set by the commissioners court under this section is effective when appropriate signs giving notice of the speed limit are installed on the affected segment of the county road. (V.A.C.S. Art. 6702-1, Sec. 2.301(b)(1).)

Source Law

(b)(1) The commissioners court may determine and fix the maximum, reasonable, and prudent speed at any road or highway intersection, railroad grade crossing, curve, or hill or on any other part of a county road slower than the maximum fixed by law for public highways. The court shall take into consideration the width and condition of the surface of the road and other circumstances on the affected portion of the road as well as the usual traffic on the road. If the commissioners court of any county determines and fixes the maximum rate of speed at any point on any county road at a slower rate than the maximum fixed by law for public highways and declares the maximum, reasonable, and prudent speed limit by proper order of the court entered on its minutes, the limit becomes effective and operative at that point on the road when appropriate signs giving notice of the speed limit are erected under order of the court for that portion of the road.

Revised Law

Sec. 251.155. RESTRICTED TRAFFIC ZONES. (a) The
commissioners court of a county may adopt regulations establishing
a system of traffic control devices in restricted traffic zones on
property described by Section 251.151.

(b) A system of traffic control devices adopted under this
section must conform to the manual and specifications of the Texas
Department of Transportation.

(c) The commissioners court by order entered on its minutes
may install and maintain on property to which this section applies
any traffic signal light, stop sign, or no-parking sign that the
court considers necessary for public safety. (V.A.C.S.
Art. 6702-1, Sec. 2.301(c).)

Source Law

(c) The commissioners court may adopt
regulations consistent with this section for
establishment of a system of traffic control devices
within restricted traffic zones established on county
roads and on any other property owned by the county and
located in its jurisdiction. The system shall conform
to the State Department of Highways and Public
Transportation manual and specifications. The court
may under an order entered on its minutes place, erect,
install, and maintain within traffic zones on county
roads and on any other property owned by it traffic
signal lights, stop signs, and no-parking signs as it
considers necessary for public safety.

Reviser's Note

Sec. 2.301(c), V.A.C.S. Article 6702-1, refers to
"county roads and . . . other county property owned by
the county and located in its jurisdiction." The
revised law omits the quoted provision and substitutes
a cross-reference to Section 251.151 of this code,
which contains the substance of the omitted provision.

Revised Law

Sec. 251.156. PARKING RESTRICTIONS. The commissioners court
of a county by order may have signs installed that prohibit or
restrict the stopping, standing, or parking of a vehicle in a
restricted traffic zone on property described by Section 251.151,
if in the opinion of the court the stopping, standing, or parking:
(1) is dangerous to those using the road or property;

or

(2) will unduly interfere with:

(A) the free movement of traffic; or

(B) the necessary control or use of the property. (V.A.C.S. Art. 6702-1, Sec. 2.301(d) (part).)

Source Law

(d) The commissioners court, with respect to roads and any other property owned by the county and located in its jurisdiction, may place signs prohibiting or restricting the stopping, standing, or parking of vehicles within a restricted traffic zone on any road or on any property owned by the county if in the opinion of the commissioners court the stopping, standing, or parking is dangerous to those using the road or the other property owned by the county or if the stopping, standing, or parking of vehicles will unduly interfere with the free movement of traffic or with the necessary control or use of property owned by the county.

Revisor's Note

Sec. 2.301(d), V.A.C.S. Article 6702-1, refers to "county roads and . . . other county property owned by the county and located in its jurisdiction." The revised law omits the quoted provision and substitutes a cross-reference to Section 251.151 of this code, which contains the substance of the omitted provision.

Revised Law

Sec. 251.157. PROHIBITING USE OF ROAD. (a) In this section, "road supervisor" means a person authorized to supervise roads in a county or in a district or precinct of a county.

(b) A road supervisor may prohibit the use of a road or a section of a road under the supervisor's control by any vehicle that will unduly damage the road when:

(1) because of wet weather or recent construction or repairs, the road cannot be safely used without probable serious damage to it; or

(2) a bridge or culvert on the road is unsafe.
(c) Before prohibiting the use of a road under this section, the road supervisor shall post notices that state the maximum load permitted and the time the use of the road is prohibited. The notices must be posted at locations that enable drivers to detour to avoid the restricted road.

(d) The road supervisor may not prohibit the use of a road under this section until a detour has been provided.

(e) If the owner or operator of a vehicle that is prohibited from using a road under this section is aggrieved by the prohibition, the person may file with the county judge of the county in which the restricted road is located a written complaint that sets forth the nature of the grievance. On the filing of the complaint the county judge promptly shall set the issue for a hearing to be held not later than the third day after the date on which the complaint is filed. The county judge shall give to the road supervisor written notice of the date and purpose of each hearing.

