REVISOR'S REPORT

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

VOLUME III

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
judgment of said court may thereafter be taken or sued out by either party. Any such suit shall be entitled to precedence in the courts of this State of appellate jurisdiction, and shall be heard and determined as promptly as practicable.

CHAPTER 316. USE OF MUNICIPAL STREETS AND SIDEWALKS FOR PUBLIC CONVENIENCES AND AMENITIES OR FOR PRIVATE USES

SUBCHAPTER A. USE OF MUNICIPAL STREETS AND SIDEWALKS FOR PUBLIC CONVENIENCES AND AMENITIES

Sec. 316.001. DEFINITIONS

(1) "Municipal street" means the entire width of a way...
held by a municipality in fee or by easement or dedication that has
a part open for public use for vehicular travel. The term does not
include a designated state or federal highway or road or a
designated county road.

(2) "Roadway" means the portion of a municipal street
that is improved, designed, or ordinarily used for vehicular
travel. The term does not include a curb, berm, or shoulder.

(3) "Sidewalk" means the portion of a municipal street
between the curb lines or lateral lines of a roadway and the
adjacent property lines that is improved and designed for or is
ordinarily used for pedestrian travel.

(4) "Sidewalk cafe" means an outdoor dining area that
is located on a sidewalk and that contains removable tables,
chairs, planters, or related appurtenances. (V.A.C.S. Art. 1085c,
Secs. 1(2), (3), (4), (5).)

Source Law

Art. 1085c
Sec. 1. In this Act:

(2) "Public street" means the entire width
between the boundary lines of every way which is held
by a city in fee or by easement or dedication when any
part thereof is open to the use of the public for
purposes of vehicular travel; provided the term "public
street" shall not include any designated state or
federal highway or road or any designated county road.
(3) "Roadway" means that portion of a
public street which is improved, designed, or
ordinarily used for vehicular travel, exclusive of the
curb, berm, or shoulder. In the event that a public
street includes two or more separate roadways,
"roadway" means each such roadway separately.
(4) "Sidewalk" means that portion of a
public street which is between the curb lines, or the
lateral lines of a roadway, and the adjacent property
lines and is improved and designed for or is ordinarily
used for pedestrian travel.
(5) "Sidewalk cafe" means an outdoor
dining area located on a sidewalk and containing
removable tables, chairs, planters, or related
appurtenances.

Revisor's Note

(1) Section 1(1), V.A.C.S. Article 1085c,
defines "city" as "an incorporated city, town, or
village, including a home-rule city." The revised law
omits that definition and substitutes "municipality" for the term "city" because the Local Government Code now refers to each of those entities by the term "municipality." The omitted definition reads:

(1) "City" means an incorporated city, town, or village, including a home-rule city.

(2) Section 1(2), V.A.C.S. Article 1085c, defines the term "public street." The revised law substitutes the term "municipal street" to avoid confusion between streets to which the revised law applies, held by municipalities, and streets held by other public entities to which the revised law does not apply.

(3) Section 1(3), V.A.C.S. Article 1085c, in defining "roadway" provides, "[i]n the event that a public street includes two or more separate roadways, 'roadway' means each such roadway separately." The revised law omits the quoted language as unnecessary because the provision states a logical result of the definition provided and does not further clarify the defined term.

Revised Law

Sec. 316.002. PERMITTED IMPROVEMENTS OR FACILITIES ON MUNICIPAL STREET. (a) The governing body of a municipality may permit a person described by Subsection (b) to use property in the municipality on which a municipal street is located for the establishment or maintenance of:

(1) trees or decorative landscaping, including landscaping lighting, watering systems, or other accessories for the maintenance of the trees or landscaping;

(2) a sidewalk cafe that is:

(A) contiguous to a restaurant in which food preparation, sanitation, and related services for the cafe are
performed; and

(B) open to the air, except for any canopy, and not enclosed by fixed walls;

(3) an ornamental gate, column, or other ornamental work denoting the entrance to a neighborhood or platted and recorded subdivision;

(4) a supportive or decorative column, arch, or other structural or decorative feature of a building that is:

(A) of historical value or of unusual architectural design, character, or significance; and

(B) 50 or more years old at the time of application for a permit for the establishment or maintenance of the feature; or

(5) an amenity for the convenience of the public in the use of the municipal streets for pedestrian or vehicular travel, including a transit bus shelter, drinking fountain, or bench.

(b) The governing body may grant permission under Subsection (a) only to:

(1) a person who owns the underlying fee title to the real property; or

(2) an entity that holds a lease of the property from or has written permission to use the property from a person who owns the underlying fee title to the real property.

(c) An ornamental work described by Subsection (a)(3) may display the name of the neighborhood or subdivision, but may not contain commercial advertising or other signs. (V.A.C.S. Art. 1085c, Sec. 2.)

Source Law

Sec. 2. The governing body of any city may, subject to the provisions of this Act, permit any person owning the underlying fee title to any real property upon which any public street within its corporate limits is situated, or any association or other entity acting with a lease or other express written permission of the said fee title owner, to make use of said property, notwithstanding its being part of a public street, for any one or more of the following:
improvements or facilities:

(1) the establishment or maintenance or both of trees and decorative landscaping, including landscaping lighting, watering systems, and other appurtenances for the maintenance thereof;

(2) the establishment or maintenance or both of sidewalk cafes; provided that a sidewalk cafe may not be enclosed by fixed walls and shall be open to the air, except that it may have a canopy; provided further that a sidewalk cafe must be abutting and contiguous to a restaurant in which food preparation, sanitation, and related services for the sidewalk cafe will be performed;

(3) the establishment or maintenance or both of ornamental gates, columns, or other ornamental works of wood, iron, masonry, earth, or other materials denoting the entrance to a neighborhood or a platted and recorded subdivision; provided that such improvements may display the name of the subdivision or neighborhood but shall not contain any commercial advertising or other signage;

(4) the establishment or maintenance or both of any supportive or decorative columns, arches, or other structural or decorative feature of any building which is 50 or more years old at the time of filing an application for a permit hereunder and of unusual architectural design, character, or significance or of historical value; or

(5) the establishment or maintenance or both of transit bus shelters, drinking fountains, benches, and other related amenities for the convenience of the public in the use of the public streets for pedestrian or vehicular transportation.

Reviser's Note

(1) Section 2, V.A.C.S. Article 1085c, refers to "a city." The revised law substitutes the term "municipality" for "city" for the reason stated in Reviser's Note (1) under Section 316.001.

(2) Section 2, V.A.C.S. Article 1085c, refers to "any association or other entity." The revised law omits the reference to "association" because "association" is included within the meaning of "entity."

(3) Section 2, V.A.C.S. Article 1085c, refers to ornamental works "of wood, iron, masonry, earth, or other materials." The revised law omits the quoted language because the language includes all materials suitable for the purpose.
Revised Law

Sec. 316.003. FINDING REQUIRED. An improvement or facility described by Section 316.002(a) may not be established unless the governing body of the municipality, or a municipal official who is designated by ordinance to make the finding, finds that:

(1) the improvement or facility will not be located on, extend onto, or intrude on:

(A) the roadway; or

(B) a part of the sidewalk needed for pedestrian use;

(2) the improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the municipal street; and

(3) the design and location of the improvement or facility includes all reasonable planning to minimize potential injury or interference to the public in the use of the municipal street. (V.A.C.S. Art. 1085c, Sec. 3.)

Source Law

Sec. 3. No improvement or facility described in Section 2 of this Act shall be established except upon a finding by the governing body of the city or upon finding by an official of the city who has been designated by ordinance to make such determination:

(1) that the improvement or facility will not be located on, extend onto, nor intrude upon any portion of the roadway;

(2) that the improvement or facility will not be located on, extend onto, nor intrude upon any portion of the sidewalk which is needed for pedestrian use;

(3) that the design and location of the improvement or facility includes all reasonable planning to minimize potential harm, injury, or interference to the public in the use of the public street;

(4) that the improvement or facility will not create any hazardous condition or obstruction of vehicular or pedestrian travel upon the public street.

Revisor's Note

(1) Section 3, V.A.C.S. Article 1085c, refers to a "city." The revised law substitutes the term "municipality" for "city" for the reason stated in
Revisor's Note (1) under Section 316.001.

(2) Section 3(3), V.A.C.S. Article 1085c, refers to "harm, injury, or interference to the public." The revised law omits the reference to "harm" because "harm" is included within the meaning of "injury" and "interference."

Revised Law
Sec. 316.004. PERMIT PROGRAM. (a) A municipality by ordinance may establish a permit program under this subchapter.

(b) The governing body of the municipality shall include in the ordinance:

(1) provisions the governing body determines are necessary or desirable to protect, at the site of an applicant's proposed facility, the public, utility companies, and any person who has the right to use the municipal street;

(2) provisions that require:

(A) clearances between the facility or improvement and utility lines that comply with clearances from structures to utility lines required by a nationally recognized building code;

(B) a permit holder to provide a cash or surety bond in an amount approved by the municipality sufficient to cover the costs for the municipality or a public utility to remove the permit holder's facilities or improvements; and

(C) a permit holder to pay the costs to relocate a municipal or public utility facility or improvement in a municipal street associated with the installation of a facility or improvement of the permit holder; and

(3) a provision authorizing the municipality or a utility company or other person authorized by the municipality to remove, without liability, any part of a facility for which a permit has been issued if there is a lawful need for the site or for access to the site.
(c) The governing body may include in the ordinance:

1. construction, maintenance, operation, and inspection requirements;
2. public liability insurance requirements;
3. a requirement that the applicant or permit holder pay for traffic and safety studies;
4. provisions for conducting a public hearing on the issuance, renewal, or revocation of a permit, with notice and reporting expenses of the hearing to be paid by the applicant or permit holder;
5. a requirement for indemnity agreements by abutting fee title land owners in the form of covenants that run with the title to the abutting land; or
6. a provision that authorizes the governing body, at its discretion, to terminate the permit without notice to the permit holder. (V.A.C.S. Art. 1085c, Sec. 4 (part).)

Source Law

Sec. 4. No city shall be required to establish a permit program pursuant to this Act. Any city may by ordinance establish a permit program under this Act. Such ordinance shall include regulations the governing body of the city deems necessary or desirable for the protection of the public and utility companies and other persons or firms having the right to use the public street at the site of the applicant's proposed facility. Such regulations may include, without limitation, construction, maintenance, operation, and inspection requirements; requirements for indemnity agreements by abutting fee owners, which agreements shall be covenants running with the title of said abutting land; public liability insurance requirements; requirements for traffic and safety studies to be provided at the expense of the applicant or permittee; authority for the governing body to terminate the permit at its discretion and without notice to the permittee; and provision for conducting public hearings on the issuance, renewal, or revocation of permits, with notice and reporting expenses thereof to be borne by the applicant or permittee. Such regulations shall provide that the city or any utility company or other person authorized by the city may remove all or any part of any facility for which a permit has been issued without liability therefor in the event of lawful need for the site or for access thereto, that all facilities or improvements shall comply with clearances required from structures to utility lines as provided in a nationally recognized building code, that the permittee shall provide a cash or surety bond in sum sufficient to cover the costs of removal of its facilities or improvements by the city or any public utility upon
terms and in an amount which is approved by the city, and that the costs of any relocation of city facilities and improvements or public utility facilities and improvements within the public streets which may be associated with the installation of any permittee's authorized facilities and improvements shall be borne by the permittee. . . .

Revisor's Note

(1) Section 4, V.A.C.S. Article 1085c, provides that "[n]o city shall be required to establish a permit program pursuant to this Act." The revised law omits the quoted language because V.A.C.S. Article 1085c does not by its terms require a municipality to establish a permit program.

(2) Section 4, V.A.C.S. Article 1085c, refers to a "city." The revised law substitutes the term "municipality" for "city" for the reason stated in Revisor's Note (1) under Section 316.001.

(3) Section 4, V.A.C.S. Article 1085c, refers to "any other persons or firms." The revised law omits the reference to "firms" 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. 316.005. RENEWAL OF PRIOR PERMIT. The renewal of a permit issued before April 30, 1985, for an improvement or facility described by Section 316.002(a) must be renewed in the same manner as a permit issued under this subchapter. (V.A.C.S. Art. 1085c, Sec. 4 (part).)

Source Law

... The renewal of any permit issued prior to the effective date of this Act must comply with the provisions of this Act. ...
Revisor's Note

Section 4, V.A.C.S. Article 1085c, refers to the renewal of "any permit issued prior to the effective date of this Act." The revised law substitutes the effective date of that provision, April 30, 1985, for brevity and clarity.

Revised Law

Sec. 316.006. USE OF MUNICIPAL MONEY OR EMPLOYEE FOR PERMITTED FACILITY. A municipality may use or permit the use of municipal money or an employee with respect to a facility operated under a permit issued under this subchapter only for inspections or removal. (V.A.C.S. Art. 1085c, Sec. 4 (part).)

Source Law

... No city shall use or permit to be used any of its funds or employees with respect to a facility operated by permit, except for inspections or removal purposes.

Revisor's Note

(1) Section 4, V.A.C.S. Article 1085c, refers to a "city." The revised law substitutes "municipality" for "city" for the reason stated in Revisor's Note (1) under Section 316.001.

(2) Section 4, V.A.C.S. Article 1085c, refers to a municipality's "funds." The revised law substitutes "money" for "funds" because in that context the terms are synonymous and the former is more commonly used.

Revised Law

Sec. 316.007. IMPROVEMENT OR FACILITY ESTABLISHED OR MAINTAINED BY MUNICIPALITY. (a) A municipality may establish or maintain, with municipal money, material, equipment, or personnel, an improvement or facility described by Section 316.002(a)(1) or (5) without a permit, regardless of whether the municipality establishes a permit program under this chapter.
(b) A municipality must make the finding required by Section 316.003 regarding an improvement or facility the municipality proposes to place on a municipal street. (V.A.C.S. Art. 1085c, Sec. 5.)

Source Law

Sec. 5. Without regard to whether it establishes a permit program under this Act, any city may establish or maintain, with its funds, materials, equipment, and personnel, any of the improvements or facilities described in Subdivisions (1) and (5) of Section 2 of this Act, and the provisions of this Act shall not be construed to require the issuance of a permit for any such improvement or facility established or maintained by a city; provided that the provisions of Section 3 of this Act shall apply to any such improvement or facility placed by a city upon any public street after the effective date of this Act.

Revisor's Note

(1) Section 5, V.A.C.S. Article 1085c, refers to a "city." The revised law substitutes "municipality" for "city" for the reason stated in Revisor's Note (1) under Section 316.001.

(2) Section 5, V.A.C.S. Article 1085c, refers to a municipality's "funds." The revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (2) under Section 316.006.

(3) Section 5, V.A.C.S. Article 1085c, provides for findings to be made by a municipality for an improvement or facility placed after "the effective date of this Act." The revised law omits the quoted language because the language means that the law is to apply prospectively.

Revised Law

Sec. 316.008. PUBLIC AND GOVERNMENTAL ACTIONS AND FUNCTIONS OF MUNICIPALITY. The following actions of a municipality are public and governmental actions and functions, are exercised for a public purpose, and are matters of public necessity:

(1) granting a permit authorized by this subchapter;
(2) permitting the use of a municipal street for a purpose authorized by Section 316.002 under a permit authorized by this subchapter; and

(3) establishing or maintaining, with municipal money, material, equipment, or personnel, an improvement or facility described by Section 316.002(a)(1) or (5). (V.A.C.S. Art. 1085c, Sec. 6.)

Source Law

Sec. 6. The actions of any city in granting any permit authorized hereunder and in permitting the use of any public street for any purpose authorized in Section 2 of this Act pursuant to a permit issued hereunder are hereby declared to be public and governmental actions and functions of a city, exercised for a public purpose and matters of public necessity. The actions of any city in establishing or maintaining, with its own funds, materials, equipment, and personnel, any of the improvements or facilities described in Subdivisions (1) and (5) of Section 2 of this Act also are declared to be public and governmental actions and functions of the city, exercised for a public purpose and matters of public necessity.

Revisor's Note

(1) Section 6, V.A.C.S. Article 1085c, refers to a "city." The revised law substitutes "municipality" for "city" for the reason stated in Revisor's Note (1) under Section 316.001.

(2) Section 6, V.A.C.S. Article 1085c, refers to a municipality's "funds." The revised law substitutes "money" for "funds" for the reason stated in Revisor's Note (2) under Section 316.006.

Revised Law

Sec. 316.009. RIGHT OF ABATEMENT. This chapter does not impair the right of a municipality or other person to abate an unlawful obstruction or use of a municipal street. (V.A.C.S. Art. 1085c, Sec. 7 (part).)

Source Law

Sec. 7. The provisions of this Act shall not be construed to impair the right of any city or any other
person to abate or cause to be abated any unlawful
obstruction or use of any public street . . . .

Revised Law
Sec. 316.010. POLITICAL SUBDIVISION NOT REQUIRED TO OBTAIN
PERMIT. This chapter does not require a political subdivision of
this state to obtain a permit to establish or maintain an
improvement or facility authorized by other law. (V.A.C.S. Art.
1085c, Sec. 7 (part).)

Source Law
[Sec. 7. The provisions of this Act shall not be construed] . . . . to require any political subdivision
of the state to obtain a permit to establish or maintain any improvement or facility which is otherwise
authorized by law.

[Sections 316.011-316.020 reserved for expansion]

SUBCHAPTER B. USE OF STREETS AND SIDEWALKS FOR PRIVATE PURPOSE

Revised Law
Sec. 316.021. MUNICIPAL PERMISSION TO USE STREET OR SIDEWALK
FOR PRIVATE PURPOSE. A municipality may permit and prescribe the
consideration and terms for the use of a portion of a municipal
street or sidewalk for a private purpose if the use does not:
(1) interfere with the public use of the street or
sidewalk; or
(2) create a dangerous condition on the street or
sidewalk. (V.A.C.S. Art. 1085b.)

Source Law
Art. 1085b. Incorporated cities and towns in the
State of Texas shall have the power and authority to
grant the use of a portion of the streets and sidewalks
of such cities and towns for private purposes, for such
consideration and upon such terms as they may
prescribe; provided such use shall not interfere with
the public use of such streets and sidewalks, or create
any hazardous or dangerous condition thereon.

Revisor's Note
(1) V.A.C.S. Article 1085b refers to
"[i]ncorporated cities and towns in the State of
Texas." The revised law omits "incorporated" because under the Local Government Code all municipalities must be incorporated. The revised law also substitutes the term "municipality" for "city" for the reason stated in Reviser's Note (1) under Section 316.001.

(2) V.A.C.S. Article 1085b refers to "any hazardous or dangerous condition." The revised law omits the reference to a hazardous condition because "hazardous" is included within the meaning of "dangerous."

[Chapters 317-340 reserved for expansion]

SUBTITLE F. PRIVATE CAUSEWAYS, FERRIES, AND CERTAIN TOLL BRIDGES

CHAPTER 341. PRIVATE CAUSEWAYS

Sec. 341.001. DEFINITIONS

Sec. 341.002. GENERAL AUTHORITY TO ACT

Sec. 341.003. CAUSEWAY CORPORATION

Sec. 341.004. STATEMENT OF LOCATION; PRIORITY

Sec. 341.005. ACQUIRING NECESSARY PROPERTY

Sec. 341.006. LEASING OF STRUCTURE

SUBTITLE F. PRIVATE CAUSEWAYS, FERRIES, AND CERTAIN TOLL BRIDGES

CHAPTER 341. PRIVATE CAUSEWAYS

Revised Law

Sec. 341.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Structure" means a combination bridge, dam, dike, or causeway. (New.)

Reviser's Note

The definitions of "commission" and "structure" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.
Sec. 341.002. GENERAL AUTHORITY TO ACT. Subject to Chapter 33, Natural Resources Code, an individual, corporation, or association may purchase, build, own, maintain, and operate a structure across an arm, inlet, or saltwater bay of the Gulf of Mexico located entirely in this state to provide a causeway for vehicles, pedestrians, and railroads. (V.A.C.S. Art. 1466.)

Art. 1466. Any person, corporation or association of persons, hereinafter called the owner, may purchase, build, construct, own, maintain and operate a combination bridge, dam, dike, causeway and roadway across any arm of the Gulf of Mexico or inlet thereof, or any of the saltwater bays, wholly within the limits of this State, to provide a causeway, roadway or highway for vehicles, teams, pedestrians, railroads, and for every character of inland transportation.

(1) The reference to Chapter 33, Natural Resources Code, is added to the revised law for the reader's convenience. V.A.C.S. Article 1466 was added by Section 1, Chapter 157, General Laws, Acts of the 33rd Legislature, Regular Session, 1913. Chapter 33, Natural Resources Code, which deals with coastal public land, was originally enacted as V.A.C.S. Article 5415e-1 in 1973 and impliedly amended the provisions of Article 1466.

(2) V.A.C.S. Article 1466 refers to an "owner." The revised law omits this term as unnecessary and refers to an "individual, corporation, or association" throughout this chapter.

(3) V.A.C.S. Article 1466 authorizes a person to "build" and "construct" a structure. The reference to "construct" is omitted from the revised law because "construct" is included within the meaning of "build."

(4) V.A.C.S. Article 1466 refers to a
"combination bridge, dam, dike, causeway and roadway."
The revised law refers to "structure" under the definition provided by Section 341.001(2) of this code.

(5) V.A.C.S. Article 1466 refers to a "causeway, roadway or highway." The reference to "roadway or highway" is omitted from the revised law because "roadway or highway" is included within the meaning of "causeway."

(6) V.A.C.S. Article 1466 refers to "vehicles, teams, pedestrians, railroads, and . . . every character of inland transportation." The term "teams" is omitted from the revised law because, in this context, the term is antiquated. The phrase "every character of inland transportation" is omitted as unnecessary because, in this context, vehicles, pedestrians, and railroads constitute "every character of inland transportation."

Revised Law Sec. 341.003. CAUSEWAY CORPORATION. (a) A corporation may be formed and chartered under this chapter, Title 32, Revised Statutes, the Texas Business Corporation Act, or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) for the purposes provided by Section 341.002.

(b) The corporation:

(1) is subject to regulation by the commission in regard to the powers and provisions of this chapter;

(2) may contract to convey to an individual or another corporation an easement for the use of its structure;

(3) may impose a reasonable toll for the use of the structure; and

(4) may not discriminate in the time for handling or in the amount charged for a toll. (V.A.C.S. Art. 1473.)
Art. 1473. Corporations may be formed and chartered under the provisions of this law and of this title for the purposes stated in article 1466 hereof. All such corporations shall have full power and authority to make contracts with other persons or corporations conveying to said persons or corporations the right of easement or user of any portion of any such structure, and shall have full power and authority to charge, demand and receive reasonable and just tolls and charges for the use of said portions of said bridge, causeway or roadway, and the same shall be equal, just and uniform to all persons, corporations, cities and towns as herein provided, without discrimination as to the amount charged or delay in handling same. Any such corporation shall be subject to the regulation and control of the Railroad Commission as to all the powers and provisions of this law.

Reviser's Note

(1) V.A.C.S. Article 1473 refers to provisions of "this title," meaning Title 32, Revised Statutes. The revised law provides a citation to that title. In addition, as originally enacted, Title 32 contained provisions regarding profit and nonprofit corporations that are now included in the Texas Business Corporation Act and the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). The subsequent enactment of the Texas Business Corporation Act and the Texas Non-Profit Corporation Act impliedly amended the reference in Article 1466 to "this title" to include a reference to the Texas Business Corporation Act and the Texas Non-Profit Corporation Act. Accordingly, the revised law includes a specific citation to those acts.

(2) V.A.C.S. Article 1473 provides that a corporation may "charge, demand and receive reasonable and just tolls and charges." The revised law substitutes "impose" for "charge, demand and receive" because the power to impose tolls includes the power to charge, demand, and receive them. The revised law omits the reference to "just" because "just" is
included within the meaning of "reasonable." The revised law omits the reference to "charges" because "charges" is included within the meaning of "tolls."

(3) V.A.C.S. Article 1473 provides that a corporation may assess against "all persons, corporations, cities and towns" "equal" and "uniform" tolls "without discrimination as to the amount charged." The revised law omits the reference to "equal" and "uniform" tolls because a provision requiring that tolls be assessed "without discrimination as to the amount charged" includes the requirement that tolls be "equal" and "uniform." The reference to "persons, corporations, cities and towns" is omitted because the revised law prohibits discrimination against any person or entity.

(4) V.A.C.S. Article 1473 refers to a "bridge, causeway or roadway." The revised law omits this reference because a "bridge, causeway or roadway" is included within the definition of "structure" provided by Section 341.001(2) of this code.

(5) V.A.C.S. Article 1473 provides that a corporation shall be subject to the "regulation and control" of the Railroad Commission of Texas. The reference to "control" is omitted from the revised law because "control" is included within the meaning of "regulation."

Revised Law
Sec. 341.004. STATEMENT OF LOCATION; PRIORITY. (a) Not later than the 90th day after the date the building of a structure begins, the individual, corporation, or association that owns the structure shall file for record with the clerk of the county in which the greater part of the structure is located:

(1) a sworn statement showing:
(A) the location of the structure;
(B) the name and size of the structure;
(C) the name of the body of water the structure will cross;
(D) the date the work began; and
(E) the name of the individual, corporation, or association; and

(2) a map designating the location of the structure.

(b) The right of the individual, corporation, or association to build the structure relates back to the time of the filing of the statement and the map, and the first individual, corporation, or association to file has priority over a subsequent filing.

(V.A.C.S. Arts. 1467, 1468.)

Source Law

Art. 1467. Within ninety days after the commencement of construction of such structure, said owner shall file for record with the clerk of the county where the greater part of such structure is situated, a sworn statement showing the location of said proposed structure, the name of the same, the size of the same, the name of the stream, bay or arm of the gulf or inlet thereof, or salt water bay over which it is to be built, the time when the work was commenced and the name of the owner, together with a map showing the location of said structure.

Art. 1468. The claimant's right to build said structure will relate back to the time of so filing said statement and map, and the first in time shall be the first in right. The filing of said statement and map shall be considered as taking "formal action."

Revisor's Note

(1) V.A.C.S. Article 1467 refers to a "stream, bay or arm of the gulf or inlet thereof, or salt water bay." The revised law substitutes "body of water" because that term includes each of those areas described.

(2) V.A.C.S. Article 1468 provides: "The filing of said statement and map shall be considered as taking 'formal action.'" The revised law omits this provision because the statutes relating to private causeways do
not refer again to a "formal action."

Revised Law

Sec. 341.005. ACQUIRING NECESSARY PROPERTY. (a) An individual, corporation, or association authorized to act by this chapter may acquire by purchase or by the exercise of the right of eminent domain any approach the individual, corporation, or association considers necessary for a structure.

(b) Subject to Chapter 51, Natural Resources Code, the state grants to an individual, corporation, or association acting as authorized by this chapter 500 feet on each side of the structure with the right only to dredge from that area or beyond for material required to construct or maintain the causeway. (V.A.C.S. Arts. 1469, 1470 (part).)

Source Law

Art. 1469. Said claimant may acquire by purchase or by the exercise of the right of eminent domain, all necessary approaches to said structure that said claimant deems necessary.

Art. 1470. [The land under water to be occupied by such structure and approaches thereto is hereby granted absolutely] to said claimant and five hundred feet more on each side of such structure is also granted with the right only to dredge therefrom or beyond same for material for causeways if required in construction and maintenance.

Revisor's Note

(1) V.A.C.S. Article 1470 provides that the approaches to the structure and the submerged land beneath the structure are "hereby granted absolutely" to the claimant. This provision was added by Section 7, Chapter 157, General Laws, Acts of the 33rd Legislature, Regular Session, 1913. In 1973, the legislature adopted the Coastal Public Lands Management Act of 1973 (codified as Chapter 33, Natural Resources Code), which restricted the interest that the state may grant in state-owned submerged land to a leasehold or lesser interest. See Sections 33.001(g), 33.103, and
33.111, Natural Resources Code. Accordingly, the revised law omits this provision as impliedly repealed.

The omitted law reads:

The land under water to be occupied by such structure and approaches thereto is hereby granted absolutely to said claimant.

(2) The reference to Chapter 51, Natural Resources Code, is added to the revised law for the reader's convenience. V.A.C.S. Article 1470, which was enacted in 1913, grants a dredging easement on state-owned submerged land to the owner of a structure. In 1941, the legislature dedicated state-owned submerged land to the permanent school fund. (Chapter 286, Acts of the 47th Legislature, Regular Session, 1941, codified in part as Section 11.041(a), Natural Resources Code.) Chapter 51, Natural Resources Code, provides that the school land board and the commissioner of the General Land Office control the disposition of land dedicated to the permanent school fund. See Section 51.011 et seq., Natural Resources Code.

Revised Law

Sec. 341.006. LEASING OF STRUCTURE. (a) The individual, corporation, or association that owns a structure may lease the right-of-way over the structure to:

(1) a municipality for public utilities owned and operated by the municipality; or

(2) a corporation to construct railroad tracks to operate a steam or electric train or car.

(b) An individual, corporation, or association by leasing the right-of-way may not:

(1) obstruct or interfere with a pedestrian's or vehicle's use of the structure; or

(2) permit a monopoly.
(c) The commission may prescribe the terms of a lease to a railroad corporation.

(d) If approved by the commission, a corporation that leases the right-of-way over the structure may:

(1) contract with the individual, corporation, or association that owns the structure to pay all money due under the contract; and

(2) issue and sell bonds up to the amount of its obligation to the individual, corporation, or association.

(e) A railroad corporation that leases the right-of-way over the structure may only charge for the use of the tracks as a part of mileage according to statutory rates and the general laws of this state. (V.A.C.S. Arts. 1471, 1472.)

Source Law

Art. 1471. Such owner may lease the right of way over said structure to cities and towns for public utilities owned and operated by them, and to corporations for the constructions by such corporations of railroad tracks over which steam and electric trains and cars may be operated for the transportation of freight and passengers; such right not to be granted in such way as to obstruct or interfere with the use of such structure for pedestrians, teams and vehicles, or to permit a monopoly. Said lease to railroad corporations shall be for such time and on such terms and conditions as the Railroad Commission of Texas may prescribe. Said railroad companies shall only charge for the use of said tracks as a part of the mileage according to statutory rates and the general laws of Texas.

Art. 1472. Any corporation so contracting for the right of way over any part of said structure shall have the right to make and enter into any contract with said owner subject to the approval of the Railroad Commission, for the payment to said owner of all sums of money due thereunder, and for this purpose may issue and sell its bonds to the extent of the amount of such corporation's obligations to the said owner. No such bonds shall be issued by any railroad company or other corporation without first obtaining the permission, order and approval of the Railroad Commission.

Revisor's Note

(1) V.A.C.S. Article 1471 refers to "cities and towns." The revised law substitutes "municipality" for "cities and towns" because that is the term used in the Local Government Code.
(2) V.A.C.S. Article 1471 refers to steam and electric trains and cars "operated for the transportation of freight and passengers." The revised law omits the quoted language as unnecessary because any train or car is operated for the transportation of freight or passengers.

(3) V.A.C.S. Article 1471 refers to "pedestrians, teams and vehicles." The revised law omits "teams" for the reason stated in Reviser's Note (6) under Section 341.002 of this code.

(4) V.A.C.S. Article 1471 provides that a lease to a railroad corporation shall be "for such time and on such terms and conditions" the Railroad Commission of Texas prescribes. The revised law omits the reference to "conditions" because "conditions" is included within the meaning of "terms." The revised law also omits the reference to "for such time" because the duration of a lease is a term of the lease.

(5) V.A.C.S. Articles 1471 and 1472 refer to "railroad corporations" and "railroad companies" interchangeably. The revised law refers only to a "railroad corporation" because "railroad company" is included within the meaning of a "railroad corporation" in the context of this section.

(6) V.A.C.S. Article 1472 provides that the "permission, order and approval" of the Railroad Commission of Texas are necessary for a corporation to issue bonds. The references to "permission" and "order" are omitted from the revised law because "permission" and "order" are included within the meaning of "approval."

CHAPTER 342. FERRIES AND CERTAIN TOLL BRIDGES

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CHAPTER 342. FERRIES AND CERTAIN TOLL BRIDGES

SUBCHAPTER A. STATE-OWNED FERRY

Revised Law

Sec. 342.001. FERRY CONNECTING STATE HIGHWAYS. (a) The department may purchase, construct, maintain, operate, or control a ferry that crosses:

(1) a bay, arm, channel, or saltwater lake emptying into the Gulf of Mexico;

(2) an inlet of the Gulf of Mexico; or

(3) a river or other navigable body of water.

(b) This section applies only if:

(1) the ferry connects designated state highways; or

(2) the ferry connects a designated highway of this state and a designated highway of an adjoining state that by statute provides for the acquisition, construction, and maintenance of a ferry jointly by the states and for public use of the ferry as the states agree.

(c) The department shall use money from the state highway fund to carry out this section. (V.A.C.S. Art. 6812a.)

Source Law

Art. 6812a

Sec. 1. The Texas Department of Transportation is hereby authorized to acquire by purchase, and/or to construct, maintain, operate and control ferries, out of the Highway Fund of the State of Texas, over and across any bay, arm, channel or salt water lake emptying into the Gulf of Mexico, or any inlet of the Gulf of Mexico, any river or other navigable waters of this State where such ferries connect designated State highways.

Sec. 2. That the provisions of this Act shall not apply in any instance where any State adjoining the State of Texas has not enacted a Statute making provisions for the acquirement, construction and maintenance of ferries as between such state and the State of Texas, and for the use of such ferries by the public with or without charge as both States may agree,
but such ferries must connect designated highways of
the adjoining State and the State of Texas.

**Revisor's Note**

(1) Section 1, V.A.C.S. Article 6812a, refers to
the "Texas Department of Transportation." The revised
law substitutes "department" because Section 201.001 of
this title defines "department" to mean the Texas
Department of Transportation.

(2) Section 1, V.A.C.S. Article 6812a,
authorizes the department to "acquire by
purchase . . . operate and control" certain ferries.
The reference to "acquire" is omitted from the revised
law because "acquire" is included in the meaning of
"purchase."

(3) Section 1, V.A.C.S. Article 6812a, refers to
ferries "over and across" certain bodies of water. The
revised law refers to a ferry that "crosses" the bodies
of water. The phrase "over and across" is omitted from
the revised law as included in the meaning of
"crosses."

(4) Section 1, V.A.C.S. Article 6812a, names a
"river or other navigable waters of this State." The
revised law replaces the word "waters" with "body of
water" for consistency of terms in related provisions.
The phrase "of this state" is omitted from the revised
law because Texas statutes are presumed to apply only
in the State of Texas.

(5) Section 2, V.A.C.S. Article 6812a, refers to
this "Act," meaning Chapter 87, Acts of the 43rd
Legislature, 1st Called Session, 1933 (Article 6812a,
Vernon's Texas Civil Statutes). That statute is
codified in this section of the code, and the revised
law is drafted accordingly.

(6) Section 2, V.A.C.S. Article 6812a, refers to
an adjoining state's provision for the public use of ferries "with or without charge." The revised law omits the quoted language as unnecessary.

[Sections 342.002-342.050 reserved for expansion]

SUBCHAPTER B. ESTABLISHING TOLL BRIDGE OR FERRY

Revised Law

Sec. 342.051. RIGHT OF PROPERTY OWNER TO OPERATE FERRY. (a) A person who owns land fronting a body of water may operate a public ferry across the water.

(b) A person who owns land on both sides of the body of water is entitled to the exclusive right of ferriage to and from the land owned.

(c) A person who owns land only on one side of the body of water may operate a public ferry between the person's land and land on the opposite side if the person obtains the consent of the owner of the other land. If the other landowner's consent cannot be obtained, the person may apply to the commissioners court of the county in which the other land is located for the establishment of a public road from the opposite side of the body of water.

(V.A.C.S. Art. 6798.)

Source Law

Art. 6798. Every person owning the land fronting upon any water course, navigable stream, lake or bay, shall be entitled to the privilege of keeping a public ferry over or across the same. If he owns the lands on both sides or banks he shall be entitled to the sole and exclusive right of ferriage at such place; if he owns the lands on one side only, he shall have the privilege of a public ferry from his own shore, with the privilege of landing his boat and passengers on the opposite shore, with the consent of the owner of the land on said shore. If such consent cannot be obtained, he may apply to the commissioners court for the establishment of a public road from said opposite shore; and said court shall act on such applications as in other cases.

Revisor's Note

(1) V.A.C.S. Article 6798 refers to a "water course, navigable stream, lake or bay." The revised
law substitutes the reference to "water course, navigable stream, lake or bay" with a reference to "body of water" to reflect the broad intent of the legislature and achieve consistency of terms in related provisions.

(2) V.A.C.S. Article 6798 grants certain persons the privilege of "keeping" a ferry. The revised law replaces the reference to "keep" with a reference to "operate" for consistency of terms in related provisions.

(3) V.A.C.S. Article 6798 reads "over or across" the body of water. The reference to "over" is omitted from the revised law as included in the meaning of "across."

(4) V.A.C.S. Article 6798 refers to "sides or banks." The revised law omits the reference to "banks" because "banks" is included in the meaning of "sides."

(5) V.A.C.S. Article 6798 provides for sole and exclusive right of ferriage "at such place." The revised law replaces the quoted phrase with "to and from the land owned" for clarification and consistency of terms.

(6) V.A.C.S. Article 6798 states the "court shall act on such applications as in other cases." The revised law omits this language as unnecessary because there is no implication from Article 6798 that the application would be treated differently than other types of applications.

Revised Law

Sec. 342.052. BRIDGE OR FERRY COMPANY'S INCORPORATION STATEMENT. The articles of incorporation of a company organized to erect a bridge or operate a ferry must state the body of water that the bridge or ferry is to cross. (V.A.C.S. Art. 1474.)
Art. 1474. The charter of a bridge or ferry company, in addition to the general information required by law, shall state the stream intended to be crossed by the bridge or ferry.

Revisor's Note

(1) V.A.C.S. Article 1474 refers to the "charter" of a company. "Articles of incorporation" is a phrase more commonly used today when referring to the document filed with the state when forming a business. V.A.C.S. Article 1302-1.02 provides that in statutes applicable to private corporations, the terms "charter" and "articles of incorporation" have the same meaning. The revised law substitutes "articles of incorporation" for "charter."

(2) V.A.C.S. Article 1474 reads "in addition to the general information required by law." The revised law omits the quoted phrase as unnecessary because as an accepted general principle of statutory construction, a statute is given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict.

(3) V.A.C.S. Article 1474 refers to a "stream." It is clear that a bridge or ferry may cross bodies of water other than streams. The purpose of the requirement of Article 1474 is to give notice of the location of the proposed bridge or ferry. The revised law substitutes "body of water" for "stream" to more accurately reflect the requirement of this provision.

Revised Law

Sec. 342.053. COMPANY'S GEOGRAPHICAL CLAIM. (a) The articles of incorporation of a company organized to erect and maintain a bridge or operate a ferry may specify the geographical area of the company's exclusive operations. No part of the area...
specified may be farther than three miles from the nearest point of
the bridge or route of the ferry.

(b) Another toll bridge or ferry for hire may not be
established on the same body of water within the area specified in
the articles.

(c) Subsection (b) does not prohibit a bridge or ferry at
the crossing of a road on the body of water that the commissioners
court of the county in which the crossing is located declares to be
a public road regardless of when that declaration is made.

(V.A.C.S. Art. 1475.)

Source Law

Art. 1475. Whenever any person shall file with
the Secretary of State any article of association for
the erection and maintenance of a bridge or ferry, it
shall not be lawful for any other toll-bridge or
toll-ferry, to be established on the same stream within
the limits specified in said article; provided, that
said limits shall not extend more than three miles
above and three miles below said bridge or ferry. This
article shall not be construed to prohibit bridges and
ferries at the crossings of any road on such stream
within such limits, declared, either before or after
the erection of such bridge or ferry, to be a public
road by the commissioners court of the county in which
such crossing is situated.

Revisor's Note

(1) V.A.C.S. Article 1475 refers to an "article
of association." If strictly construed under Texas
law, articles of association are limited to the
documents filed with the secretary of state for the
formation of an association, but often, and
particularly in older statutes, the terms "charter,"
"articles of incorporation," and "articles of
association" are used interchangeably to refer to the
basic document filed with the state, usually with the
secretary of state, to form any type of business
entity. The reference in Article 1475 to "any person"
who files an article of association indicates that the
business may be in one of several forms and that
"article of association" is used in the general sense. The revised law substitutes "articles of incorporation" for "article of association" for consistency within this chapter.

(2) V.A.C.S. Article 1475 refers to "toll-ferry." The revised law substitutes "ferry for hire" for "toll-ferry" for consistency of terms within this chapter.

(3) V.A.C.S. Article 1475 refers to a "stream." The revised law substitutes "body of water" for the reasons stated in Reviser's Note (1) to Section 342.051 of this chapter.

[Sections 342.054-342.100 reserved for expansion]

SUBCHAPTER C. FERRY OPERATOR'S LICENSE AND DUTIES

Revised Law
Sec. 342.101. LICENSE REQUIREMENT. A person may not operate a ferry for hire unless the person holds a license to operate the ferry issued under this chapter. (V.A.C.S. Art. 6799 (part).)

Source Law
Art. 6799. No person shall keep any such ferry for hire without first procuring a license . . . .

Reviser's Note
V.A.C.S. Article 6799 authorizes a person to "keep" a ferry. The revised law replaces the word "keep" with "operate" for the reason stated in Reviser's Note (2) to Section 342.051 of this chapter.

Revised Law
Sec. 342.102. LICENSE APPLICATION. To obtain a license to operate a ferry a person must file an application with:

(1) the commissioners court of the county in which the ferry is located; or

(2) if the ferry is to be operated between land in
different counties, the commissioners court of the county in which
the applicant resides or has the ferry house. (V.A.C.S. Arts. 6799
(part), 6810 (part).)

**Source Law**

Art. 6799. [No person shall keep any such ferry
for hire without first procuring a license] from the
commissioners court of the county in which such ferry
is situated. . . .

Art. 6810. If the banks of any water course,
navigable stream, lake or bay lie in different
counties, the application for a license to operate a
ferry between such banks shall be made to the
commissioners court of the county wherein the applicant
resides or has his ferry house . . . .

**Revised Law**

Sec. 342.103. ISSUANCE OF LICENSE. (a) The commissioners
court shall approve an application for a license to operate a ferry
for hire if the applicant:

(1) shows that the applicant owns the land on which
the ferry is to be established; and

(2) satisfies the court that the public convenience
will be promoted by operation of the ferry.

(b) The commissioners court shall issue the license when the
applicant:

(1) executes a bond in accordance with Section
342.104; and

(2) presents a receipt from the county treasurer for
payment of the license fee imposed under Section 342.104.

(c) A license issued under this section expires on the first
anniversary of the date it is issued and may be renewed annually.

(V.A.C.S. Art. 6799 (part).)

**Source Law**

Art. 6799. . . . If the applicant for such
license shows that he is the lawful owner of such land
as the ferry is sought to be established on, and
satisfies the court that the public convenience will be
promoted thereby, such court shall grant such license
for one year from the date thereof, when the applicant
makes bond and produces his receipt from the county
treasurer for the payment of the annual license
tax . . . . Such license shall be renewed annually.
Revisor's Note

(1) V.A.C.S. Article 6799 refers to "license tax." Black's Law Dictionary, Sixth Edition, defines "license tax" as a "[c]harge imposed by governmental body for the granting of a privilege" and indicates that a license tax has the same meaning as a license fee. The revised law substitutes "license fee" for "license tax" because it is the term more commonly used today.