(f) The county judge shall hear testimony offered by the parties. On conclusion of the hearing, the county judge shall sustain, revoke, or modify the road supervisor's decision on the restriction. The county judge's judgment is final as to the issues raised. (V.A.C.S. Art. 6702-1, Secs. 2.301(g), (h).)

Source Law

(g) The county commissioner of any precinct, the county road superintendent of any county, or the road supervisor whose road is affected may forbid the use of highways or parts of highways, if from wet weather or recent construction or repairs they cannot be safely used without probable serious damages to the highway or if the bridge or culverts on the highway are unsafe, under the following rules: the officer shall post notices on the highway stating the maximum load permitted and the time the use is prohibited, and the notices shall be posted on the highway in places that will enable the drivers to make detours to avoid the restricted highway or portions of it.

(h) If the owner or operator of any vehicle feels himself aggrieved by an action taken under this subsection, he may complain in writing to the county judge of the county, setting forth the nature of his grievance; if the complaint is filed, the judge shall set the complaint down for a day not later than the third day after the day the complaint is filed and shall give written notice to the county judge of the

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day and purpose of the hearing; the judge shall hear
testimony offered by the parties to the complaint and
on conclusion of the hearing shall render judgment
sustaining, revoking, or modifying the order or notice,
and the judgment is final as to the issues raised.

Revisor's Note
(1) The definition of "road supervisor" is added
to the revised law for drafting convenience to
eliminate frequent, unnecessary repetition of the
substance of the definition. The definition in the
revised law replaces the references in Section
2.301(g), V.A.C.S. Article 6702-1, to county
commissioners, road superintendents, and road
supervisors with a general reference to the person
authorized to supervise the road the use of which is to be prohibited in accordance with the intent of that
section to cover every type of official that supervises
county roads.

(2) Section 2.301(g), V.A.C.S. Article 6702-1,
refers to "highway" and "road" interchangeably. The
revised law refers only to "road" because that is the
general term used in V.A.C.S. Article 6702-1 and
related laws to describe roads constructed and
maintained by a county.

Revised Law
Sec. 251.158. TEMPORARY USE OF COUNTY ROAD FOR FESTIVAL OR
CIVIC EVENT. (a) The commissioners court of a county by order may
permit the temporary use of a county road located in an
unincorporated area of the county for a civic event, including a
festival.

(b) The court by order shall establish procedures for the
temporary diversion of traffic from the road being used for the
event. (V.A.C.S. Art. 6702-1, Sec. 2.301(j).)
(j) The commissioners court of a county by order may permit the temporary use of a county road in the unincorporated area of the county for a festival or other civic event. The commissioners court by order shall establish procedures for the temporary diversion of traffic from the road being used for the festival or other civic event.

Sec. 251.159. DELEGATION OF COMMISSIONERS' AUTHORITY. (a) This section applies only to a county with a population of more than 500,000.

(b) The commissioners court of a county may delegate to the county engineer or other county employee any function of the commissioners court under this subchapter, except as provided by Subsection (e). An action of the county engineer or other county employee under this section has the same effect as if the action were an action of the commissioners court.

(c) Before issuing a traffic regulation under this subchapter, the commissioners court, in lieu of publishing notice required by a law other than this subchapter, may give notice of the proposed regulation by posting a conspicuous sign in any location to be affected by the regulation.

(d) The commissioners court is not required to hold a public hearing on the proposed traffic regulation unless a resident of the county requests a public hearing. The request must be in writing and made before the eighth day after the later of:

   (1) the date that the sign is posted; or
   (2) the date that the notice under Section 251.152 is published.

(e) If a public hearing is requested, the commissioners court may not delegate the duty to hold the hearing. (V.A.C.S. Art. 6702-1, Sec. 2.301(a)(3).)
county engineer or another employee capable of performing the function. The action of the person in carrying out the delegated function has the same effect as if it were the action of the commissioners court. Before issuing a traffic regulation under this Act the commissioners court of such a county, as an alternative to publishing any notice required by law other than this Act, may conspicuously post notice of the proposed regulation by sign at any location affected by the proposed regulation. The commissioners court is not required to hold a public hearing before the regulation is issued unless a resident of the county, in writing, requests the hearing before the eighth day after the later of the date of the publication of the notice, if any, or the date of the posting of the sign. If a hearing is requested, the commissioners court may not delegate the duty to hold the hearing.

Revisor's Note

(1) Section 2.301(a)(3), V.A.C.S. Article 6702-1, describes a population number that is to be determined according to the most recent federal census. The revised law omits the reference to the federal census because the reference is unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

(2) Section 2.301(a)(3), V.A.C.S. Article 6702-1, authorizes the commissioners court to delegate a function of the court to the county engineer or another employee "capable of performing the function." The revised law omits the quoted provision as unnecessary.