(2) V.A.C.S. Article 6799 refers to a "lawful owner." The revised law omits the reference to "lawful" as unnecessary.

Revised Law

Sec. 342.104. BOND; LICENSE FEE. (a) The holder of a license to operate a ferry annually shall execute a bond payable to and approved by the county judge conditioned on the license holder's compliance with this chapter.

(b) The commissioners court shall set the amount of the bond at not less than $1,000.

(c) The commissioners court may impose an annual license fee not to exceed $100. (V.A.C.S. Arts. 6799 (part), 6800 (part).)

Source Law

Art. 6799. . . . [annual license tax,] which said court is authorized to assess and collect from each such ferryman, not to exceed one hundred dollars per annum. . . .

Art. 6800. The owner of each ferry shall annually enter into bond payable to and to be approved by the county judge, in such sum as the commissioners court shall direct, not less than one thousand dollars, conditioned that such owner will at all times keep good and sufficient boats for the use of such ferry, and will also keep the banks on each side of the ferry in good repair and so graded and leveled that the rise shall not exceed one foot in every seven feet from the water's edge to the top of the bank, and that said ferry shall be well attended at all times, and that he will comply with the laws relating to or governing ferries. . . .
Revisor's Note

(1) V.A.C.S. Article 6799 authorizes the commissioners court to "assess and collect" a license tax. The revised law authorizes the court to impose a license fee because the power to impose includes the power to assess and collect.

(2) V.A.C.S. Article 6800 refers to the "owner" of a ferry. A study of the provisions in this chapter of the code related to a ferry "owner," a ferry "keeper," or a "ferryman" indicates that the terms are used interchangeably. For example, under a provision of Article 6798, codified as Section 342.051 of this chapter, an applicant for a license to "keep" a ferry is required to show ownership of the land on which the ferry is sought to be established. The applicant for a license is also required to make bond. Article 6800, which is codified in this section, applies to the "owner" of a ferry and establishes the conditions of the bond.

With respect to use of the term "ferryman," Article 6805, codified as Section 342.107 of this chapter, describes several safety-related duties of a "ferryman," while Article 6799b, codified as Section 342.401 of this chapter, applies to the "owner" of a ferry and establishes a fine for breach of the same duties.

The revised law substitutes references in this chapter to a ferry "owner," ferry "keeper," or "ferryman" with "holder of a license to operate a ferry" for consistency of terms in related provisions.

(3) V.A.C.S. Article 6800 describes as a condition of bond that the owner "will at all times keep good and sufficient boats for the use of such ferry, and will also keep the banks on each side of the
ferry in good repair and so graded and leveled that the rise shall not exceed one foot in every seven feet from the water's edge to the top of the bank, and that said ferry shall be well attended at all times," and that he will comply with laws relating to ferries. The quoted language is revised as Section 342.107 of this chapter. The revised law substitutes "the license holder's compliance with this chapter" because this chapter includes all duties and laws described by the quoted language.

Revised Law

Sec. 342.105. FERRY OPERATION BETWEEN COUNTIES. (a) A person who holds a license to operate a ferry between two counties has the same rights and duties as a person licensed to operate a ferry exclusively in one county.

(b) A commissioners court other than the commissioners court that issues the license may not impose a tax or license fee on a ferry that operates between two counties. (V.A.C.S. Art. 6810 (part).)

Source Law

Art. 6810. . . . and upon the granting of such license by the said court, the person so licensed shall have the right to own and operate a ferry upon the same terms and conditions and with the same rights and privileges as are provided by this subdivision for the owners or keepers of ferries operated exclusively in one county, and no county tax shall be assessed and collected upon a ferry by any other commissioners court than the one granting the license therefor.

Revisor's Note

(1) V.A.C.S. Article 6810 grants to a person licensed to operate a ferry between counties "the right to own and operate a ferry upon the same terms and conditions and with the same rights and privileges as . . . the owners or keepers of ferries operated exclusively in one county." The revised law replaces
the quoted language with "the same rights and duties as a person licensed to operate a ferry exclusively in one county." The reference to "terms and conditions" is omitted as included in the meaning of "duties," while the term "privileges" is omitted as included in the meaning of "rights." The phrase "owners or keepers of ferries" is replaced with "person who holds a license to operate a ferry" for the reason stated in Revisor's Note (2) to Section 342.104 of this chapter.

(2) V.A.C.S. Article 6810 reads "terms and conditions and . . . rights and privileges . . . provided by this subdivision." The subdivision referred to is Subdivision 2, Chapter 5, Title 116, Revised Statutes. The reference to "this subdivision" is omitted as unnecessary because all of the relevant "terms and conditions" and "rights and privileges" are contained in this chapter of the revised law.

(3) V.A.C.S. Article 6810 provides that "no county tax" may be imposed on a ferry by any county except the county that issues the license for the ferry. The revised law adds "or license fee" for reasons stated in Revisor's Note (1) to Section 342.103 of this code to emphasize the prohibition on all county taxes and to draw a distinction between license fees and other types of charges imposed by a county.

Revised Law

Sec. 342.106. TEMPORARY LICENSE. (a) Between regular terms of a commissioners court of a county a person may obtain from the county judge a temporary license to operate a public ferry until the next regular term of the commissioners court.

(b) The holder of a temporary license may impose the toll rates imposed at other ferries operating on the same body of water for which the temporary license is issued. (V.A.C.S. Art. 6809.)
Art. 6809. One wishing to establish a public ferry between the regular terms of the commissioners court may obtain a temporary license for such ferry from the county judge, which shall authorize him to keep such ferry until the next regular term of the commissioners court for the county, and to charge and receive for such time such rates of toll or ferriage as are charged at other ferries on the same water course, stream, lake or bay.

Reviser's Note

(1) V.A.C.S. Article 6809 refers to a person who wishes to "establish a public ferry." The revised law substitutes the quoted language with "obtain . . . a . . . license to operate a public ferry" for clarification.

(2) V.A.C.S. Article 6809 provides that a temporary license authorizes a person to "keep" a ferry. The revised law substitutes "operate" for the reason stated in Reviser's Note (2) to Section 342.051 of this chapter.

(3) V.A.C.S. Article 6809 provides that a ferry operator may "charge and receive" rates of toll. The revised law substitutes "impose" for "charge and receive" because the power to impose tolls includes the power to charge and receive them.

(4) V.A.C.S. Article 6809 refers to the "rates of toll or ferriage." The reference to "ferriage" is omitted from the revised law because "ferriage," as used in this context, is included in the meaning of "toll."

(5) V.A.C.S. Article 6809 refers to a "water course, stream, lake or bay." The revised law substitutes "body of water" for the reasons stated in Reviser's Note (1) to Section 342.051 of this chapter.

Revised Law

Sec. 342.107. DUTIES OF FERRY OPERATOR. The holder of a
license to operate a ferry shall:

(1) at all times maintain good, safe, and substantial boats in sufficient number to readily accommodate the public;

(2) keep the banks used by the ferry in good repair and graded so that the ascent from the water's edge to the top of the bank does not exceed one foot in height for each seven feet from the water's edge; and

(3) readily attend a passenger wanting to cross with animals or other property. (V.A.C.S. Arts. 6799b (part), 6805.)

Source Law

Art. 6799b. the owner of any licensed ferry in this State shall keep at all times good, safe and substantial boats, sufficient in number for the ready accommodation of the public, or shall keep the banks on each side of the ferry in good repair, and so graded that the ascent shall not exceed one foot in every seven feet from the water's edge to the top of the bank, or shall give ready attendance on all passengers desiring to cross with their animals, wagons or other property.

Art. 6805. Every licensed ferryman shall at all times keep good and sufficient boats for the use of such ferry, and shall keep the banks on each side of the ferry in good repair, and so graded and leveled that the rise shall not exceed one foot in every seven feet from the water's edge to the top of the bank; and shall give ready and due attendance on all passengers, horses, wagons, and other property.

Revisor's Note

(1) V.A.C.S. Article 6799b refers to "animals, wagons or other property," and V.A.C.S. Article 6805 refers to "horses, wagons, and other property." The reference to "horses" is omitted from the revised law because "horses" is included in the meaning of "animals." The reference to "wagons" is omitted because "wagons" is included in the meaning of "property."

(2) V.A.C.S. Article 6805 reads "graded and leveled." The revised law omits the reference to "leveled" because "leveled" is included in the meaning of "graded."
SUBCHAPTER D. COUNTY REGULATION OF TOLLS

Revised Law

Sec. 342.201. TOLLS FOR BRIDGES AND FERRIES. The commissioners court of a county, by an order made at a regular term and entered on the minutes of the court, shall regulate the toll for crossing any bridge or ferry in the county. (V.A.C.S. Art. 1476.)

Source Law

Art. 1476. All charges or tolls for crossing any bridge or ferry shall be regulated by the commissioners court by an order made at a regular term, and spread upon the minutes of said court, as provided in the case of other bridges and ferries.

Revisor's Note

(1) V.A.C.S. Article 1476 refers to "charges or tolls for crossing any bridge or ferry." The reference to "charges" is omitted from the revised law because a "charge" to cross a bridge or ferry is included in the meaning of a "toll."

(2) V.A.C.S. Article 1476 reads "as provided in the case of other bridges and ferries." The quoted language is omitted from the revised law as unnecessary.

Revised Law

Sec. 342.202. ESTABLISHING AND CHANGING FERRY TOLL RATES.

(a) When a commissioners court issues a license to operate a ferry, the court shall state in its record the toll rate that may be charged for ferrying property usually transported by a ferry.

(b) The commissioners court may at its first term of the year, and shall at another term on the petition of 20 residents of the county, revise and if necessary change the toll rate for ferries in the county.
(c) The county clerk shall:

(1) record toll rates, including changes; and

(2) deliver to each person holding a license to operate a ferry issued by the county a copy of the record, signed and sealed by the clerk.

(d) A change of toll rate may not take effect before the 31st day after the date on which the change is made. (V.A.C.S. Art. 6801.)

Source Law

Art. 6801. When a commissioners court shall establish a ferry, they shall state in their record the rate of toll or ferriage which may be demanded for ferrying such property as is usually transported by ferries; and may, at their first term in each year, and shall at any other term, upon the petition of twenty respectable citizens of the county, revise, and, if deemed expedient, change the rates of toll or ferriage at all ferries in their county. The county clerk shall record all rates of ferriage and changes therein and deliver copies thereof, under his hand and official seal, to the owners of ferries affected. No change of rate shall take effect until the expiration of thirty days from the day on which said change may be made.

Reviser's Note

(1) V.A.C.S. Article 6801 refers to when a commissioners court "shall establish a ferry." The revised law replaces the quoted language with "issues a license to operate a ferry" for clarification and consistency of terms in related provisions.

(2) V.A.C.S. Article 6801 refers to the "rate of toll or ferriage." The reference to "ferriage" is omitted from the revised law for the reason stated in Reviser's Note (4) to Section 342.106.

(3) V.A.C.S. Article 6801 refers to "twenty respectable citizens of the county." The revised law omits the reference to "respectable" because the respectability of a citizen may be presumed. 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.

(4) V.A.C.S. Article 6801 reads "under his hand and official seal." The revised law omits "official" as unnecessary.

(5) V.A.C.S. Article 6801 directs the county clerk to deliver copies of the record to the "owners" of ferries affected. The revised law substitutes the reference to "owner" with "person with a license to operate a ferry" for the reason stated in Revisor's Note (2) to Section 342.104 of this chapter.

**Revised Law**

Sec. 342.203. FERRY CHARGE ON SWIMMING COW OR HORSE. The commissioners court may not authorize a charge of more than one cent for each cow or horse swimming the river at a location for which a license is issued to operate a ferry, including the use of a pen or boat necessary to control the animal. (V.A.C.S. Art. 6802.)

**Source Law**

Art. 6802. The commissioners court shall not authorize a charge of more than one cent per head on cattle or horses swimming rivers at licensed ferries, including the use of pens and boats necessary for the control of such stock.

**Revised Law**

Sec. 342.204. REFUSAL TO OPERATE AT AUTHORIZED TOLL RATES. (a) If the holder of a license to operate a ferry refuses to operate at the toll rates authorized by the commissioners court, the court may issue a license to operate the ferry to another person who agrees to operate the ferry at those rates.

(b) If the former license holder requests, the person who receives a license under this section shall purchase the ferry boat in use at the location at the valuation placed on it by two residents of the vicinity where the ferry is operated. The former
license holder and the person receiving the license each shall choose one of the residents. (V.A.C.S. Art. 6807.)

Source Law

Art. 6807. Where any owner of a ferry shall refuse to keep up the same at the rates allowed by the commissioners' court, said court may issue a license to any one who will do so. In such case the party receiving such license shall be bound to take the ferry boat in use at said ferry, if desired by the owner, at such valuation as two respectable citizens of the vicinity, one to be chosen by each party, shall place upon it.

Revisor's Note

(1) V.A.C.S. Article 6807 refers to the "owner" of a ferry. The revised law substitutes "holder of a license to operate a ferry" for the reason stated in Revisor's Note (2) to Section 342.104 of this chapter.

(2) V.A.C.S. Article 6807 reads "at such valuation as two respectable citizens of the vicinity... shall place upon it." The reference to "respectable" is omitted and "resident" is substituted for "citizen" for the reasons stated in Revisor's Note (3) to Section 342.202.

Revised Law

Sec. 342.205. CHARGE IMPOSED ON CERTAIN INTERSTATE FERRIES. If a body of water forms a part of the boundary between this state and another state and the other state imposes a charge to land a ferry from this state in that state, the commissioners court of a county may impose a charge equal to the amount of that charge to land a ferry from that state in this state. (V.A.C.S. Art. 6811.)

Source Law

Art. 6811. When a water course, navigable stream, lake or bay forms a part of the boundary line of this State, if any tax or charge shall be assessed or collected by any such adjoining State for the privilege of a ferry landing on the shore or bank of such State from this State, then the same tax or charge may be assessed and collected by the commissioners court for the like privilege of landing on the bank or shore of this State.
Revisor's Note

(1) V.A.C.S. Article 6811 refers to a "water course, navigable stream, lake or bay." The revised law substitutes "body of water" for the reason stated in Revisor's Note (1) to Section 342.051 of this chapter.

(2) V.A.C.S. Article 6811 refers to a "tax or charge" imposed. In a general sense tax means a charge imposed by a government and the revised law omits tax because it is included within the term "charge."

[Sectons 342.206-342.300 reserved for expansion]

SUBCHAPTER E. CIVIL LIABILITY OF BRIDGE OR FERRY OWNER AND OPERATOR

Revised Law

Sec. 342.301. LIABILITY OF BRIDGE OR FERRY OWNER. The owner of a toll bridge or ferry for hire is liable for damage caused by neglect, delay, or insufficiency of the bridge or ferry boat.

(V.A.C.S. Art. 1477.)

Source Law

Art. 1477. All persons or corporate companies owning any toll bridge or ferry shall be liable for all damages caused by neglect, delay or the insufficiency of their bridge or ferry boat, which damages may be recovered by suit therefor.

Revisor's Note

(1) V.A.C.S. Article 1477 refers to "persons or corporate companies owning." The revised law substitutes "owner" for clarity and simplification.

(2) V.A.C.S. Article 1477 reads "damages may be recovered by suit therefor." The quoted language is omitted from the revised law as unnecessary.

Revised Law

Sec. 342.302. OPERATING FERRY WITHOUT LICENSE. (a) If a
person operates a ferry for hire over a body of water and does not hold a license required under this chapter, the person is liable to:

(1) the county from which a license is required under this chapter; and

(2) each person who holds a license to operate a ferry on the same body of water in that county.

(b) The amount of liability to each person described by Subsection (a)(1) or (2) is $5 for each person transported and $5 for each article transported that is subject to a separate toll.

(c) A suit under this section must be filed in a justice court of the county described by Subsection (a)(1).

(d) A person described by Subsection (a)(1) or (2) who prevails in an action brought under this section is also entitled to recover costs of suit.

(e) The county treasurer may file suit under this section on behalf of the county. (V.A.C.S. Art. 6812.)

Source Law

Art. 6812. If any person shall keep any ferry over any water course, navigable stream, lake or bay, for which he shall charge any person any money or other valuable thing, without complying with the provisions of this subdivision in relation to paying the tax, obtaining license and entering into bond, he shall forfeit and pay to every other person having a licensed ferry on the same water course, stream, lake or bay in the same county five dollars for every person so ferried, and the same sum for every wagon or other article so transported which may be subject to a separate charge, to be sued for and recovered before any justice of the peace of the county, with costs of suit; and shall forfeit and pay a like sum in like manner to the county, which may be sued for and recovered in like manner by the county treasurer.

Reviser's Note

(1) V.A.C.S. Article 6812 refers to a person who "shall keep any ferry." The revised law substitutes "operate" for the reference to "keep" for the reason stated in Reviser's Note (2) to Section 342.051 of this chapter.
(2) V.A.C.S. Article 6812 refers to a "water course, navigable stream, lake or bay." The revised law substitutes "body of water" for the reason stated in Revisor's Note (1) to Section 342.051 of this chapter.

(3) V.A.C.S. Article 6812 reads "without complying with the provisions of this subdivision in relation to paying the tax, obtaining license and entering into bond." The reference to "this subdivision" is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 342.105 of this chapter. The reference to "paying the tax . . . and entering into bond" is omitted from the revised law as unnecessary because the requirements are prerequisites to obtaining a license and are therefore included in the meaning of "obtaining a license."

(4) V.A.C.S. Article 6812 provides a penalty for "every wagon or other article so transported." The reference to "wagon" is omitted from the revised law because "wagon" is included in the meaning of "article."

(5) V.A.C.S. Article 6812 refers to a "charge." The revised law substitutes "toll" for clarity and consistency of terms in related provisions.

Revised Law

Sec. 342.303. CHARGE OF EXCESSIVE TOLL RATE. (a) If the holder of a license to operate a ferry charges and receives from a person a toll at a rate greater than the rate authorized by the commissioners court, the license holder is liable to the person in the amount of $5 for each violation.

(b) A suit under this section must be filed in a justice court of the county in which the license is issued.

(c) A person who brings a suit under this section and
prevails is entitled to recover costs of suit. (V.A.C.S. Art. 6804.)

Source Law

Art. 6804. If any licensed ferryman shall charge and receive from any person a higher rate of toll or ferriage than has been established for his ferry by the commissioners court, he shall forfeit and pay to such person five dollars for every such offense, to be recovered by action before any justice of the peace of the county in which the ferry is established, with costs of suit.

Reviser's Note

(1) V.A.C.S. Article 6804 refers to the "rate of toll or ferriage." The reference to "ferriage" is omitted from the revised law for the reason stated in Reviser's Note (4) to Section 342.106 of this chapter.

(2) V.A.C.S. Article 6804 imposes a liability of $5 for each "offense." The revised law replaces the word "offense" with "violation" to make it clear that the provision imposes a civil rather than criminal liability.

Revised Law

Sec. 342.304. FAILURE TO SERVE. (a) If the holder of a license to operate a ferry, on being tendered the authorized toll, does not, without reasonable cause, transport a person or the person's property of the type usually transported by the ferry, the holder is liable to the person in the amount of $2 for each 30 minutes of delay.

(b) A suit under this section must be filed in a justice court of the county in which the license is issued.

(c) A person who brings suit under this section and prevails is also entitled to recover costs of suit. (V.A.C.S. Art. 6806.)

Source Law

Art. 6806. If any person licensed to keep a ferry shall, on being tendered his lawful fees, refuse or neglect without a reasonable cause, to cross any person or property usually transported by such ferry, he shall, for every delay of thirty minutes, forfeit
and pay to the person injured the sum of two dollars, to be recovered by action before any justice of the peace of the county in which the ferry is situated, with costs of suit.

Reviser's Note
V.A.C.S. Article 6806 refers to "lawful fees."
The revised law substitutes "authorized toll" for clarity and consistency of terms in related provisions.

Revised Law
Sec. 342.305. FAILURE TO POST TOLL RATES. (a) The holder of a license to operate a ferry shall post and maintain at the ferry or ferry house for inspection a list of toll rates authorized by the commissioners court for the ferry.
(b) A person who violates Subsection (a) is liable for $4 for each violation.
(c) Each week a person violates Subsection (a) is a separate violation.
(d) Any person may bring suit in a justice court of the county in which the license is issued to collect the amount due under this section. One-half of the amount collected shall be paid to the county and one-half shall be paid to the person who brings the suit. (V.A.C.S. Art. 6803.)

Source Law
Art. 6803. Every owner of a ferry license shall keep a list of the rates of toll or ferriage established for his ferry posted up at either the ferry or ferry house, for the inspection of all persons. If any such owner shall fail or neglect to do so, he shall forfeit and pay the sum of four dollars for every such neglect, which may be recovered before any justice of the peace of the county on the complaint of any person, one-half of said amount to go to the county and the other half to the prosecutor. Every week that he shall so fail or neglect shall be deemed a separate offense for which he shall be liable as aforesaid.

Reviser's Note
(1) V.A.C.S. Article 6803 refers to the "owner" of a ferry. The revised law substitutes "holder of a license to operate a ferry" for the reason stated in
Revisor's Note (2) to Section 342.104 of this chapter.

(2) V.A.C.S. Article 6803 refers to rates "established for his ferry." The quoted language is substituted in the revised law with "authorized by the commissioners court for the ferry" for clarification and consistency of terms within related provisions.

(3) V.A.C.S. Article 6803 refers to "rates of toll or ferriage." The reference to "ferriage" is omitted from the revised law for the reason stated in Revisor's Note (4) to Section 342.106 of this chapter.

Revised Law

Sec. 342.306. RECOVERY UNDER BOND OR FROM SURETY. (a) A person injured by a license holder's violation of a condition of the bond required under Section 342.104 may sue on the bond in the person's name for recovery of the amount due because of the violation.

(b) If a judgment is obtained against a license holder for a violation of this chapter and execution is returned because no property of the license holder can be found on which to levy to satisfy judgment, the justice to whom execution is returned shall cite the license holder's sureties to appear and show cause why judgment should not be entered against the sureties for the amount of the judgment against the license holder that is not satisfied.

(c) If the sureties do not show cause as described by Subsection (b), the justice shall enter judgment and issue execution for satisfaction of judgment against the sureties.

(V.A.C.S. Arts. 6800 (part), 6808.)

Source Law

Art. 6800. ... Any person injured by breach of such bond may sue thereon in his own name. Such bond may be sued on until the whole penalty is recovered.

Art. 6808. In all cases where a recovery shall be had against the ferryman for violation of this law, if after judgment, execution shall be returned that no estate of such ferryman can be found wherein to levy and make the money demanded in such execution, the
justice to whom such execution is so returned shall
cite the sureties of such ferryman to appear and show
cause why judgment should not be rendered against them
for the amount of the execution that is not satisfied,
and unless such cause is shown, judgment shall be
entered and execution issue therefor.

Revisor's Note

(1) Article 6800 allows the bond to be sued on
until the "whole penalty" is recovered. The revised
law replaces the quoted language with "amount due
because of the violation" to make it clear that the
provision applies to civil rather than criminal
liability.

(2) Article 6808 refers to a violation of "this
law." The revised law substitutes "this chapter" for
clarity.

[Sections 342.307-342.400 reserved for expansion]

SUBCHAPTER F. OFFENSES RELATING TO OPERATION OF FERRY

Revised Law

Sec. 342.401. FAILURE TO PERFORM DUTIES; CHARGING EXCESSIVE
TOLL RATE. A person who holds a license to operate a ferry shall
be fined not less than $10 or more than $100 if the person:

(1) violates Section 342.107; or

(2) charges a toll at a rate greater than the rate
authorized by the commissioners court for the ferry. (V.A.C.S.
Art. 6799b (part).)

Source Law

Art. 6799b. If [the owner of any licensed ferry
in this State shall] fail to [keep at all times good,
safe and substantial boats, sufficient in number for
the ready accommodation of the public, or shall] fail
to [keep the banks on each side of the ferry in good
repair, and so graded that the ascent shall not exceed
one foot in every seven feet from the water's edge to
the top of the bank, or shall] fail to [give ready
attendance on all passengers desiring to cross with
their animals, wagons or other property,] or shall
charge higher rates of ferriage than those fixed by the
proper authority, he shall be fined not less than ten
nor more than one hundred dollars.
Revisor's Note

(1) V.A.C.S. Article 6799b sets a fine to be imposed on a ferry "owner" who "shall fail to keep at all times good, safe and substantial boats, sufficient in number for the ready accommodation of the public, or shall fail to keep the banks on each side of the ferry in good repair, and so graded that the ascent shall not exceed one foot in every seven feet from the water's edge to the top of the bank, or shall fail to give ready attendance on all passengers desiring to cross with their animals, wagons or other property." The revised law substitutes "person who holds a license to operate a ferry" for "owner" for the reason stated in Revisor's Note (2) to Section 342.104 of this chapter and imposes the fine on a license holder who "violates Section 342.107" because Section 342.107 requires a license holder to comply with the duties described in the quoted language.

(2) V.A.C.S. Article 6799b refers to rates of "ferriage." The revised law substitutes "toll" for the reason stated in Revisor's Note (4) to Section 342.106 of this chapter.

(3) V.A.C.S. Article 6799b refers to rates "fixed by the proper authority." The quoted language is substituted in the revised law with "authorized by the commissioners court for the ferry" for clarification and consistency of terms in related provisions.

Revised Law

Sec. 342.402. FAILURE TO OBTAIN LICENSE. A person shall be fined not less than $50 or more than $200 if the person violates Section 342.101. (V.A.C.S. Art. 6799a.)
Art. 6799a. Whoever shall keep any ferry over any water course, navigable stream, lake or bay in this State, and shall charge or receive any money, property, or other valuable thing for crossing passengers or property at such ferry, without first obtaining license as required by law, shall be fined not less than fifty nor more than two hundred dollars.

Revisor's Note

V.A.C.S. Article 6799a sets a fine to be imposed on a person who "shall keep any ferry over any water course, navigable stream, lake or bay in this State, and shall charge or receive any money, property, or other valuable thing for crossing passengers or property at such ferry, without first obtaining license as required by law." The revised law imposes the fine on a ferry operator who "violates Section 342.101" because that section of the code requires a license under this chapter for the activities described by the quoted language.

[Chapters 343-360 reserved for expansion]

SUBTITLE G. TURNPIKES AND TOLL PROJECTS

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SUBTITLE G. TURNPIKES AND TOLL PROJECTS

CHAPTER 361. TEXAS TURNPIKE AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 361.001. DEFINITIONS. In this chapter:

(1) "Authority" means the Texas Turnpike Authority and includes the entity that succeeds to the principal functions of the authority or to whom by law the powers of the authority are given.
(2) "Board" means the board of directors of the authority.

(3) "Highway" means a road, highway, farm-to-market road, or street under the supervision of the state or a political subdivision of the state.

(4) "Owner" includes a person having title to or an interest in any property, rights, easements, and interests authorized to be acquired under this chapter.

(5) "Turnpike project" means an express highway constructed under this chapter and any improvement, extension, or expansion to the highway and includes:

(A) a facility to relieve traffic congestion and promote safety;

(B) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll house, or service station;

(C) an administration, storage, or other building the authority considers necessary to operate the project; and

(D) property rights, easements, and interests the authority acquires to construct or operate the project.

(V.A.C.S. Art. 6674v, Secs. 3(a) (part), (b) (part), 4 (part), 4(a), (c) (part), (e), (f).)

Source Law

Sec. 3. (a) [There is hereby created an authority to be known as the "Texas Turnpike Authority,"] hereinafter sometimes referred to as the "Authority." . . .

(b) The Board of Directors of the Authority (hereinafter in this Act sometimes called the "Board") . . . .

Sec. 4. As used in this Act, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Texas Turnpike Authority, created by Section 3 of this Act, or, if such Authority shall be abolished, the board, body, authority or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law.
(c) The word "Project" or the words "Turnpike Project" shall mean any express highway or turnpike [which the Authority may at any time determine to construct] under the provisions of this Act and any improvement, extension, or expansion to that highway or turnpike and includes facilities to relieve traffic congestion and to promote safety, and all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, and administration, storage and other buildings which the Authority may deem necessary for the operation of the Project, together with all property rights, easements and interests which may be acquired by the Authority for the construction or the operation of the Project.

(e) The word "owner" shall include all individuals, co-partnerships, associations or corporations having any title or interest in any property, rights, easements and interests authorized to be acquired by this Act. The term shall comprehend the State, counties, cities, political subdivisions, districts and all public agencies.

(f) The word "highway" shall comprehend any road, highway, farm-to-market road, or street, whether under the supervision of the State, any county, any political subdivision or any city or town.

Revisor's Note

(1) Section 4, V.A.C.S. Article 6674v, states that the defined terms have the meanings given "unless the context shall indicate another or different meaning or intent." This limitation is omitted from the revised law because the defined terms are used consistently in the revision in the contexts to which the definitions apply.

(2) Section 4(a), V.A.C.S. Article 6674v, defines "Authority" as "the Texas Turnpike Authority, created by Section 3 of this Act, or, if such Authority shall be abolished, the board, body, authority or commission succeeding to the principal functions thereof or to whom the powers given by this Act to the Authority shall be given by law." For purposes of brevity, the revised law defines the authority as "the Texas Turnpike Authority or its successor."

(3) Section 4(b), V.A.C.S. Article 6674v, defines "State Highway Commission" and "State Highway..."
Department." The revised law omits these definitions because Section 201.001 of this code defines "commission" to mean the Texas Transportation Commission (the successor to the State Highway Commission) and "department" to mean the Texas Department of Transportation (the successor to the State Highway Department). Those definitions apply to this chapter. The omitted definition reads:

(b) The terms "State Highway Commission" and "State Highway Department" shall mean the agency of the State having general jurisdiction over State highway construction, maintenance, and operation, and if the Commission presently performing such functions should be abolished, the board, commission or body succeeding to its principal functions.

(4) Section 4(e), V.A.C.S. Article 6674v, defines "owner" as including certain individuals, copartnerships, associations, corporations, the state, counties, cities, political subdivisions, districts, and public agencies. The revised law substitutes "person" for the listed entities because the listed entities are substantively identical to the definition of "person" provided by Section 311.005(2), Government Code (Code Construction Act), applicable to the revised law.

(5) Section 4(f), V.A.C.S. Article 6674v, refers to "any county, any political subdivision or any city or town." The references to "county," "city," and "town" are omitted from the revised law because "county," "city," and "town" are included within the meaning of "political subdivision."

Revised Law

Sec. 361.002. CHAPTER LIBERALLY CONSTRUED. This chapter shall be liberally construed to effect its purposes. (V.A.C.S. Art. 6674v, Sec. 23.)
Sec. 23. This Act, being necessary for the welfare of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

Revisor's Note

The revised law omits as unnecessary the provision in Section 23, V.A.C.S. Article 6674v, stating that the act is "necessary for the welfare of the State and its inhabitants" because the provision has no legal effect.

Sec. 361.003. SUNSET PROVISION. The Texas Turnpike Authority is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished and this chapter expires September 1, 1997. (V.A.C.S. Art. 6674v, Sec. 3a.)

Sec. 3a. The Texas Turnpike Authority is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the Authority is abolished and this Act expires September 1, 1997.

Sec. 361.004. CONSTRUCTION COSTS. The cost of construction, improvement, extension, or expansion of a turnpike project under this chapter includes the cost of:

(1) the actual construction, improvement, extension, or expansion of the project;
(2) acquisition of real property, rights-of-way, property rights, easements, and interests;
(3) machinery and equipment;
(4) interest before, during, and for one year after construction, improvement, extension, or expansion;
(5) traffic estimates, engineering and legal services, plans, specifications, surveys, cost and revenue estimates, and
other expenses necessary or incident to determining the feasibility
of the construction, improvement, extension, or expansion;

(6) necessary or incidental administrative and other
expenses;

(7) financing; and

(8) placement of the project in operation. (V.A.C.S.
Art. 6674v, Sec. 4(d) (part).)

Source Law

Sec. 4. As used in this Act, the following words
and terms shall have the following meanings . . . :

(d) The word "Cost" as applied to a
turnpike project shall embrace the cost of
constructing, improving, extending, or expanding the
project; the cost of the acquisition of all land,
right-of-ways, property rights, easements and interests
acquired by the Authority for such construction,
 improvement, extension, or expansion; the cost of all
machinery and equipment, financing charges, interest
prior to and during construction, improvement,
extension, or expansion and for one (1) year after
completion of the construction, improvement, extension,
or expansion; cost of traffic estimates and of
engineering and legal services, plans, specifications,
surveys, estimates of cost and of revenue, other
expenses necessary or incident to determining the
feasibility and practicability of constructing,
 improving, extending, or expanding any such Project;
administrative expense and such other expense as may be
necessary or incident to the construction, improvement,
extension, or expansion of the Project; the financing
of such construction, improvement, extension, or
expansion and the placing of the Project in
operation. . . .

Revisor's Note

Section 4(d), V.A.C.S. Article 6674v, refers to
the "feasibility and practicability" of constructing,
 improving, extending, or expanding a project. The
reference to "practicability" is omitted from the
revised law because "practicability" is included within
the meaning of "feasibility."

[Sections 361.005-361.030 reserved for expansion]

SUBCHAPTER B. TEXAS TURNPIKE AUTHORITY

Revised Law

Sec. 361.031. TEXAS TURNPIKE AUTHORITY. (a) The Texas
Turnpike Authority is a state agency.

(b) The authority shall locate offices in Austin, Texas, on or before September 1, 1997.

(c) The exercise by the authority of the powers conferred by this chapter in the construction, operation, and maintenance of a turnpike project is an essential governmental function of the state. (V.A.C.S. Art. 6674v, Sec. 3(a) (part).)

Source Law

(a) There is hereby created an authority to be known as the "Texas Turnpike Authority," . . . . The Authority is hereby constituted an agency of the State of the Texas, with offices located in Austin, Texas, on or before September 1, 1997, and the exercise by the Authority of the powers conferred by this Act in the construction, operating, and maintenance of turnpike projects shall be deemed and held to be an essential governmental function of the State.

Reviser's Note

The revised law omits the provision in Section 3(a), V.A.C.S. Article 6674v, creating the Texas Turnpike Authority because that provision is executed.

Revised Law

Sec. 361.032. BOARD OF AUTHORITY. (a) The board is composed of 12 directors. The governor, with the advice and consent of the senate, shall appoint nine directors who represent the public. Each commission member serves as an ex officio board member.

(b) Appointed directors serve terms of six years with the terms of one-third of those directors expiring on February 15 of each odd-numbered year.

(c) Each appointed director must have resided in this state and in the county from which the person is appointed for at least one year before the person's appointment.

(d) Appointments to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin.

(e) The governor shall promptly fill vacancies in unexpired
(f) Each director has equal status and may vote.

(g) The governor shall designate one director as the presiding officer of the board to serve in that capacity at the pleasure of the governor. The board shall elect one director as assistant presiding officer and shall elect a secretary and treasurer who need not be a director. (V.A.C.S. Art. 6674v, Secs. 3(b) (part), (c) (part), (d), (e) (part), (f) (part), (g) (part).)
omitted from the revision because the provision is substantively identical to Section 17, Article XVI, Texas Constitution, which provides that an officer in the state is to continue to perform the officer's official duties until a successor has qualified.

The provision in Section 3(f), V.A.C.S. Article 6674v, requiring each board member to take an oath is omitted from the revision because the provision is substantively identical to Section 1, Article XVI, Texas Constitution.

The policy of the legislative council's statutory revision program is to omit from the revised codes statutory provisions duplicating constitutional requirements because a statute that tracks a constitutional requirement not only is superfluous but may foster the erroneous belief that a constitutional requirement is merely statutory and subject to amendment through the ordinary legislative process.

The omitted law reads:

(e) • • • All Directors shall serve until their successors have been duly appointed and qualified • • • •

(f) • • • Each member of the Board before entering upon his duties shall take an oath as provided by Section 1 of Article XVI of the Constitution of the State of Texas.

(3) Section 3(f), V.A.C.S. Article 6674v, provides that all members of the board of directors are eligible for reappointment. This provision is omitted from the revised law as unnecessary because nothing in the law prohibits reappointment of a member of the board of directors. The omitted law reads:

(f) All members of the Board of Directors shall be eligible for reappointment. . . .

(4) Section 3(g), V.A.C.S. Article 6674v, states that a majority of the board members constitutes a
quorum. This provision is omitted as duplicative of general law. Section 311.013(b), Government Code (Code Construction Act), applicable to this code, and Section 312.015, Government Code, applicable to civil statutes, provide that a majority of a public body constitutes a quorum.

Section 3(g) also states that a vote of a majority is necessary for any action taken by the board and that a vacancy in the membership of the board does not impair the right of a quorum to exercise all the rights and perform all the duties of the board. These provisions are omitted as duplicative of general law.

Under common law, the majority of the board members at a meeting at which a quorum is present may act for the board. The existence of a vacancy on the board is immaterial if a quorum is present at the meeting. The omitted law reads:

(g) . . . A majority of the members of the Board shall constitute a quorum and the vote of a majority shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(5) Section 3(j), V.A.C.S. Article 6674v, provides that the legislature imposes on any director who is a member of the State Highway and Public Transportation Commission (now the Texas Transportation Commission) the extra duties required by V.A.C.S. Article 6674v. The revised law omits this provision as unnecessary because Section 3(e), V.A.C.S. Article 6674v (revised as Subsection (a) of this section), provides that each member of the Texas Transportation Commission serves as an ex officio board member. That provision is sufficient to impose on those persons the duties of directors of the board. The omitted law
reads:

(j) The Legislature imposes on any Director, who may be a member of the State Highway and Public Transportation Commission the extra duties required hereunder.

Revised Law

Sec. 361.033. CONFLICT OF INTEREST. (a) A person is not eligible for appointment to the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the authority, other than compensation for acquisition of turnpike right-of-way;

or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the authority, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses or compensation for acquisition of turnpike right-of-way.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation may not be an appointed director.

(c) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation may not be an appointed director.

(d) A person may not serve as an appointed director or act as the general counsel to the authority 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 authority.

(e) 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 interests. (V.A.C.S. Art. 6674v, Secs. 3(c) (part), 4a(a) (part), (b) (part), (c), (d).)

Source Law

[Sec. 3]
(c) ... A person is not eligible for appointment if the person or the person's spouse:
(1) is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;
(2) is employed by or participates in the management of a business entity or other organization regulated by the Authority or receiving funds from the Authority;
(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the Authority or receiving funds, other than compensation for acquisition of turnpike right-of-way, from the Authority; or
(4) uses or receives a substantial amount of tangible goods, services, or funds from the Authority, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses, or compensation for acquisition of turnpike right-of-way.

Sec. 4a. (a) An officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation may not be an appointed Director of the Authority . . . .
(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, maintenance, or operation may not be an appointed Director . . . .
(c) A person may not serve as an appointed Director or act as the general counsel to the Authority 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 Authority.
(d) For the purposes of this section, a Texas trade association is 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 interests.
Sec. 361.034. SURETY BONDS OF DIRECTORS AND SECRETARY AND TREASURER. (a) Before the authority issues any turnpike revenue bonds under this chapter, each director shall execute a surety bond in the amount of $25,000, and the secretary and treasurer shall execute a surety bond in the amount of $50,000.

(b) Each surety bond must be:

(1) conditioned on the faithful performance of the duties of office;

(2) executed by a surety company authorized to transact business in this state;

(3) approved by the governor; and

(4) filed in the secretary of state's office.

(c) The authority shall pay the expense of the bonds.

Source Law

Sec. 361.035. REMOVAL OF DIRECTOR. (a) It is a ground for removal of an appointed director from the board if the director:

(1) does not have at the time of appointment or does not maintain during service on the board the qualifications required by Section 361.032 or 361.033(a);

(2) violates a prohibition established by Section 361.033(b), (c), or (d);

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

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

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

(c) If the administrative head of the authority has knowledge that a potential ground for removal exists, that individual shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists. (V.A.C.S. Art. 6674v, Sec. 4b.)

Source Law

Sec. 4b. (a) It is a ground for removal of an appointed Director from the Board if the Director:

(1) does not have at the time of appointment the qualifications required by Section 3 of this Act;

(2) does not maintain during service on the Board the qualifications required by Section 3 of this Act;

(3) violates a prohibition established by Section 4a of this Act;

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

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

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

(c) If the administrative head of the Authority has knowledge that a potential ground for removal exists, that person shall notify the chairman of the Board of the ground. The chairman shall then notify the Governor that a potential ground for removal exists.

Revised Law

Sec. 361.036. COMPENSATION OF DIRECTOR. Each director shall be reimbursed for the director's actual expenses necessarily incurred in the performance of the director's duties. A director
is not entitled to any additional compensation for the director's services. (V.A.C.S. Art. 6674v, Sec. 3(i) (part).)

Source Law

(i) The Directors shall not be entitled to any additional compensation for their services, but each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties...

Revised Law

Sec. 361.037. PROFESSIONAL INFORMATION; DEFINITION OF RESPONSIBILITY. (a) The board shall provide to directors and authority employees, as often as necessary, information regarding their qualifications for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the authority. (V.A.C.S. Art. 6674v, Sec. 4c.)

Source Law

Sec. 4c. (a) The Board shall provide to the Directors and Authority employees, as often as necessary, information regarding their qualifications for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The Board shall develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Authority.

Revised Law

Sec. 361.038. EMPLOYEE QUALIFICATIONS. (a) An officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation may not be an employee of the authority who is:

(1) exempt from the state's position classification plan; or

(2) 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) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation may not be an employee of the authority who is:

(1) exempt from the state's position classification plan; or

(2) 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) In this section, "Texas trade association" has the meaning assigned by Section 361.033. (V.A.C.S. Art. 6674v, Secs. 4a(a) (part), (b) (part), (d).)

Sec. 4a. (a) An officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation may not be an employee of the Authority 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, maintenance, or operation may not be an Authority 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.

(d) For the purposes of this section, a Texas trade association is 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 interests.

Sec. 361.039. PERSONNEL POLICIES. (a) The administrative head of the authority or the administrative head's designated representative shall develop an intra-agency career ladder program. The program shall require intra-agency postings of all nonentry level positions concurrently with any public posting.
(b) The administrative head or the administrative head's designated representative shall develop a system of annual performance evaluations. All merit pay for employees of the authority must be based on the system established under this subsection. (V.A.C.S. Art. 6674v, Secs. 4d(a), (b).)

Source Law

Sec. 4d. (a) The administrative head of the Authority or the administrative head's designee shall develop an intra-agency career ladder program. The program shall require intra-agency postings of all nonentry level positions concurrently with any public posting.

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

Revised Law

Sec. 361.040. EQUAL EMPLOYMENT OPPORTUNITIES. (a) The administrative head of the authority or the administrative head's designated representative 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 related to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the authority workforce that meets federal and state guidelines;

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

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

(b) A policy statement prepared under Subsection (a) must:

(1) cover an annual period;
(2) be updated at least annually; and

(3) 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. (V.A.C.S. Art. 6674v,
Secs. 4d(c), (d), (e)).

Source Law

(c) The administrative head or the
administrative head's designee shall prepare and
maintain a written policy statement to assure
implementation of a program of equal employment
opportunity under which all personnel transactions are
made without regard to race, color, handicap, sex,
religion, age, or national origin. The policy
statement must include:

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

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

(3) procedures by which a determination
can be made of significant underuse in the Authority
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 underuse.