(3) The revised law substitutes "this subchapter" for "this Act" for the reason stated by the reviser's note under Section 251.152 of this code.

Revised Law

Sec. 251.160. LIABILITY OF OWNER OR OPERATOR FOR ROAD DAMAGE. (a) A person who operates or moves a vehicle or other object on a public road or bridge and the owner of the vehicle or
other object are jointly and severally liable for damage sustained by the road or bridge as a result of the negligent operation or moving of the vehicle or other object or as a result of the operation or movement of the vehicle at a time prohibited by the officials with authority over the road.

(b) The county judge by appropriate legal action may recover damages for which liability is provided by this section. The county attorney shall represent the county in an action under this subsection. Damages collected under this subsection are for the use of the county to benefit the damaged road or bridge. (V.A.C.S. Art. 6702-1, Sec. 2.301(i).)

Source Law

(i) The owners, operators, drivers, or movers of any vehicle, object, or contrivance over a public highway or bridge are jointly and severally responsible for all damages that the highway or bridge may sustain as the result of negligent driving, operating, or moving of the vehicle or as a result of operating the vehicle at a time forbidden by the road officials; the amount of the damages may be recovered in any action at law by the county judge for the use of the county for the benefit of the damaged road; the county attorney shall represent the county in the suit.

Revised Law

Sec. 251.161. VIOLATIONS OF SUBCHAPTER; OFFENSE. (a) A person commits a misdemeanor offense if the person:

(1) stops, stands, or parks a vehicle in violation of a restriction stated on a sign installed under Section 251.156;

(2) defaces, injures, knocks down, or removes a sign or traffic control device installed under an order of the commissioners court of a county issued under this subchapter;

(3) operates a motor vehicle in violation of an order of the commissioners court entered under this subchapter; or

(4) otherwise violates this subchapter.

(b) Except as provided by Subsections (c) and (d), an offense under this section is punishable by a fine not to exceed $50.

(c) If it is shown on the trial of an offense under this
section that the person has previously been convicted one time of
the offense, the offense is punishable by a fine not to exceed
$200.

(d) If it is shown on the trial of an offense under this
section that the person has previously been convicted two times of
the offense, the offense is punishable by:

(1) a fine not to exceed $500;

(2) confinement in the county jail for a term not to
exceed 60 days; or

(3) both the fine and the confinement. (V.A.C.S.
Art. 6702-1, Secs. 2.301(d) (part), (e), (f).)

Source Law

(d) ... The signs shall be erected under an
order of the court, and it is unlawful for any person
to stop, stand, or park any vehicle in violation of the
restrictions stated on the signs.

(e) Any person who shall deface, injure, knock
down, or remove any sign or traffic control device
erected under an order of the commissioners court as
provided by this section commits a misdemeanor.

(f) Any person operating a motor vehicle in
violation of any order of the commissioners court
entered under this section or otherwise violating this
section commits a misdemeanor and shall on conviction
be punished by a fine not exceeding $50 for the first
offense, by a fine not exceeding $200 for the second
offense, and by a fine not exceeding $500 or
imprisonment in the county jail not to exceed 60 days,
or both for each subsequent offense.

Reviser's Note
(End of Subchapter)

V.A.C.S. Article 66740-1 authorizes the State
Highway Commission to prohibit the use of state
highways and certain county authorities to prohibit the
use of county roads. Article 66740-1 was enacted in
1921 and most recently amended in 1929. The revised
law omits that portion of V.A.C.S. Article 66740-1 that
authorizes county authorities to prohibit the use of
county roads as having been impliedly repealed by the
enactment in 1983 of Sections 2.301(g) and (h), County
Road and Bridge Act (Article 6702-1, Vernon's Texas
Civil Statutes). As omitted, the pertinent part of

V.A.C.S. Article 66740-1 reads as follows:

"Art. 66740-1. The County
Commissioners of any precinct, or County
Road Superintendent of any county, or road
Supervisor whose road is affected . . . may
have the authority by posting notices on
the highways or roads under their
respective control when from wet weather or
recent construction or repairs such cannot
be safely used without probable serious
damage to same, or when the bridge or
culverts on same are unsafe, to forbid the
use of such highway or section thereof by
any vehicle or loads of such weight or
tires of such character as will unduly
damage such highway. The notices provided
for here:~n shall state the maximum load
permitted and the time such use is
prohibited and shall be posted upon the
highway in such place as will enable the
drivers to make detours to avoid the
restricted highways or portions thereof;
provided no road shall be closed until
detours have been provided.