(d) A policy statement prepared under Subsection
(c) of this section must cover an annual period, be
updated at least annually, and be filed with the
Governor's office.

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

Revised Law

Sec. 361.041. CERTAIN CONTRACTS AND SALES PROHIBITED.

(a) A director, agent, or employee of the authority may not:

(1) contract with the authority; or

(2) be directly or indirectly interested in:

(A) a contract with the authority; or

(B) the sale of property to the authority.

(b) A person who violates Subsection (a) is liable for a
fine not to exceed $1,000. (V.A.C.S. Art. 6674v, Sec. 21(e)).
(e) Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly, in any contract with the Authority or in the sale of any property, either real or personal, to the Authority, shall be punished by a fine of not more than One Thousand Dollars ($1,000).

Revisor's Note
Section 21(e), V.A.C.S. Article 6674v, refers to "real or personal" property. The revised law omits the quoted language as unnecessary because under Section 311.005(4), Government Code (Code Construction Act), applicable to this code, "property" means "real and personal property."

Revised Law
Sec. 361.042. GENERAL POWERS AND DUTIES. The authority shall:
(1) adopt bylaws for the regulation of its affairs and the conduct of its business;
(2) adopt an official seal;
(3) construct, maintain, repair, and operate turnpike projects in this state;
(4) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;
(5) enter into contracts or operating agreements with similar authorities or agencies of another state, including a state of the United Mexican States;
(6) enter into contracts or agreements necessary or incidental to its duties and powers under this chapter;
(7) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents the authority considers necessary and set their compensation;
(8) receive grants for the construction of a turnpike project and receive contributions of money, property, labor, or other things of value from any source to be used for the purposes for which the grants or contributions are made;

(9) adopt and enforce rules not inconsistent with this chapter for the use of any turnpike project; and

(10) do all things necessary or appropriate to carry out the powers expressly granted by this chapter. (V.A.C.S. Art. 6674v, Secs. 5(a), (b), (d), (g), (j) (part), (k), (l), (n).)
authorizes the authority to adopt an official seal and to alter it at pleasure. The revised law omits as unnecessary the reference to altering the seal because the power to adopt a seal includes the power to alter it.

(2) Section 5(g), V.A.C.S. Article 6674v, refers to "real and personal" property. The revised law omits the quoted language for the reason stated in the reviser's note under Section 361.041 of this code.

(3) Section 5(j), V.A.C.S. Article 6674v, refers to "Mexico." The revised law substitutes "United Mexican States" for "Mexico" because the former is the correct name of the nation.

(4) Section 5(k), V.A.C.S. Article 6674v, authorizes the authority to "receive and accept" grants and contributions. The revised law omits as unnecessary "accept" because that term is included within the meaning of "receive."

(5) Section 5(l), V.A.C.S. Article 6674v, 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. 361.043. ENTRANCES AND EXITS OF TURNPIKE PROJECT. The authority shall:

(1) designate the location of and establish, limit, and control the entrances and exits of each turnpike project as the authority and the department consider necessary or desirable to ensure the proper operation and maintenance of the project; and

(2) prohibit entrance to each project at any place not
designated. (V.A.C.S. Art. 6674v, Sec. 5(i) (part).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(i) To designate the location, and establish, limit and control such points of ingress to and egress from, each Turnpike Project as may be necessary or desirable in the judgment of the Authority and the State Department of Highways and Public Transportation to insure the proper operation and maintenance of such Project, and to prohibit entrance to such Project from any point or points not so designated . . . .

Revisor's Note

Section 5(i), V.A.C.S. Article 6674v, 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 under Section 201.003 of this code.

Revised Law

Sec. 361.044. SUITS INVOLVING AUTHORITY. The authority may sue and be sued and plead and be impleaded in its own name. (V.A.C.S. Art. 6674v, Secs. 3(a) (part), 5(c) (part).)

Source Law

Sec. 3. (a) ... By and in its name the Authority may sue and be sued, and plead and be impleaded . . . .

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

... (c) To sue and be sued in its own name, plead and be impleaded . . . .

Revisor's Note

That portion of Section 5(c), V.A.C.S. Article 6674v, regarding venue of actions against the authority and actions involving real property, including condemnation proceedings, 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:

(c) ... provided, however, that

any and all actions at law or in equity
against the Authority shall be brought in
the county where the cause of action
arises, and if land is involved, including
condemnation proceedings, suit shall be
brought in the county where the land is
situated;

Revised Law

Sec. 361.045. EXPENSES OF AUTHORITY. (a) An expense
incurred in carrying out this chapter is payable solely from money
authorized by this chapter, and the authority may not incur a
liability or obligation under this chapter beyond the extent that
money is authorized.

(b) An expense under Sections 361.042(5)-(7) is payable
solely from the proceeds of turnpike revenue bonds issued under
this chapter or from revenue. (V.A.C.S. Art. 6674v, Secs. 3(i)
(part), 5(j) (part)).

Source Law

[Sec. 3]

(i) ... All expenses incurred in carrying out
the provisions of this Act shall be payable solely from
funds provided under the authority of this Act and no
liability or obligation shall be incurred by the
Authority hereunder beyond the extent to which moneys
shall have been provided under the authority of this
Act.

Sec. 5. (The Authority is hereby authorized,
empowered, and it shall be its duty:

(j) To make and enter into contracts and
operating agreements with similar authorities or
agencies of other states, including states in Mexico;
to make and enter into all contracts and agreements
necessary or incidental to the performance of its
duties and the execution of its powers under this Act;
and to employ consulting engineers, attorneys,
accountants, construction and financial experts,
superintendents, managers and such other employees and
agents as may be necessary in its judgments, and to fix
their compensation;) provided, that all such expenses
shall be payable solely from the proceeds of turnpike
revenue bonds issued under the provisions of this Act
or from revenues . . . .

Revised Law
Sec. 361.046. COMPENSATION OF EMPLOYEES. Compensation of an
authority employee may not exceed the salary set in the
department's salary schedule for a comparable position or service.
(V.A.C.S. Art. 6674v, Sec. 5(j) (part).)

Source Law
Sec. 5. [The Authority is hereby authorized,
empowered, and it shall be its duty:]
(j) . . . . and provided further that no
compensation for employees of Authority shall exceed
the salary schedule of the State Department of Highways
and Public Transportation for comparable positions and
services; . . . .

Revisor's Note
Section 5(j), V.A.C.S. Article 6674v, 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
revisor's note under Section 201.003 of this code.

Revised Law
Sec. 361.047. TRAVEL EXPENSES. (a) An employee of the
authority is entitled to a per diem and transportation allowance
for travel on official business at the rates provided by the
General Appropriations Act.
(b) The secretary and treasurer of the board, the project
manager of a turnpike project, and the administrative head of the
authority are entitled to reimbursement for actual and necessary
expenses incurred for travel on official business, except that
reimbursement for transportation expenses is at the rates provided
by the General Appropriations Act. (V.A.C.S. Art. 6674v, Sec.
21a.)
Sec. 21a. (a) Employees of the authority are entitled to a per diem and transportation allowance for travel on official business. The rates of reimbursement are as provided in the travel provisions of the General Appropriations Act.

(b) The secretary, treasurer, the project manager of a project, and the executive head of the authority are entitled to reimbursement for actual and necessary expenses incurred for travel on official business, except that reimbursement for transportation expenses is at the rates provided in the travel provisions of the General Appropriations Act.

Sec. 361.048. FILING OF MINUTES, BUDGET, AND REPORTS. (a) The authority shall file with the governor, the Legislative Reference Library, and the Legislative Budget Board a certified copy of the minutes of each meeting. The authority shall in the same manner file copies of corrections in or changes to the minutes. The authority shall file the copies as soon as possible after it approves the minutes, changes, or corrections.

(b) Not later than March 1 of each year, the authority shall file with the governor's budget and planning office and the Legislative Budget Board an itemized budget covering the current calendar year.

(c) Not later than March 31 of each year, the authority shall file with the governor, the legislature, and the Legislative Budget Board a report on the authority's activities during the preceding calendar year. The report must include:

(1) information about each turnpike project, including a complete operating and financial statement covering the project; and

(2) an itemized statement of the professional or consulting fees paid by the authority, including:

(A) the name of each individual or business entity who received a fee; and

(B) a description of the purposes for which the fee was paid.

(d) The authority shall file annually with the governor and

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the presiding officer of each house of the legislature a complete
and detailed written report accounting for all money received and
spent by the authority during the preceding year. The report must
be in the form provided by the General Appropriations Act.
(V.A.C.S. Art. 6674v, Sec. 21b.)

Source Law

Sec. 21b. (a) The authority shall file with the
governor, the Legislative Reference Library, and the
Legislative Budget Board certified copies of the
minutes of the authority’s meetings. The authority
similarly shall file copies of any corrections or
changes of the minutes. The authority shall file the
copies as soon as possible after the minutes, changes,
or corrections are approved by the authority.
(b) On or before March 1 of each year, the
authority shall file with the governor’s budget and
planning office, or its successor, and the Legislative
Budget Board an itemized budget covering the current
calendar year.
(c) On or before March 31 of each year, the
authority shall file with the governor, the
Legislature, and the Legislative Budget Board a report
about the authority’s activities during the preceding
calendar year. The report shall include information
about each project, including a complete operating and
financial statement covering each project, and shall
include an itemized statement about the professional or
consulting fees paid by the authority, including the
name of each individual or business entity who received
the fees and a description of the purposes for which
the fees were paid.
(d) The authority 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
authority during the preceding year. The annual report
must be in the form provided by the General
Appropriations Act.

Revised Law

Sec. 361.049. CONSULTANTS. (a) The authority is subject to
(b) The authority by rule shall adopt a policy and
procedures for soliciting proposals for contracts for professional
consulting services. The policy and procedures must encourage the
submission of proposals from various firms. The authority shall
review the proposals before selecting a firm. (V.A.C.S.
Art. 6674v, Sec. 21c.)
Sec. 21c. (a) The Authority is subject to Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes), relating to the use of consultants. (b) The Authority by rule shall adopt a policy and procedures for soliciting proposals for contracts for professional consulting services. The policy and procedures must encourage the submission of proposals from various firms, which the Authority shall review before selecting a firm.

Reviser's Note

Section 21c(a), V.A.C.S. Article 6674v, refers to Chapter 454, Acts of the 65th Legislature, Regular Session, 1977 (Article 6252-11c, Vernon's Texas Civil Statutes). That statute was codified in 1993 as Subchapter B, Chapter 2254, Government Code. The revised law is drafted accordingly.

Revised Law

Sec. 361.050. DISADVANTAGED BUSINESSES. (a) Consistent with the General Appropriations Act and general law, the authority shall:

(1) set annual goals for the awarding of contracts to disadvantaged businesses and attempt to meet the goals;

(2) attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the authority; and

(3) give disadvantaged businesses full access to the authority'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.

(b) This section does not exempt the authority from competitive bidding requirements provided by other law. (V.A.C.S. Art. 6674v, Sec. 24.)

Source Law

Sec. 24. (a) The Board shall establish a disadvantaged business program consistent with the
General Appropriations Act and general law.
(b) The Authority shall set and strive to meet annual goals for the awarding of contracts to disadvantaged businesses.
(c) The Authority shall attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the Authority. The Authority shall give disadvantaged businesses full access to the contract bidding process. The Authority shall inform and offer assistance to disadvantaged businesses regarding the Authority's contract bidding process. To further the assistance effort, the Authority shall identify barriers to participation by disadvantaged businesses in the Authority's bidding process.
(d) This section does not exempt the Authority from competitive bidding requirements provided by law.

Revised Law

Sec. 361.051. PUBLIC ACCESS. The authority shall:
(1) make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the authority; and
(2) prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the authority's programs. (V.A.C.S. Art. 6674v, Sec. 5(o), (p)).

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(o) To develop and implement policies that provide the public with a reasonable opportunity to appear before the Board to speak on any issue under the jurisdiction of the Authority; and
(p) To 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 may be provided reasonable access to the Authority's programs.

Revised Law

Sec. 361.052. PUBLIC COMPLAINTS. (a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which a complaint is filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.
(b) The board shall keep an information file about each complaint filed with the board that the board has the authority to resolve.

(c) If the board has authority to resolve a written complaint filed with the board, the board shall notify the parties to the complaint of the complaint's status unless the notice would jeopardize an undercover investigation. The notice shall be given at least quarterly and until final disposition of the complaint.

(V.A.C.S. Art. 6674v, Sec. 25.)

Source Law

Sec. 25. (a) The Board shall prepare information of public interest describing the functions of the Board and the Board's procedures by which complaints are filed with and resolved by the Board. The Board shall make the information available to the public and appropriate state agencies.

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

(c) If a written complaint is filed with the Board that the Board has authority to resolve, the Board, 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. 361.053. EVIDENCE OF ACTION BY AUTHORITY. An action by the authority may be evidenced in any legal manner, including a board resolution. (V.A.C.S. Art. 6674v, Sec. 21(d).)

Source Law

(d) An action by the Authority may be evidenced in any legal manner, including a resolution adopted by its Board of Directors.

Revised Law

Sec. 361.054. AUDIT. The authority shall have a certified public accountant audit the authority's books and accounts at least annually. The cost of the audit may be treated as part of the cost of construction or operation of a turnpike project. (V.A.C.S. Art. 6674v, Sec. 21(g).)
(g) The Authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operation of the Turnpike Project.

Sec. 361.055. SUCCESSOR AGENCY TO AUTHORITY. The following are successor agencies to the authority for purposes of Section 52-b, Article III, Texas Constitution:

(1) a county or local government corporation that leases, buys, or receives a turnpike project under Subchapter H;

(2) a county with a population of more than 1.5 million that constructs a toll road, toll bridge, or turnpike project;

(3) a local government corporation serving a county with a population of more than 1.5 million that constructs a toll road, toll bridge, or turnpike project; and

(4) an adjacent county in a joint turnpike authority with a county with a population of more than 1.5 million that constructs a toll road, toll bridge, or turnpike project.

(Reviser's Note)

Sec. 12d. The following are considered successor agencies to the Texas Turnpike Authority for purposes of Article III, Section 52-b, of the Texas Constitution:

(1) a county or local government corporation that leases, buys, or receives a Turnpike Project under Section 12c of this Act; and

(2) a county, or a local government corporation serving a county, or an adjacent county in a joint turnpike authority with a county whose population is more than 1.5 million, according to the most recent federal decennial census, that constructs a toll road, toll bridge, or Turnpike Project.

(Revisor's Note)

(1) Section 12d(2), V.A.C.S. Article 6674v, refers to "a county, or a local government corporation serving a county, or an adjacent county in a joint
turnpike authority with a county whose population is
more than 1.5 million." The revised law clarifies that
the population limitation of 1.5 million modifies "a
county" and "a local government corporation serving a
county" as well as the second reference to a county in
the phrase "an adjacent county in a joint turnpike
authority with a county."

Section 12d was added by Chapter 586 (S.B. No.
242), Acts of the 73rd Legislature, Regular Session,
1993. As introduced and as passed by the senate, S.B.
No. 242 did not include Section 12d. In the house
committee report, Section 12d(2) referred to "a county,
or a local government corporation serving a county,
with a population of more than 1.5 million"; the
limitation clearly modified the first reference to "a
county." There is no reason to believe that the house
floor amendment that added the language referring to an
adjacent county in a joint turnpike authority was
intended to change the meaning of the existing
language.

In addition, if Section 12d(2) is read to mean
that the population limitation modifies only the final
reference to "a county" in a joint turnpike authority,
both the reference to "an adjacent county" and the
limitation are unnecessary, because the first reference
to "a county" includes any county, without regard to
whether it is adjacent to a county with a population of
more than 1.5 million.

The revised law is drafted accordingly.

(2) Section 12d(2), V.A.C.S. Article 6674v,
describes a population number that is to be determined
according to the most recent federal decennial census.
The revised law omits the reference to the federal
decennial 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. [Sections 361.056-361.100 reserved for expansion]

SUBCHAPTER C. APPROVAL OF TURNPIKE PROJECTS

Revised Law

Sec. 361.101. DETERMINATION OF TURNPIKE PROJECTS. The authority may:

(1) construct, maintain, repair, and operate a turnpike project to:

(A) facilitate vehicular traffic throughout this state;

(B) promote the agricultural and industrial development of this state;

(C) effect traffic safety; or

(D) improve connections between highways of this state and of adjoining states; and

(2) at any time determine to undertake a turnpike project, except that the commission must approve the location of the project before final designation. (V.A.C.S. Art. 6674v, Secs. 1 (part), 4(c) (part), 5(d) (part).)

Source Law

Art. 6674

Sec. 1. To facilitate vehicular traffic throughout the State, to promote the agricultural and industrial development of the State, to assist in effecting traffic safety, to provide for the construction of modern expressways, to provide better connections between highways of the State of Texas and the highway system of adjoining states, including cooperation between states, the Texas Turnpike Authority, hereinafter created, is hereby authorized and empowered to construct, maintain, repair and operate Turnpike Projects (as hereinafter defined) . . . .

[Sec. 4] (c) . . . [Turnpike] which the Authority may at any time determine to construct . . . provided, that
Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(d) To construct, maintain, repair and operate Turnpike Projects as hereinabove defined at such locations . . . as may be determined by the Authority subject to approval as to location by the State Highway and Public Transportation Commission . . . .

Reviser's Note

Section 4(c), V.A.C.S. Article 6674v, refers to the "State Highway Commission." Section 5(d), V.A.C.S. Article 6674v, refers to the "State Highway and Public Transportation Commission." The revised law substitutes "commission" for "State Highway Commission" and "State Highway and Public Transportation Commission" for the reason stated in the reviser's note under Section 201.003 of this code.

Revised Law

Sec. 361.102. PUBLIC HEARINGS. (a) Before the authority finally approves an engineering design for a turnpike project, the authority or a designated representative of the authority shall hold at least one public hearing in the general locality in which the project is to be located. Persons interested in the project shall be given an opportunity at the public hearing to testify about the project and to inspect the plans and designs prepared for the project.

(b) Not less than 15 days nor more than 21 days before the date of the public hearing, the authority shall:

(1) furnish a written notice of the public hearing to the governing body of each county or municipality in which part of the turnpike project is to be located; and

(2) publish the notice in the general locality in which the project is to be located in a manner likely to inform the public of the public hearing.

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(c) At least seven days before the date of the public hearing, the authority shall file with the governing bodies the plans and designs prepared for the turnpike project. (V.A.C.S. Art. 6674v, Sec. 16a.)

Source Law

Sec. 16a. (a) Before the authority finally approves an engineering design for a project, the authority or a designated representative of the authority shall hold at least one public hearing in the general locality in which the project is to be located. Persons interested in the project shall be given an opportunity at the public hearing to testify about the project and to inspect the plans and designs prepared for the project.

(b) Not less than 15 days nor more than 21 days before the public hearing, the authority shall furnish a written notice of the public hearing to the governing body of each county, city, or town in which any part of the project is to be located and shall publish the notice in the general locality in which the project is to be located in a manner likely to inform the general public of the public hearing.

(c) At least seven days before the public hearing, the authority shall file with the governing bodies the plans and designs prepared for the project.

Revisor's Note

Section 16a(b), V.A.C.S. Article 6674v, refers to a "city" or "town." The revised law substitutes the term "municipality" for "city" or "town" because that is the term used in the Local Government Code.

Revised Law

Sec. 361.103. ENVIRONMENTAL REVIEW. (a) The authority by rule shall provide for the authority's environmental review of turnpike projects. The rules must provide for:

(1) public comment on environmental reviews of turnpike projects, 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 environmental factors and impacts the authority will evaluate in its environmental reviews; and

(3) environmental review of alternate routes for a
proposed turnpike project.

(b) The environmental review of a turnpike project must be conducted before the location or alignment of the project is adopted.

(c) The commission must approve each environmental review under this section before construction of a turnpike project begins.

(d) At least once during each five-year period, the authority, after a public hearing, shall review the rules relating to environmental review and make appropriate changes. (V.A.C.S. Art. 6674v, Sec. 16b.)

Source Law

Sec. 16b. (a) The Authority shall adopt rules providing for environmental reviews of turnpike projects. The rules must contain provisions for:
   (1) public comment on environmental reviews of turnpike projects, including the types of projects for which public hearings are required;
   (2) the environmental factors and impacts the Authority will evaluate in its environmental reviews; and
   (3) environmental review of alternate routes for a proposed turnpike project.

   (b) A rule adopted under Subsection (a)(1) of this section must provide a procedure for a public hearing to be requested on an environmental review for which a public hearing is not required.

   (c) An environmental review provided by a rule adopted under this section must be conducted before the location or alignment of the turnpike project has been adopted.

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

   (e) Each environmental review conducted under the rules adopted under this section must be approved by the State Highway and Public Transportation Commission before construction of the turnpike project begins.

Revisor's Note

Section 16b(e), V.A.C.S. Article 6674v, refers 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.
under Section 201.003 of this code.

[Sections 361.104-361.130 reserved for expansion]

SUBCHAPTER D. ACQUISITION OF PROPERTY FOR TURNPIKE PROJECTS

Revised Law

Sec. 361.131. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. Except as otherwise provided by this chapter, the authority has the same powers and may use the same procedures as the commission in acquiring property. (V.A.C.S. Art. 6674v, Sec. 8 (part).)

Source Law

Sec. 8. . . In addition to any other power granted in this Act, the powers and procedure granted to and available to the State Highway Commission for acquisition of property, are likewise granted to and made available to the Authority, subject to the provisions of this Act.

Revisor's Note

(1) Section 8, V.A.C.S. Article 6674v, provides that "[I]n addition to any other power granted in this Act," the authority has the powers of the State Highway Commission (now the Texas Transportation Commission). The revised law omits as unnecessary the quoted language 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.