If the owner or operator of any such
vehicle feels himself aggrieved by such
action, he may complain in writing to the
County Judge of such county, setting forth
the nature of his grievance. Upon the
filing of such complaint the County Judge
shall forthwith set down for hearing the
issue thus raised for a day certain, not
more than three days later, and shall give
notice in writing to such official of the
day and purpose of each hearing, and at
such hearing the County Judge shall hear
testimony offered by the parties
respectively, and upon conclusion thereof,
shall render judgment sustaining, revoking
or modifying such order heretofore made by
the County Road Superintendent or Road
Supervisor . . . and the judgment of the
County Judge shall be final as to the
issues raised. If upon such hearing the
judgment sustains the order of the County
Road Superintendent or road Supervisor and
it appears that any violation of same has
been committed by the complainant since
posting such notices, he shall be subject
to the same penalty hereinafter provided
for such offense as if the same had been
committed subsequent to the rendition of
such judgment made upon such hearing.

Any party guilty of violating the
provisions and directions of any such order
or notice of the County Road Superintendent
or road Supervisor . . . before or after it
has been so approved by such judgment of
the County Judge shall be fined not
exceeding Two Hundred Dollars."
Revisor's Note
(End of Chapter)

(1) The primary purpose of a short title is to provide a convenient way of citing a cohesive body of law that deals comprehensively with a subject. The short title to V.A.C.S. Article 6702-1, the County Road and Bridge Act (established by Section 1.001 of that act) is omitted from the revised law because this purpose is no longer served by preserving the short title. Portions of V.A.C.S. Article 6702-1 are revised in this subtitle in distinct chapters according to subject matter. Other statutes that cover related subjects are also included in this subtitle. Portions of V.A.C.S. Article 6702-1 have been transferred to Title 22, Revised Statutes, to be codified at a later date with other statutes governing public securities. In place of the short title, the chapters of the revised law provide a convenient means of citing the related provisions of former V.A.C.S. Article 6702-1.

The omitted provision establishing the short title for V.A.C.S. Article 6702-1 reads:

Art. 6702-1
Sec. 1.001. This Act may be cited as the County Road and Bridge Act.

(2) The revised law omits V.A.C.S. Article 6759, which defines "road" and "work" for purposes of Subdivision 3, Chapter 3, Title 116, Revised Statutes, which until 1985 governed county road superintendents. In 1985, all the other statutes in that subdivision were repealed and replaced by portions of Subchapter B, Chapter 3, V.A.C.S. Article 6702-1, revised in this subtitle of this code. As a result, the definition in V.A.C.S. Article 6759 no longer applies to any law and thus has no effect. The omitted statute reads:

Art. 6759. As used in this subdivision, "road" includes roadbed, ditches, drains, bridges, culverts, and
every part of such road, and "work" and "working" includes the opening and laying out of new roads, widening, constructing, draining, repairing, and everything else that may be done in and about any road.

CHAPTER 252. SYSTEMS OF COUNTY ROAD ADMINISTRATION

SUBCHAPTER A. EX OFFICIO ROAD COMMISSIONER SYSTEM

Sec. 252.001. ADOPTION OF EX OFFICIO ROAD COMMISSIONER SYSTEM

Sec. 252.002. RELATIONSHIP OF SUBCHAPTER TO OTHER LAW

Sec. 252.003. EX OFFICIO ROAD COMMISSIONERS

Sec. 252.004. BOND

Sec. 252.005. POWERS AND DUTIES OF COMMISSIONERS COURT

Sec. 252.006. POWERS AND DUTIES OF EX OFFICIO ROAD COMMISSIONERS

Sec. 252.007-252.100 reserved for expansion

SUBCHAPTER B. ROAD COMMISSIONER SYSTEM

Sec. 252.101. SUBCHAPTER NOT APPLICABLE TO CERTAIN COUNTIES

Sec. 252.102. RELATIONSHIP OF SUBCHAPTER TO OTHER LAW

Sec. 252.103. ROAD COMMISSIONERS

Sec. 252.104. BOND OF ROAD COMMISSIONER

Sec. 252.105. POWERS AND DUTIES OF ROAD COMMISSIONER

Sec. 252.106. SUPERVISION OF ROAD COMMISSIONER BY COMMISSIONERS COURT

Sec. 252.107. REPORT OF ROAD COMMISSIONER

Sec. 252.108. USE OF COUNTY ROAD AND BRIDGE FUND

Sec. 252.109. DONATIONS

Sec. 252.110. LIABILITY FOR PROPERTY DAMAGE OR MISPLACEMENT

Sec. 252.111. DRAINAGE ALONG PUBLIC ROAD

Sec. 252.112-252.200 reserved for expansion

SUBCHAPTER C. ROAD SUPERINTENDENT SYSTEM

Sec. 252.201. SUBCHAPTER NOT APPLICABLE TO CERTAIN COUNTIES

Sec. 252.202. RELATIONSHIP OF SUBCHAPTER TO OTHER LAW