(2) Section 8, V.A.C.S. Article 6674v, refers to the "State Highway Commission." The revised law substitutes "commission" for "State Highway Commission" for the reason stated in the revisor's note under Section 201.003 of this code.
Sec. 361.132. ACQUISITION OF PROPERTY. (a) The authority may acquire in the name of the authority public or private real property it determines necessary for the construction or operation of a turnpike project or for otherwise carrying out this chapter.

(b) The real property the authority may acquire under this subchapter includes:

1. public parks, playgrounds, or reservations;
2. parts of or rights in public parks, playgrounds, or reservations;
3. rights-of-way;
4. property rights;
5. franchises;
6. easements; and
7. other interests in real property.

(c) The authority may acquire the real property by any method, including purchase and condemnation. The authority may purchase public or private real property on the terms and at the price the authority and the owner consider reasonable. (V.A.C.S. Art. 6674v, Secs. 5(h) (part), 7 (part).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(h) To acquire in the name of the Authority by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the right of condemnation . . . such public or private lands, including public parks, playgrounds or reservations, or parts thereof or rights therein, right-of-ways, property rights, easements and interests, as it may deem necessary for carrying out the provisions of this Act . . . .

Sec. 7. The Authority is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any land, property rights, right-of-ways, franchises, easements and other interests in lands as it may deem necessary for the construction or operation of any Turnpike Project upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the Authority and the owner thereof, and to take title thereto in the name of the Authority. . . .
Revisor's Note

Section 5(h), V.A.C.S. Article 6674v, authorizes the authority to acquire, on "terms and conditions" it determines proper, certain property. The revised law omits as unnecessary "conditions" because that is included within the meaning of "terms."

Revised Law

Sec. 361.133. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY.

(a) The governing body having charge of public real property may consent to the use of the property for a turnpike project.

(b) The governing body of a political subdivision or public agency may without advertising convey title to or rights or easements in real property the authority needs in connection with the construction or operation of a turnpike project.

(c) Notwithstanding any law to the contrary, a political subdivision or a state agency may lease, lend, grant, or convey to the authority at its request real property, including highways and other real property already devoted to public use, that may be necessary or appropriate to accomplish the authority's purposes.

The political subdivision or state agency may lease, lend, grant, or convey the property:

(1) on terms the subdivision or agency determines reasonable and fair; and

(2) without advertisement, court order, or other action or formality other than the regular and formal action of the subdivision or agency concerned. (V.A.C.S. Art. 6674v, Secs. 5(h) (part), 7 (part), 21(c).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:

(h) To acquire in the name of the Authority by purchase or otherwise, . . . such public or private lands] provided further, that the governing body having charge of any such public property is hereby authorized to give its consent to the use of any such property for a Turnpike Project . . . .

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Sec. 7. . . . The governing body of every county, city, town, political subdivision or public agency is authorized without any form of advertisement to make conveyance of title or rights and easements to any property needed by the Authority to effect its purposes in connection with the construction or operation of a Turnpike Project.

[Sec. 21]
(c) All counties, cities, villages and other political subdivisions and all public agencies and commissions of the State of Texas, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the Authority at its request, upon such terms and conditions as the proper authorities of such counties, cities, villages, other political subdivisions or public agencies and commissions of the State may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or appropriate to the effectuation of the authorized purposes of the Authority, including highways and other real property already devoted to public use.

Revisor's Note
(1) Section 7, V.A.C.S. Article 6674v, refers to "every county, city, town, political subdivision or public agency." Section 21(c) refers to "counties, cities, villages and other political subdivisions." The revised law omits as unnecessary the references to counties, cities, villages, and towns because they are included within the meaning of "political subdivision."

(2) Section 21(c), V.A.C.S. Article 6674v, refers to the "terms and conditions" regarding the lease, loan, grant, or conveyance to the authority of real property. The revised law omits "conditions" for the reason stated in the revisor's note under Section 361.132.

(3) Section 21(c), V.A.C.S. Article 6674v, authorizes counties, cities, villages, and political subdivisions and public agencies and commissions of the state to lease, lend, grant, or convey to the authority certain property on terms and conditions the "proper authorities" of those entities determine reasonable and
fair. The revised law omits as unnecessary the reference to the "proper authorities" of those entities because they may act only through "proper authorities."

(4) Section 21(c), V.A.C.S. Article 6674v, authorizes certain entities to lease, lend, grant, or convey to the authority certain property that may be necessary or appropriate to accomplish the "authorized" purposes of the authority. The revised law omits as unnecessary "authorized" because that is implied in the reference to the authority's purposes.

(5) Section 21(c), V.A.C.S. Article 6674v, refers to "public agencies and commissions of the State." The reference to "commissions" is omitted from the revised law because "commission" is included within the meaning of "agency."

Revised Law
Sec. 361.134. DESCRIPTION OF REAL PROPERTY. Real property acquired by the authority shall be described so as to locate the boundary line of the property with reference to:

(1) lot and block lines and corners of all existing and recorded subdivision properties, if applicable; or

(2) survey lines and corners. (V.A.C.S. Art. 6674v, Sec. 5(h) (part).)

Source Law
Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

... provided, further, that all property or interest so acquired shall be described in such a manner so as to locate the boundary line of same with reference to lot and block lines and corners of all existing and recorded subdivision properties and to locate the boundary line of other property with reference to survey lines and corners...

Revisor's Note
Section 5(h), V.A.C.S. Article 6674v, refers to all "property or interest" acquired. The revised law

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omits as unnecessary "or interest" because an interest in property is included within the meaning of property.

Revised Law

Sec. 361.135. CONDEMNATION OF REAL PROPERTY. (a) The authority may acquire public or private real property in the name of the authority by the exercise of the power of condemnation under the laws applicable to the exercise of that power on property for public use if:

(1) the authority and the owner cannot agree on a reasonable price for the property; or
(2) the owner is legally incapacitated, absent, unknown, or unable to convey title.

(b) To the extent provided by Subsection (c), the authority may condemn real property that the authority determines is:
(1) necessary or appropriate to construct or to efficiently operate a turnpike project;
(2) necessary to restore public or private property damaged or destroyed; or
(3) necessary otherwise to carry out this chapter.

(c) The authority may condemn real property necessary for access, approach, and interchange roads but may not condemn property:
(1) that is unnecessary for road and right-of-way purposes; or
(2) that is for a supplemental facility for another purpose.

(d) The authority may construct a supplemental facility only on real property the authority purchases.

(e) The court having jurisdiction of a condemnation proceeding may:
(1) make orders as are just to the authority and the owners of the real property; and
(2) require an undertaking or other security to secure
the owners against any loss or damage by reason of the authority's failure to accept and pay for the real property.

(f) An undertaking or security under Subsection (e)(2) or an act or obligation of the authority does not impose any liability on the state or the authority except liability that may be paid from the money authorized by this chapter. (V.A.C.S. Art. 6674v, Secs. 5(h) (part), 8 (part).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty;]

(h) To acquire in the name of the Authority ... by the exercise of the right of condemnation in the manner hereinafter provided, such public or private lands ... as it may deem necessary for carrying out the provisions of this Act ....

Sec. 8. Whenever a reasonable price cannot be agreed upon, or whenever the owner is legally incapacitated, or is absent, unknown or unable to convey valid title, the Authority is hereby authorized, and empowered to acquire, by the exercise of the power of condemnation and in accordance with and subject to the provisions of any and all existing laws and statutes applicable to the exercise of the power of condemnation of property for public use, any land, property rights, right-of-ways, franchises, easements or other property deemed necessary or appropriate for the construction or the efficient operation of any Turnpike Project or necessary to the restoration of, public or private property damaged or destroyed; provided, however, the Authority may not condemn any land except such as will be necessary for road and right-of-way purposes. The road and right-of-way purposes for which the Authority may condemn land, shall include the land necessary for access, approach, and interchange roads, but shall not include any supplemental facility for other purposes. Such supplemental facilities must be constructed upon land acquired by purchase and not by condemnation. In any condemnation proceedings the Court having jurisdiction of the suit, action or proceeding, may make such orders as may be just to the Authority and to the owners of the property to be condemned and may require an undertaking or other security to secure such owners against any loss or damage by reason of the failure of the Authority to accept and pay for the property, but neither such undertaking or security nor any act or obligation of the Authority shall impose any liability upon the State or the Authority except such as may be paid from the funds provided under the authority of this Act. ....

Revised Law

Sec. 361.136. SEVERANCE OF REAL PROPERTY. (a) If a
turnpike project severs an owner's real property, the authority shall pay:

(1) the value of the property acquired; and

(2) the damages to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other.

(b) The authority shall provide and maintain without charge a passageway over or under the turnpike project for the owner of the severed real property and the owner's employees and representatives. The authority is not required to furnish a passageway if the owner waives the requirement or the original tract involved is less than 80 acres.

(c) The authority may negotiate for and purchase the severed real property or either part of the severed real property if the authority and the owner agree on terms for the purchase. The authority shall sell and dispose of severed real property within two years after the date of acquisition. (V.A.C.S. Art. 6674v, Sec. 8 (part).)

Source Law

Sec. 8. . . . In all cases where property of an owner is severed by the Turnpike Project, the Authority shall pay the value of the property acquired and the severance damages, to the property remaining in the owner. Such severance damages shall include those arising from the inaccessibility of one tract to the other. The Authority shall provide and maintain at all times for the owner of such severed land, his employees and representatives, without charge, a passageway over or under the project, provided however, that the Authority shall not be required to furnish such a passageway (1) if the owner waives such requirement, or (2) if the original tract or ownership involved is less than eighty acres. The Authority is hereby authorized and empowered to negotiate for, and purchase the land or either tract of the land severed, provided satisfactory terms may be agreed upon with the owner. All severed land acquired by the Authority, as herein provided, shall be sold and disposed of by the Authority within a period of two years after its acquisition. . . .

Revised Law

Sec. 361.137. DECLARATION OF TAKING. (a) The authority may file a declaration of taking with the clerk of the court:
(1) in which the authority files a condemnation petition under Chapter 21, Property Code; or

(2) to which the case is assigned.

(b) The authority may file the declaration of taking concurrently with or subsequent to the petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(c) The declaration of taking must include:

(1) a specific reference to the legislative authority for the condemnation;

(2) a description and plot plan of the real property to be condemned, including the following information if applicable:

(A) the municipality in which the property is located;

(B) the street address of the property; and

(C) the lot and block number of the property;

(3) a statement of the property interest to be condemned;

(4) the name and address of each property owner that the authority can obtain after reasonable investigation and a description of the owner's interest in the property; and

(5) a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a turnpike project.

(d) A deposit to the registry of the court of an amount equal to the appraised value, as determined by the authority, of the property to be condemned must accompany the declaration of taking.

(e) The date on which the declaration is filed is the date of taking for the purpose of assessing damages to which a property owner is entitled. (V.A.C.S. Art. 6674v, Secs. 8a(a), (b), (c), (d), (h).)

Source Law
Sec. 8a. (a) The Authority may file a
declaration of taking with the clerk of the court in which the Authority files a petition in a condemnation proceeding under Chapter 21, Property Code, or of the court to which the case is assigned.

(b) The declaration of taking may be filed concurrently with or subsequent to the petition. However, the declaration may not be filed after the special commissioners have made an award in the condemnation proceeding.

(c) The declaration of taking must include:
(1) a specific reference to the legislative authority for the condemnation;
(2) a description and plot plan of the property proposed for condemnation, including the following information if applicable:
   (A) the municipality in which the property is located;
   (B) the street address of the property; and
   (C) the lot and block number of the property;
(3) a statement of the property interest that is subject to condemnation;
(4) the name and address of each property owner that the Authority is able to obtain after reasonable investigation and the nature of the property owner's interest in the property; and
(5) a statement that immediate possession or all or part of the property proposed for condemnation is necessary for the timely construction of a project of the Authority.

(d) The declaration of taking must be accompanied by the deposit in the registry of the court of an amount equal to the appraised value, as determined by the Authority, of the property being condemned.

(h) The date on which the declaration is filed is the date of taking for the purpose of assessing damages to which a property owner is entitled.

Revised Law
Sec. 361.138. POSSESSION OF PROPERTY. (a) Immediately on the filing of a declaration of taking, the authority shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method prescribed by Section 21.016(d), Property Code. The authority shall file evidence of the service with the clerk of the court. On filing of that evidence, the authority may take possession of the property pending the litigation.
(b) If the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, the authority may not take possession sooner than the 31st day after the date of service under Subsection (a).
(c) A property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code. (V.A.C.S. Art. 6674v, Secs. 8a(e), (f), (g)).

Source Law

(e) Immediately on the filing of the declaration of taking, the Authority shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method for a notice of a condemnation hearing prescribed by Section 21.016(d), Property Code. The Authority shall file evidence of service of the copy with the clerk of the court. On filing of that evidence, the Authority may take possession of the property pending the results of the litigation.

(f) If the property being condemned is a homestead, or a portion of a homestead, as defined by Section 41.002, Property Code, the Authority may not take possession sooner than the 31st day after the date of service pursuant to Subsection (e) of this section.

(g) A property owner or tenant who refuses to vacate the property or yield possession is subject to the forcible entry and detainer provisions of Chapter 24, Property Code.

Revised Law

Sec. 361.139. RELOCATION ASSISTANCE PROGRAM. (a) The authority by rule shall provide for relocation assistance to property owners and tenants who are displaced from dwellings or places of business as the result of acquisition by the authority of real property under this chapter.

(b) The rules must:

(1) include eligibility requirements for assistance;

and

(2) define the benefits available to those eligible for assistance.

(c) At each public hearing held under Section 361.102, the authority shall make available to the public written copies of the rules. (V.A.C.S. Art. 6674v, Sec. 8b.)

Source Law

Sec. 8b. (a) The Authority by rule shall adopt a relocation assistance program for property owners and tenants who are displaced from dwellings or places of business as the result of acquisition by the Authority of real property under this Act.
(b) The rules adopted under this section must include eligibility requirements for assistance under the program and must define the benefits available to those eligible for assistance.

(c) At each public hearing held under Section 16a of this Act, the Authority shall make available to the public written copies of the program rules adopted by the Authority under this section.

Revised Law

Sec. 361.140. RESTORATION OF OR COMPENSATION FOR DAMAGE TO OR DESTRUCTION OF PRIVATE PROPERTY. Private property damaged or destroyed in carrying out this chapter shall be restored or repaired and placed in its original condition as nearly as practicable, or adequate compensation shall be made for the damage or destruction out of money authorized by this chapter. (V.A.C.S. Art. 6674v, Sec. 21(b).)

Source Law

(b) All private property damaged or destroyed in carrying out the powers granted by this Act shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this Act.

Revised Law

Sec. 361.141. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. (a) The authority may not pay compensation for public real property, parkways, or reservations it takes, except for:

(1) parks and playgrounds; and

(2) property acquired under restrictions and limitations requiring payment of compensation.

(b) Public property damaged in the carrying out of powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable. (V.A.C.S. Art. 6674v, Sec. 5(h) (part).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty;]

... provided, however, that except for parks and playgrounds and except for any property which may have been theretofore acquired under
restrictions and limitations requiring payment of
compensation, no compensation shall be paid for public
lands, parkways or reservations so taken; and that all
public property damaged in carrying out the powers
granted by this Act, shall be restored or repaired and
placed in its original condition as nearly as
practicable . . . .

[Sections 361.142-361.170 reserved for expansion]

SUBCHAPTER E. FINANCING OF TURNPIKE PROJECTS

Revised Law

Sec. 361.171. TURNPIKE REVENUE BONDS. (a) The authority by
resolution may provide for the issuance of turnpike revenue bonds
to pay all or part of the cost of a turnpike project. Each project
shall be financed and built by a separate bond issue. The proceeds
of a bond issue may be used solely for the payment of the project
for which the bonds were issued and may not be divided between or
among two or more projects. Each project is a separate
undertaking, the cost of which shall be determined separately.

(b) The bonds of each issue:

(1) must be dated;

(2) bear interest at the rate or rates authorized by
law;

(3) mature at the time or times, not exceeding 40
years from their date or dates, determined by the authority; and

(4) may be made redeemable before maturity, at the
price or prices and under the terms set by the authority in the
proceeding authorizing the issuance of the bonds.

(c) The authority may sell the bonds at public or private
sale in the manner and for the price it determines to be in the
best interest of the authority.

(d) The proceeds of each bond issue shall be disbursed in
the manner and under the restrictions, if any, the authority
provides in the resolution authorizing the issuance of the bonds or
in the trust agreement securing the bonds.

(e) If the proceeds of a bond issue are less than the
turnpike project cost, additional bonds may in like manner be
issued to provide the amount of the deficit. Unless otherwise
provided in the resolution authorizing the issuance of the bonds or
in the trust agreement securing the bonds, the additional bonds are
of the same issue and are payable from the same fund without
preference or priority of the bonds first issued.

(f) If the proceeds of a bond issue exceed the cost of the
turnpike project for which the bonds were issued, the surplus shall
be deposited to the credit of the sinking fund for the bonds.

(V.A.C.S. Art. 6674v, Secs. 1 (part), 5(e) (part), 9(a), (b)
(part), (d), (e).)

Source Law

Sec. 1. . . . [T]he Texas Turnpike Authority
is hereby authorized and empowered . . . to issue
turnpike bonds of the Texas Turnpike Authority,
[payable solely from the revenues of such projects].

Sec. 5. [The Authority is hereby authorized,
empowered, and it shall be its duty:]

(e) To issue turnpike revenue bonds of the
Authority [payable solely from revenues, including
tolls pledged to such bonds, except as otherwise
authorized by this Act,] for the purpose of paying all
or any part of the cost of a Turnpike Project; turnpike
bonds shall be issued for each separate project . . . .

Sec. 9. (a) The Authority is hereby authorized
to provide by resolution, from time to time, for the
issuance of turnpike revenue bonds of the Authority for
the purpose of paying all or any part of the cost of a
Turnpike Project, including all or any part of the cost
of improving, extending, or enlarging a Turnpike
Project. Each Project shall be financed and built by a
separate issue of bonds. The proceeds of no issue of
bonds shall be divided between or among two or more
projects. The cost of each Project shall be determined
and set up as a separate project and undertaking.

(b) . . . The bonds of each issue shall be
dated, shall bear interest at such rate or rates
authorized by law, shall mature at such time or times,
not exceeding forty (40) years from their date or
dates, as may be determined by the Authority, and may
be made redeemable before maturity, at such price or
prices and under such terms and conditions as may be
fixed by the Authority in the proceeding authorizing
the issuance of the bonds.

(d) The Authority may sell such bonds in such
manner, either at public or at private sale, and for
such price, as it may determine to be for the best
interests of the Authority.

(e) The proceeds of the bonds of each issue
shall be used solely for the payment of the cost of the
Turnpike Project for which such bonds shall have been
issued, and shall be disbursed in such manner and under
such restrictions, if any, as the Authority may provide
in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the Turnpike Project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Revisor's Note

(1) Section 9(a), V.A.C.S. Article 6674v, authorizes the authority to provide by resolution "from time to time" for the issuance of turnpike revenue bonds. The revised law omits as unnecessary "from time to time" because the power to provide by resolution for the issuance of bonds includes the power to do so "from time to time."

(2) Sections 5(e) and 9(a), V.A.C.S. Article 6674v, authorize the authority to issue turnpike revenue bonds "of the Authority." The revised law omits the quoted language because the authority may not issue bonds on behalf of any entity other than the authority.

(3) Section 9(a), V.A.C.S. Article 6674v, authorizes the authority to provide for the issuance of turnpike revenue bonds to pay all or part of the "cost" of a turnpike project, including all or part of the cost of "improving, extending, or enlarging" a turnpike project. The reference to "improving, extending, or enlarging" a turnpike project is omitted from the revised law because the cost of "improving, extending, or enlarging" a project is included within the meaning of the "cost" of the project.

(4) Section 9(b), V.A.C.S. Article 6674v, refers
to the "terms and conditions" fixed by the authority. The revised law omits "conditions" for the reason stated in the reviser's note under Section 361.132 of this code.

(5) The revised law omits as unnecessary Section 9(c), V.A.C.S. Article 6674v, regarding the form, registration, and reconversion of bonds issued by the authority because it has been superseded by Sections 5 and 6, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes). That statute establishes certain requirements regarding the form, registration, and reconversion of government bonds. Under Section 9(g), V.A.C.S. Article 6674v (revised in this code in part in Section 361.172), Article 717k-6 applies to bonds issued under this chapter. The omitted law reads:

(c) The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. If the duty of such reconversion is imposed on the Trustee in a Trust Agreement as authorized under Section 11, the substituted coupon bonds need not be reapproved by the Attorney General of Texas, and they shall remain incontestable.

Revised Law

Sec. 361.172. APPLICABILITY OF OTHER LAWS. (a) Except as provided by Subsection (b), the authority may issue turnpike revenue bonds or turnpike revenue refunding bonds under this chapter without complying with any other law applicable to the issuance of bonds.

(b) Notwithstanding any other provisions of this chapter, the following laws apply to bonds issued by the authority:

(1) Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes);
(2) Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes);

(3) the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes);

(4) Article 3, Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes); and


(V.A.C.S. Art. 6674v, Secs. 9(g) (part), 22 (part).)

Source Law

[Sec. 9]

(g) Notwithstanding any other provisions of this Act, (1) the following general laws of the State of Texas, being generally applicable to all public agencies of the State, shall be applicable to bonds issued by the Authority: Vernon's Ann. Tex. Civ. Statutes Articles 717k, 717k-2, 717k-6, 717k-8, and 717q, together with all amendments thereto . . . .

Sec. 22. . . . provided, however, that the issuance of turnpike revenue bonds or turnpike revenue refunding bonds under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds.

Revisor's Note

(1) The revised law omits as unnecessary the portion of Section 22, V.A.C.S. Article 6674v, 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. The omitted law reads:

Sec. 22. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing . . . .

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(2) Section 9(f), V.A.C.S. Article 6674v, provides that the authority may issue bonds without obtaining the consent of any state agency and without any proceeding or the happening of any condition or thing other than as specifically required by that article. Section 22, V.A.C.S. Article 6674v, provides that the issuance of turnpike revenue bonds or turnpike revenue refunding bonds under that article need not comply with the requirements of any other law applicable to the issuance of bonds. That section is subject to Section 9(g), V.A.C.S. Article 6674v, which makes certain laws generally applicable to bonds issued by state agencies applicable to bonds issued by the authority. Because under Section 22 the authority need not comply with other laws applicable to the issuance of bonds except as provided by Section 9(g), the revised law omits as unnecessary Section 9(f). The omitted law reads:

(f) Bonds may be issued under the provisions of this Act without obtaining the consent of any department, division, commission, board, bureau or agency of the State, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Act.

Revised Law

Sec. 361.173. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED.

(a) The principal of and interest on bonds issued by the authority are payable solely from:

(1) the money authorized for their payment under this chapter or other law; and

(2) the revenue of the turnpike project for which the bonds were issued, including tolls pledged to pay the bonds.

(b) Bonds issued under this chapter do not constitute a debt of the state or a pledge of the faith and credit of the state.
Each bond must contain on its face a statement to the effect that:

(1) the state and the authority are not obligated to pay the bond or the interest on the bond from a source other than the amount pledged to pay the bond and the interest on the bond; and

(2) the faith and credit and the taxing power of the state are not pledged to the payment of the principal of or interest on the bond.

(c) The authority may not incur financial obligations that cannot be paid from tolls or revenue derived from owning or operating turnpike projects or from money provided by law.

(V.A.C.S. Art. 6674v, Secs. 1 (part), 2, 5(e) (part), 9(b) (part).)

Source Law

Sec. 1. [T]he Texas Turnpike Authority is hereby authorized and empowered . . . to issue turnpike bonds of the Texas Turnpike Authority, payable solely from the revenues of such projects.

Sec. 2. Turnpike revenue bonds issued under the provisions of this Act shall not be deemed to constitute a debt of the State or a pledge of the faith and credit of the State, but such bonds shall be payable solely from the funds provided therefor by law. All such turnpike revenue bonds shall contain on the face thereof a statement to the effect that neither the State, nor the Turnpike Authority shall be obligated to pay the same or the interest thereon except from the amounts pledged to their payment and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal of or the interest on such bonds. The Authority shall not be authorized to incur financial obligations which cannot be serviced from tolls or revenues realized from owning or operating its projects as defined in this Act or from moneys provided by law.

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(e) To issue turnpike revenue bonds of the Authority payable solely from revenues, including tolls pledged to such bonds, except as otherwise authorized by this Act . . . .

[Sec. 9]

(b) The principal of and the interest on such bonds shall be payable solely from the funds herein or otherwise provided by law for such payment and from the revenues of the particular project for which such bonds were issued. . . .
Sec. 361.174. SOURCES OF PAYMENT OF AND SECURITY FOR TURNPIKE PROJECT BONDS. Notwithstanding any other provisions of this chapter, turnpike project bonds issued by the authority may:

(1) be payable from and secured by payments made under an agreement with a local governmental entity as provided by Subchapter A, Chapter 362, and may state on their faces any pledge of revenue or taxes and any security for the bonds under the agreement; and

(2) be payable from and secured by money derived from any other source available to the authority, other than money derived from a different turnpike project. (V.A.C.S. Art. 6674v, Sec. 9(g) (part).)

Source Law

(g) Notwithstanding any other provisions of this Act . . . [(2) the provisions of Chapter 402, Acts of the 70th Legislature, Regular Session, 1987 (Vernon's Ann. Tex. Civ. Statute Article 6674v-1) shall continue to be in full force and effect, and Local Government Entities, as defined therein, are authorized to issue bonds in aid of, and/or to enter contracts with the Authority . . . and] Turnpike Project bonds issued by the Authority may be payable from and secured by payments made pursuant to such contracts, and such bonds may state any such pledges and security on their faces, and (3) Turnpike Project bonds issued by the Authority additionally may be payable from and secured by funds derived from any other source available to the Authority other than those derived from a different Turnpike Project.

Revisor's Note

(1) Section 9(g), V.A.C.S. Article 6674v, provides that "Chapter 402, Acts of the 70th Legislature, Regular Session, 1987 (Vernon's Ann. Tex. Civ. Statute Article 6674v-1)" shall continue in full force and effect and that local governmental entities as defined by that statute have certain powers. The cross-reference is incorrect in that the unofficial citation of the referenced session law is V.A.C.S. Article 6674v.1, not V.A.C.S. Article 6674v-1.
V.A.C.S. Article 6674v.1 is codified in this code as Subchapter A, Chapter 362. The revised law omits as unnecessary the provision stating that V.A.C.S. Article 6674v.1 shall continue in full force and effect. There is no need to state that a statute that has not been repealed is in effect. The revised law also omits as unnecessary the provisions stating the powers of local governmental entities because they are duplicative of V.A.C.S. Article 6674v.1. The omitted law reads:

(g) ... (2) the provisions of Chapter 402, Acts of the 70th Legislature, Regular Session, 1987 (Vernon's Ann. Tex. Civ. Statute Article 6674v-1) shall continue to be in full force and effect, and Local Government Entities, as defined therein, are authorized to issue bonds in aid of, and/or to enter contracts with the Authority and pledge revenues and/or taxes thereunder to pay principal and/or interest on bonds issued by the Authority with respect to, all or any portion of a Turnpike Project, all as permitted in said Article 6674v-1 . . . .

(2) The revised law omits as unnecessary Section 9(h), V.A.C.S. Article 6674v. The first sentence of Section 9(h), which requires the authority to deliver bonds to the attorney general for examination and approval, is superseded by Section 3.002(a), Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes). The second sentence of Section 9(h), which requires the attorney general to approve the bonds if they were authorized under law and constitute binding obligations of the authority and proper charges against the revenues pledged to their payment, is superseded by Section 3.002(b), Article 717k-8. The third sentence of Section 9(h), which provides that bonds may not be issued and delivered to the purchaser without approval, is implicit in the requirement that the bonds be
submitted for approval before they are issued and is
superseded by Section 3.004, Article 717k-8, which
provides that bonds may not be issued by an issuer
without complying with that article. The fourth
sentence of Section 9(h), which provides that after
approval the bonds shall be registered with the
comptroller, is superseded by Section 3.002(c), Article
717k-8. The fifth and final sentence of Section 9(h),
which provides that after approval and registration the
bonds shall be incontestable, is superseded by Section
3.002(d), Article 717k-8. Article 717k-8 applies to
bonds issued under this chapter under Section 9(g),
V.A.C.S. Article 6674v (revised in this code in part in
Section 361.172). The omitted law reads:

(h) Before the Authority may deliver
any bonds issued hereunder to the purchaser
thereof, the proceedings authorizing their
issuance and securing the bonds shall be
presented to the Attorney General of Texas
for examination and approval. If the bonds
shall have been duly authorized in
accordance with the Constitution and laws
of the State and constitute valid and
binding obligations of the Authority,
according to their tenor and effect, and
proper charges against the revenues pledged
to their payment, he shall approve the
bonds. Without such approval the bonds
cannot be so issued and delivered to the
purchaser. The bonds when approved shall
be registered by the Comptroller of Public
Accounts of the State of Texas. After such
approval and registration the bonds shall
be incontestable.

Revised Law
Sec. 361.175. TURNPIKE REVENUE REFUNDING BONDS. (a) The
authority by resolution may provide for the issuance of turnpike
revenue refunding bonds to:

(1) refund any outstanding bonds issued under this
chapter for a turnpike project, including the payment of any
redemption premium on the bonds and any interest accrued as of the
date of redemption of the bonds; and

(2) construct improvements, extensions, or
enlargements to the turnpike project for which the outstanding
bonds were issued.

(b) This chapter, to the extent applicable, governs:
(1) the issuance of the refunding bonds;
(2) the maturities and other details of the bonds;
(3) the rights of the bondholders; and
(4) the rights and obligations of the authority with
respect to the bonds and the bondholders.

(c) The authority may:
(1) issue refunding bonds in exchange for outstanding
bonds; or
(2) sell refunding bonds and use the proceeds to
redeem outstanding bonds. (V.A.C.S. Art. 6674v, Sec. 10.)

Source Law
Sec. 10. The Authority is hereby authorized to
provide by resolution for the issuance of turnpike
revenue refunding bonds of the Authority for the
purpose of refunding any bonds then outstanding, issued
on account of a Project, which shall have been issued
under the provisions of this Act, including the payment
of any redemption premium thereon and any interest
accrued or to accrue to the date of redemption of such
bonds, and, if deemed advisable by the Authority, for
the additional purpose of constructing improvements,
extensions or enlargements to the Turnpike Project in
connection with which the bonds to be refunded shall
have been issued. The issuance of such bonds, the
maturities and other details thereof, the rights of the
holders thereof, and the rights, duties and obligations
of the Authority in respect of the same, shall be
governed by the provisions of this Act in so far as the
same may be applicable. Within the discretion of the
Authority the refunding bonds may be issued in exchange
for outstanding bonds or may be sold and the proceeds
used for the purpose of redeeming outstanding bonds.

Revisor's Note
(1) Section 10, V.A.C.S. Article 6674v,
authorizes the authority to issue turnpike revenue
refunding bonds "of the Authority." The revised law
omits as unnecessary "of the Authority" for the reason
stated in Revisor's Note (2) under Section 361.171 of
this code.

(2) Section 10, V.A.C.S. Article 6674v,
authorizes the authority to issue turnpike revenue refunding bonds to refund bonds issued for a project and, "if deemed advisable by the Authority," to construct improvements, extensions, or enlargements to the project. The revised law omits as unnecessary "if deemed advisable by the Authority" because by implication if the authority issues bonds to construct improvements, extensions, or enlargements to a project, it has determined that it is advisable to do so.

(3) Section 10, V.A.C.S. Article 6674v, refers to the "duties" and "obligations" of the authority with respect to the bonds. The revised law omits as unnecessary "duties" because that term is included within the meaning of "obligations."

Revised Law
Sec. 361.176. TRUST AGREEMENT. (a) Bonds issued under this chapter may be secured by a trust agreement between the authority and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) A trust agreement may pledge or assign the tolls and other revenue to be received but may not convey or mortgage any part of a turnpike project.

(c) A trust agreement may not evidence a pledge of the revenue of a turnpike project except:

(1) to pay the cost of maintaining, repairing, and operating the project;

(2) to pay the principal of and interest on the bonds as they become due and payable;

(3) to create and maintain reserves for the purposes described by Subdivisions (1) and (2), as prescribed by Section 361.179; and

(4) as otherwise provided by law.

(d) Notwithstanding Subsection (c), surplus revenue may be
used for another turnpike project as authorized by Section 361.189.

(e) A trust agreement may:

(1) set forth the rights and remedies of the bondholders and the trustee;

(2) restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing corporate bonds and debentures; and

(3) contain provisions the authority determines reasonable and proper for the security of the bondholders.

(f) The expenses incurred in carrying out a trust agreement may be treated as part of the cost of operating the turnpike project. (V.A.C.S. Art. 6674v, Secs. 11(a), (b), (c), (f), (g).)

Source Law
Sec. 11. (a) In the discretion of the Authority any bonds issued under the provisions of this Act may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State.

(b) Any such trust agreement may pledge or assign the tolls and other revenues to be received, but shall not convey or mortgage any Turnpike Project or any part thereof.

(c) No trust agreement shall evidence a pledge of the revenues of any Project to any other purpose than (i) for the payment of the cost of maintaining, repairing and operating the Turnpike Project; (ii) for the payment of the principal of and interest on such bonds as the same shall become due and payable; (iii) to create and maintain reserves for such purposes, as prescribed in Section 12 hereof and (iv) as otherwise provided by law. However, surplus revenues may be used for another Turnpike Project as authorized by Section 20b of this Act.

(f) Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any such trust agreement may contain such provisions as the Authority may deem reasonable and proper for the security of the bondholders.

(g) All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the Turnpike Project.
Revisor's Note

Section 11(a), V.A.C.S. Article 6674v, refers to a trust company or bank having the powers of a trust company "within or without the State." The revised law omits the phrase "within or without the State" as unnecessary because the authority may enter a trust agreement with a corporate trustee that is not located in the state in the absence of an express prohibition.

Revised Law

Sec. 361.177. PROVISIONS PROTECTING AND ENFORCING RIGHTS AND REMEDIES OF BONDHOLDERS. A trust agreement or resolution providing for the issuance of bonds may contain reasonable provisions to protect and enforce the rights and remedies of the bondholders, including:

(1) covenants stating the duties of the authority in relation to:

(A) the acquisition of property and the construction, improvement, expansion, maintenance, repair, operation, and insurance of the turnpike project in connection with which the bonds were authorized; and

(B) the custody, safeguarding, and application of money; and

(2) provisions for the employment of consulting engineers in connection with the construction or operation of the turnpike project. (V.A.C.S. Art. 6674v, Sec. 11(d).)

Source Law

(d) Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition of property and the construction, improvement, expansion, maintenance, repair, operation and insurance of the Turnpike Project in connection with which such bonds shall have been authorized, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such Turnpike Project.
Revisor's Note

Section 11(d), V.A.C.S. Article 6674v, refers to provisions of an agreement or resolution that are "reasonable and proper and not in violation of law." The reference to "proper and not in violation of law" is omitted from the revised law as unnecessary because an agreement or resolution may not contain an enforceable provision that is improper or that violates other law.

Revised Law

Sec. 361.178. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF SECURITIES. A bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that the authority requires. (V.A.C.S. Art. 6674v, Sec. 11(e).)

Source Law

(e) It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority.

Revised Law

Sec. 361.179. REVENUE. (a) The authority may:

(1) impose tolls for the use of each turnpike project and the different parts or sections of each turnpike project; and

(2) contract with a person for the use of part of a turnpike project or lease or sell part of a turnpike project, including the right-of-way adjoining the paved portion, for any purpose, including placing on the adjoining right-of-way a gas station, garage, store, hotel, restaurant, railroad tracks, telephone line, telegraph line, and electric line, and set the terms for the use, lease, or sale.

(b) The tolls shall be set so that the aggregate of tolls from the turnpike project:
(1) provides a fund sufficient with other revenue, if any, to pay:

(A) the cost of maintaining, repairing, and operating the project; and

(B) the principal of and interest on the bonds issued for the project as those bonds become due and payable; and

(2) creates reserves for the purposes listed under Subdivision (1).

(c) The tolls are not subject to supervision or regulation by any other state agency.

(d) The tolls and other revenue derived from the turnpike project for which bonds were issued, except the part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds, shall be set aside at regular intervals as may be provided in the resolution or trust agreement in a sinking fund that is pledged to and charged with the payment of:

(1) interest on the bonds as it becomes due;

(2) principal of the bonds as it becomes due;

(3) necessary charges of paying agents for paying principal and interest; and

(4) the redemption price or the purchase price of bonds retired by call or purchase as provided by the bonds.

(e) Use and disposition of money to the credit of the sinking fund are subject to the resolution authorizing the issuance of the bonds or to the trust agreement.

(f) The revenue and disbursements for each turnpike project shall be kept separately. The revenue from one turnpike project may not be used to pay the cost of another project except as authorized by Section 361.189.

(g) Money in the sinking fund, less the reserve provided by the resolution or trust agreement, if not used within a reasonable time to purchase bonds for cancellation, shall be applied to the
redemption of bonds at the applicable redemption price. (V.A.C.S.
Art. 6674v, Secs. 5(f), 12.)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(f) To fix, revise, and adjust from time to time tolls for transit over each separate Turnpike Project . . . .

Sec. 12. (a) The Authority is hereby authorized to fix, revise, charge and collect tolls for the use of each Turnpike Project and the different parts or sections thereof, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, or may lease or sell any part thereof, including the right-of-way adjoining the paved portion, for placing thereon gas stations, garages, stores, hotels, restaurants, or for any other purpose including for tracks for railroad or railway use or for use by telephone, telegraph, electric light or power lines and to fix the terms, conditions, rents and rates of charges for such use or the terms and conditions of such lease or sale.

(b) Such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the Turnpike Project in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (1) the cost of maintaining, repairing and operating such Turnpike Project and (2) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes.

(c) Such tolls shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the State.

(d) The tolls and all other revenues derived from the Turnpike Project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of such bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement.

(e) The revenues and disbursements for and on behalf of each Project shall be kept separately. No revenues of one Project shall be used to pay cost of another Project, except as authorized by Section 20b of this Act.

(f) The moneys in the sinking fund, less such reserve as may be provided in such resolution or trust

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agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable.

Revisor's Note

(1) Section 5(f), V.A.C.S. Article 6674v, authorizes the authority to "fix, revise, and adjust from time to time" tolls, and Section 12(a), V.A.C.S. Article 6674v, authorizes the authority to "fix, revise, charge and collect" tolls. The revised law authorizes the authority to impose tolls because the power to impose tolls includes the power to fix, revise, charge, collect, and adjust tolls from time to time.

(2) Section 12(a), V.A.C.S. Article 6674v, refers to a "person, partnership, association or corporation." The revised law omits as unnecessary the reference to "partnership, association or corporation" because Section 311.005(2), Government Code (Code Construction Act), applicable to the revised law, provides that "person" includes a partnership, association, or corporation.

(3) Section 12(a), V.A.C.S. Article 6674v, provides that the authority may fix the "terms, conditions, rents and rates of charges" for use of a turnpike project or the "terms and conditions" of lease or sale of a turnpike project. The revised law omits as unnecessary the references to "conditions," "rents," and "rates of charges" because they are included within the meaning of "terms."

(4) Section 12(c), V.A.C.S. Article 6674v, refers to a "commission, board, bureau or agency of the State." The references to "commission," "board," and "bureau" are omitted from the revised law because those terms are included within the meaning of "agency."
Revised Law

Sec. 361.180. PROHIBITION ON TOLLS ON EXISTING FREE HIGHWAYS. The authority may not impose a toll for transit over an existing free public highway. (V.A.C.S. Art. 6674v, Sec. 5(d) (part).)

Source Law

Sec. 5. The Authority is hereby authorized, empowered, and it shall be its duty:

(d) provided that the Authority shall have no power to fix, charge, or collect tolls for transit over any existing free public Highway.

Revisor's Note

Section 5, V.A.C.S. Article 6674v, provides that the authority may not "fix, charge, or collect" tolls in certain circumstances. The revised law substitutes "impose" for "fix, charge, or collect" for the reason stated in Revisor's Note (1) under Section 361.179 of this code.

Revised Law

Sec. 361.181. EXPENDITURES FOR FEASIBILITY STUDIES. (a) Notwithstanding Section 361.179 or any other provision of this chapter, the authority may pay the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of turnpike revenue bonds for the construction of a proposed turnpike project by:

(1) using available revenue derived from an existing turnpike project;

(2) borrowing money and issuing interest-bearing evidences of indebtedness or entering into a loan agreement payable out of available revenue anticipated to be derived from the operation of an existing turnpike project; and

(3) pledging available revenue anticipated to be derived from the operation of an existing turnpike project.
(b) The authority's use of a financing method under Subsection (a) is subject to the prior approval of the commission.

(c) Money spent under this section for the proposed turnpike project shall be reimbursed to the turnpike project from which the money was spent from the proceeds of turnpike revenue bonds issued for the construction of the proposed project. (V.A.C.S. Art. 6674v, Sec. 12a.)

Source Law

Sec. 12a. Notwithstanding the prohibitions contained in Section 12 or any other provision of this Act, Texas Turnpike Authority shall be authorized subject to the prior approval of the Texas Highway Commission to use any available revenues derived from any Turnpike Project, and to borrow money, and issue interest-bearing evidences of indebtedness or enter into a loan agreement or loan agreements, payable out of, and to pledge or hypothecate any available revenues anticipated to be derived from, the operation of any Turnpike Project, for the purpose of paying the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of Turnpike Revenue Bonds for the construction of any other Turnpike Project. The funds expended on behalf of any such new project shall be regarded as a part of the cost of such new project, and shall be reimbursed to the project from which such funds were disbursed out of the proceeds of Turnpike Revenue Bonds issued for the construction of any such new project.

Revisor's Note

(1) Section 12a, V.A.C.S. Article 6674v, refers to the "Texas Highway Commission." This appears to be a reference to the former State Highway and Public Transportation Commission. That is consistent with the reference to the State Highway and Public Transportation Commission in Section 12b(c), V.A.C.S. Article 6674v, codified in this code in Section 361.182(d). The revised law substitutes "commission" for "Texas Highway Commission" for the reason stated in the revisor's note under Section 201.003 of this code.

(2) Section 12a, V.A.C.S. Article 6674v, authorizes the authority to "pledge or hypothecate" revenues. The reference to "hypothecate" is omitted.
from the revised law because "hypothecate" is included within the meaning of "pledge."

(3) Section 12a, V.A.C.S. Article 6674v, provides that money spent to study the cost and feasibility of a proposed turnpike project "shall be regarded as a part of the cost of such new project."

The revised law omits the quoted language as unnecessary because under Section 4(d), V.A.C.S. Article 6674v, the pertinent part of which is codified in this code as Section 361.004, the cost of a turnpike project includes the cost of determining the feasibility of the project.

Revised Law

Sec. 361.182. TEXAS TURNPIKE AUTHORITY FEASIBILITY STUDY FUND. (a) The authority shall maintain the Texas Turnpike Authority feasibility study fund. The fund is a revolving fund held in trust by a banking institution chosen by the authority and shall be kept separate from the money for any project.

(b) The authority may transfer an amount from a surplus fund established for a turnpike project to the feasibility study fund if the remainder of the surplus fund is not less than any minimum amount required by the trust agreement to be retained for that project.

(c) Money in the feasibility study fund shall be used to pay the expenses of studying the cost and feasibility and any other expenses relating to:

(1) the preparation and issuance of turnpike revenue bonds for the construction of a proposed turnpike project;

(2) the financing of the improvement, extension, or expansion of an existing turnpike project; and

(3) private participation, as authorized by Subchapter I, in the financing of a proposed turnpike project, the refinancing of an existing turnpike project, or the improvement, extension, or
expansion of a turnpike project.

(d) The authority must authorize a feasibility study, subject to the prior approval of the commission.

(e) Money spent under Subsection (c) for the proposed turnpike project shall be reimbursed from the proceeds of turnpike revenue bonds issued for or other proceeds that may be used for the construction, improvement, extension, expansion, or operation of the project.

(f) For a purpose described by Subsection (c), the authority may borrow money and issue promissory notes or other interest-bearing evidences of indebtedness payable out of the feasibility study fund, pledging money in the fund or to be placed in the fund. (V.A.C.S. Art. 6674v, Secs. 12b(a), (b), (c), (d).)

Source Law

Sec. 12b. (a) The Authority shall maintain a fund which shall be entitled "Texas Turnpike Authority Feasibility Study Fund." Such fund shall be a revolving fund held in trust by a banking institution chosen by the authority separate and apart from the funds of any project.

(b) The Authority may transfer an amount from a surplus fund established for a turnpike project to the feasibility study fund. However, the Authority may not transfer an amount that results in a balance in the surplus fund that is less than the minimum balance required by the trust agreement for that project, if any.

(c) The feasibility study fund shall be used for the purpose of paying the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of turnpike revenue bonds for the construction of any new turnpike project; the financing of the improvement, extension, or expansion of an existing turnpike project; and private participation, as authorized by Section 20(a) of this Act, in the financing of a new turnpike project, the refinancing of an existing project, or the improvement, extension, or expansion of a turnpike project. All such studies shall be authorized by the Texas Turnpike Authority, subject to the prior approval of the State Highway and Public Transportation Commission. The funds expended from this fund on behalf of any project shall be regarded as a part of the cost of such project, and the feasibility study fund shall be reimbursed out of the proceeds of turnpike revenue bonds issued for, or other proceeds that may be used for, the construction, improvement, extension, expansion, or operation of the project.

(d) For the same purposes, the Authority may borrow money and issue promissory notes or other interest-bearing evidences of indebtedness payable out of this fund, pledging or hypothecating thereto any sums therein or to be placed therein.
Reviser's Note

(1) Section 12b(c), V.A.C.S. Article 6674v, refers 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 reviser's note under Section 201.003 of this code.

(2) Section 12b(c), V.A.C.S. Article 6674v, provides that money spent from the feasibility study fund on behalf of a turnpike project "shall be regarded as a part of the cost of such project." The revised law omits the quoted language for the reason stated in Reviser's Note (3) under Section 361.181 of this code.

(3) Section 12b(d), V.A.C.S. Article 6674v, refers to "pledging or hypothecating" sums. The reference to "hypothecating" is omitted from the revised law for the reason stated in Reviser's Note (2) under Section 361.181 of this code.

Revised Law

Sec. 361.183. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OR PRIVATE GROUP. (a) One or more municipalities, one or more counties, a combination of municipalities and counties, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to:

(1) the preparation and issuance of turnpike revenue bonds for the construction of a proposed turnpike project;

(2) the improvement, extension, or expansion of an existing project; or

(3) the use of private participation under Subchapter I.

(b) Money spent under Subsection (a) for a proposed turnpike project is reimbursable, with the consent of the authority, to the
person paying the expenses out of the proceeds from turnpike revenue bonds issued for or other proceeds that may be used for the construction, improvement, extension, expansion, or operation of the project. (V.A.C.S. Art. 6674v, Sec. 12b(e).)

Source Law

(e) In addition to the above, any municipality or group of municipalities, any county or group of counties, or any combination of municipalities and counties, or any private group or combination of individuals within the state may pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of turnpike revenue bonds for the construction of a new turnpike project, the improvement, extension, or expansion of an existing project, or the use of private participation under Section 20a of this Act. The funds expended on behalf of any project shall be regarded as part of the cost of such project and, with the consent of the Texas Turnpike Authority, shall be reimbursable to the party paying the expenses out of the proceeds of turnpike revenue bonds issued for, or other proceeds that may be used for, the construction, improvement, extension, expansion, or operation of such project.

Revisor's Note

Section 12b(e), V.A.C.S. Article 6674v, provides that money spent studying the cost and feasibility of a proposed turnpike project "shall be regarded as part of the cost of such project." The revised law omits the quoted language for the reason stated in Revisor's Note (3) under Section 361.181 of this code.

Revised Law

Sec. 361.184. TEXAS TURNPIKE AUTHORITY PROJECT REVOLVING FUND. (a) The authority may maintain the Texas Turnpike Authority project revolving fund. The fund is a revolving fund held in trust by a banking institution chosen by the authority and shall be kept separate from other funds of the authority.

(b) The authority may transfer into the project revolving fund money from any permissible source, including:

(1) money from a surplus fund established for a turnpike project if the remainder of the surplus fund is not less than any minimum amount required by the trust agreement to be
1 retained for that project;
2 (2) money received under Subchapter I or from a
3 transfer of a turnpike project under Subchapter H;
4 (3) advances from the department authorized under
5 Section 52-b, Article III, Texas Constitution; and
6 (4) contributions or assistance from the United
7 States, another state, a political subdivision of this state, the
8 United Mexican States, or a political subdivision of the United
9 Mexican States.
10 (c) The authority may use money in the project revolving
11 fund to:
12 (1) finance the construction, maintenance, or
13 operation of a turnpike project;
14 (2) provide matching money necessary for a federal
15 grant or other type of participatory funding;
16 (3) provide credit enhancement for bonds issued to
17 construct, expand, or improve a turnpike project;
18 (4) provide security for or payment of future or
19 existing debt for construction, operation, or maintenance of a
20 turnpike project;
21 (5) borrow money and issue promissory notes or other
22 indebtedness payable out of the fund for any purpose authorized by
23 this chapter; and
24 (6) provide for any other reasonable purpose that
25 assists in the financing of the authority as authorized by this
26 chapter.
27 (d) Money spent or advanced from the project revolving fund
28 for a turnpike project shall be reimbursed from the fund that is
29 used for the project. (V.A.C.S. Art. 6674v, Sec. 12e.)

Source Law

Sec. 12e. (a) The Authority may maintain a fund
entitled the Texas Turnpike Authority Project Revolving
Fund. A fund established under this section is a
revolving fund held in trust separate from other funds
of the Authority in a banking institution chosen by the
Authority.
(b) The Authority may transfer amounts from any
surplus fund established for a Turnpike Project to the revolving fund if the remaining balance in the surplus fund is not decreased below the minimum balance required by any trust agreement for that project.

(c) The Authority may transfer into the revolving fund amounts from any permissible source, including:

(1) amounts described by Subsection (b) of this section;
(2) amounts received under Section 20a of this Act or from a transfer of a project under Section 12c of this Act;
(3) advances from the Texas Department of Transportation authorized under Article III, Section 52-b, of the Texas Constitution; and
(4) contributions or assistance from the federal government, other state governments, a political subdivision of this state, Mexico, or a political subdivision of Mexico.

(d) The Authority may use the revolving fund to:

(1) finance the construction, maintenance, or operation of Turnpike Projects authorized by this Act;
(2) provide matching amounts necessary for federal grants or other types of participatory funding;
(3) provide credit enhancement for bonds issued to construct, expand, or improve Turnpike Projects;
(4) provide security for, or payment of, future or existing debt for construction, operation, or maintenance of Turnpike Projects;
(5) borrow money and issue promissory notes or other indebtedness payable out of the revolving fund for any purpose authorized by this Act; and
(6) provide for any other reasonable purpose that assists in the financing of the Authority as authorized by this Act.

(e) Amounts expended or advanced from the revolving fund for a Turnpike Project are considered a part of the cost of the project, and the revolving fund must be reimbursed for all amounts drawn from the fund that are used for the project.

Reviser's Note

(1) Section 12e(c)(4), V.A.C.S. Article 6674v, refers to "Mexico." The revised law substitutes "United Mexican States" for "Mexico" for the reason stated in Reviser's Note (4) under Section 361.042 of this code.

(2) Section 12e(e), V.A.C.S. Article 6674v, provides that amounts expended or advanced from the revolving fund for a turnpike project "are considered a part of the cost of the project." The revised law omits the quoted language as unnecessary because under
Section 4(d), V.A.C.S. Article 6674v, the pertinent part of which is codified in this code as Section 361.004, the cost of a turnpike project includes the cost of financing the project.

Revised Law
Sec. 361.185. TRUST FUND. (a) All money received under this chapter, whether as proceeds from the sale of bonds or as revenue, is a trust fund to be held and applied as provided by this chapter.

(b) The resolution authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that an officer to whom or a bank or trust company to which the money is paid shall act as trustee of the money and shall hold and apply the money for the purpose of the resolution or trust agreement, subject to this chapter and the resolution or trust agreement. (V.A.C.S. Art. 6674v, Sec. 13.)

Source Law
Sec. 13. All moneys received pursuant to the authority of this Act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this Act. The resolution authorizing the issuance of bonds of any issue or the trust agreement securing such bonds shall provide that any officer to whom, or any bank or trust company to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purpose thereof, subject to such regulations as this Act and such resolution or trust agreement may provide.

Revised Law
Sec. 361.186. REMEDIES. Except to the extent restricted by a trust agreement, a holder of a bond issued under this chapter or of a coupon incident to a bond and a trustee under a trust agreement may:

(1) protect and enforce by a legal proceeding a right under:

(A) this chapter or another law of this state;

(B) the trust agreement; or
(C) the resolution authorizing the issuance of

the bond; and

(2) compel the performance of a duty this chapter, the

trust agreement, or the resolution requires the authority or an

officer of the authority to perform, including the imposing of
tolls. (V.A.C.S. Art. 6674v, Sec. 14.)

Source Law

Sec. 14. Any holder of bonds issued under the
provisions of this Act or any of the coupons
appertaining thereto, and the trustee under any trust
agreement, except to the extent the rights herein given
may be restricted by such trust agreement, may, either
at law or in equity, by suit, action, mandamus, or
other proceedings, protect and enforce any and all
rights under the laws of the State or granted hereunder
or under such trust agreement or the resolution
authorizing the issuance of such bonds, and may enforce
and compel the performance of all duties required by
this Act or by such trust agreement, or resolution to
be performed by the Authority or by any officer
thereof, including the charging and collecting of
tolls.

Reviser's Note

(1) Section 14, V.A.C.S. Article 6674v, provides
that certain persons may, "at law or in equity, by
suit, action, mandamus, or other proceedings," protect
and enforce certain rights. The revised law
substitutes "by a legal proceeding" for the quoted
language because "legal proceeding" includes a
proceeding "at law or in equity" and because the rights
in question may be enforced by any type of legal
proceeding. There is no reason to list types of
proceedings.

(2) Section 14, V.A.C.S. Article 6674v, provides
that certain persons may "enforce and compel" the
performance of certain duties. The revised law omits
as unnecessary "enforce" because it is included within
the meaning of "compel."

(3) Section 14, V.A.C.S. Article 6674v, refers
to "the charging and collecting of tolls." The revised
law substitutes "imposing" for "charging and
collecting" for the reason stated in Revisor's Note (1)
under Section 361.179 of this code.

Revised Law
Sec. 361.187. EXEMPTION FROM TAXATION. (a) The authority
is exempt from taxation of:
(1) a turnpike project;
(2) property the authority acquires or uses under this
chapter; or
(3) income from property described by Subdivision (1)
or (2).
(b) Bonds issued under this chapter and income from the
bonds, including any profit made on the sale or transfer of the
bonds, are exempt from taxation in this state. (V.A.C.S.
Art. 6674v, Sec. 15 (part).)

Source Law
Sec. 15. . . . [T]he Authority will not be
required to pay any taxes or assessments upon any
Turnpike Project or any property acquired or used by
the Authority under the provisions of this Act or upon
the income therefrom, and the bonds issued under the
provisions of this Act, their transfer and the income
therefrom, including any profit made on the sale
thereof, shall at all times be free from taxation
within the State.

Revisor's Note
The revised law omits as unnecessary the portions
of Section 15, V.A.C.S. Article 6674v, that state the
purpose of that law and state that the purpose is an
essential governmental function. The operative
sections of the revised law clearly indicate what the
law is intended to accomplish, and providing roads is
clearly an essential governmental function. The
omitted law reads:

Sec. 15. The exercise of the powers
granted by this Act will be in all respects
for the benefit of the people of the State,
for the increase of their commerce and
prosperity, and for the improvement of
their health and living conditions, and as
the operation and maintenance of Turnpike
Projects by the Authority will constitute
the performance of essential governmental
functions . . . .

Revised Law
Sec. 361.188. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC FUNDS. Bonds of the authority, when they are accompanied by the unmatured coupons incident to the bonds, may secure the deposit of public funds of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value. (V.A.C.S. Art. 6674v, Sec. 16 (part).)

Source Law
Sec. 16. . . . Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, of any and all public funds of cities, towns, villages, counties, school districts and other political subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

Reviser's Note
(1) Section 16, V.A.C.S. Article 6674v, refers to "cities, towns, villages, counties, school districts and other political subdivisions" of the state. The revised law omits as unnecessary the reference to cities, towns, villages, counties, and school districts because those entities are political subdivisions of the state.

(2) The revised law omits as unnecessary the provision in Section 16, V.A.C.S. Article 6674v, listing the entities for which bonds of the authority are legal and authorized investments because it is superseded by Section 9, Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes). While Section 16, Article 6674v, lists "guardians" and Section 9, Article 717k-6, does not, the latter statute
includes "fiduciaries," and a guardian is a fiduciary.

Under Section 9(g), V.A.C.S. Article 6674v (the
pertinent part of which is codified in this code as
Section 361.172), Article 717k-6 applies to bonds
issued under this chapter. The omitted law reads:

Sec. 16. All bonds of the Authority
shall be and are hereby declared to be
legal and authorized investments for banks,
savings banks, trust companies, building
and loan associations, savings and loan
associations, insurance companies,
fiduciaries, trustees, guardians, and for
the sinking funds of cities, towns,
villages, counties, school districts, and
other political corporations or
subdivisions of the State of Texas.

Revised Law
Sec. 361.189. USE OF SURPLUS REVENUE. (a) The board by
resolution may authorize the use of surplus revenue of a turnpike
project to pay the costs of another turnpike project other than a
project financed under Subchapter I. The board may in the
resolution prescribe terms for the use of the revenue, including
the pledge of the revenue, but may not take an action under this
section that:

(1) violates Subsection (b); or

(2) violates, impairs, or is inconsistent with a bond
resolution, trust agreement, or indenture governing the use of the
surplus revenue.

(b) Except as provided by Subsection (c), the surplus
revenue of a turnpike project that was under construction or
operated by the authority on January 1, 1993, may be used only for:

(1) the costs associated with the construction,
expansion, or maintenance of the project producing the revenue; and

(2) transfers to the Texas Turnpike Authority
feasibility study fund.

(c) The board may use revenue from a turnpike project
described by Subsection (b) for a purpose authorized by this
chapter other than a purpose described by that subsection if:
1 (1) the authority obtains the permission of the
2 commissioners court of each county in which the project is located;
3 or
4 (2) an agreement between the authority and a county or
5 local government corporation created by the county for the lease,
6 sale, or other conveyance of the project permits the revenue to be
7 used for another purpose. (V.A.C.S. Art. 6674v, Sec. 20b.)

8 Source Law

9 Sec. 20b. (a) Except as provided by Subsection
10 (b) of this section, the Board may use or pledge the
11 surplus revenues of a turnpike project for the payment
12 of costs, including the principal of or interest on
13 bonds, of another turnpike project other than a project
14 financed under Section 20a of this Act under terms,
15 conditions, or pledges made by resolution of the Board.
16 However, the Board may not take an action under this
17 section that violates, impairs, or is inconsistent with
18 the provisions of a bond resolution, trust agreement,
19 or indenture governing the use of the surplus revenues.
20 (b) Except as provided by Subsection (c) of this
21 section, the surplus revenues generated by a turnpike
22 project that is under construction or operated by the
23 Authority on January 1, 1993, may not be used for a
24 purpose other than:
25 (1) the costs associated with the
26 construction, expansion, or maintenance of the project
27 generating the revenues; or
28 (2) transfers to the Texas Turnpike
29 Authority Feasibility Study fund.
30 (c) The Board may use revenues from a project
31 described by Subsection (b) of this section for a
32 purpose authorized by this Act other than the purposes
33 described by that subsection if:
34 (1) the Authority obtains permission of
35 the commissioners court of each county in which the
36 project is located; or
37 (2) an agreement between the Authority and
38 a county or local government corporation created by the
39 county for the lease, sale, or other conveyance of the
40 turnpike project permits the revenue to be used for
41 other purposes.

42 Revisor's Note

43 (1) Section 20b(a), V.A.C.S. Article 5674v,
44 refers to "terms" and "conditions." The revised law
45 omits as unnecessary "conditions" for the reason stated
46 in the revisor's note under Section 361.132 of this
47 code.
48 (2) Section 20b(a), V.A.C.S. Article 5674v,
49 refers to the costs, "including the principal of or
interest on bonds," of a turnpike project. The revised law omits the quoted language as unnecessary for the reason stated in Revisor's Note (2) under Section 361.184 of this code.

Revised Law

Sec. 361.190. EXPENSES INCURRED BY COMMISSION. (a) The commission may, to the extent the authority requests:

(1) spend money necessary to study a turnpike project and use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct the study; and

(2) pay for additional engineering, traffic, and other expert studies as it determines expedient.

(b) An expense incurred by the commission under this section before turnpike revenue bonds for the turnpike project are issued shall be paid by the commission and charged to the project. The commission shall keep records and accounts showing each amount charged.

(c) An obligation or expense incurred by the commission on behalf of the authority for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction, improvement, extension, or expansion of a turnpike project is part of the cost of the project.

(d) When turnpike revenue bonds for a turnpike project are sold, the money spent by the commission for the project shall be reimbursed to the commission from the proceeds of the bonds.

(V.A.C.S. Art. 6674v, Secs. 4(d) (part), 20.)

Source Law

[Sec. 4]

(d) . . . Any obligation or expense hereafter incurred by the State Highway Commission for and on behalf of the Authority for traffic surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction, improvement, extension, or expansion of a Project shall be regarded as a part of the cost of such Project and shall be reimbursed to the State Highway Department out of the proceeds of turnpike revenue bonds hereinafter authorized.
Sec. 20. The State Highway Commission is hereby authorized in its discretion, if and to the extent requested by the Authority, to expend out of any funds available for the purpose, such moneys as may be necessary for the study of a Project and to use its engineering and other forces, including consulting engineers and traffic engineers, for the purpose of effecting such study and to pay for such additional engineering and traffic and other expert studies as it may deem expedient and all such expenses incurred by the State Highway Commission prior to the issuance of turnpike revenue bonds under the provisions of this Act, shall be paid by the State Highway Commission and charged to such Project, and the State Highway Commission shall keep proper records and accounts showing each amount so charged. Upon the sale of turnpike revenue bonds for any such project, the funds so expended by the State Highway Commission in connection with such Project shall be reimbursed to the State Highway Commission from the proceeds of such bonds.

Revisor's Note
(1) Sections 4(d) and 20, V.A.C.S. Article 6674v, refer to the "State Highway Commission." The revised law substitutes "commission" for "State Highway Commission" for the reason stated in the revisor's note under Section 201.003 of this code.

(2) Section 20, V.A.C.S. Article 6674v, authorizes the State Highway Commission (now the Texas Transportation Commission and referred to in this chapter as "the commission") to spend "out of any funds available for the purpose" money as necessary to study a project. The revised law omits the quoted language as unnecessary because the commission has the authority to spend only money that is available for expenditure.

[Sections 361.191-361.230 reserved for expansion]
under the same terms as a contract of the department under Sections 223.001-223.007, 223.009, and 223.010.

(b) In awarding a contract under Subsection (a), the authority shall, to the extent applicable, have the same duties with respect to the contract as are imposed on the department by Sections 223.001-223.007, 223.009, and 223.010. (V.A.C.S. Art. 6674v, Sec. 5(m).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

(m) All contracts of the Authority for the construction, improvement, repair, or maintenance of any turnpike project shall, in so far as applicable, be made and awarded under the same conditions, terms, requirements, and provisions as are now provided for with respect to contracts of the State Department of Highways and Public Transportation in Sections 8 and 9 of Chapter 186, pages 457, 458, Acts, Thirty-ninth Legislature, 1925 and Sections 10 and 13 of Chapter 186, page 458, Acts, Thirty-ninth Legislature, 1925, codified as Articles 6674h, 6674i, 6674j, and 6674m, Vernon's Civil Statutes, and in the making and awarding of such contracts the Authority shall, in so far as applicable, be under the same duties and responsibilities with respect thereto as are now imposed upon the State Department of Highways and Public Transportation by the terms and provisions of the Statutes herein enumerated . . . .

Revisor's Note

(1) Section 5(m), V.A.C.S. Article 6674v, refers to V.A.C.S. Articles 6674h, 6674i, 6674j, and 6674m. Those statutes are codified in this code as Sections 223.001-223.007, 223.009, and 223.010, respectively, and the revised law is drafted accordingly.

(2) Section 5(m), V.A.C.S. Article 6674v, 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 revisor's note under Section 201.003 of this code.

(3) Section 5(m), V.A.C.S. Article 6674v, refers to the authority's "duties and responsibilities." The
reference to "responsibilities" is omitted from the revised law because "responsibilities" is included within the meaning of "duties."

(4) Section 5(m), V.A.C.S. Article 6674v, refers to "conditions, terms, requirements, and provisions."
The references to "conditions," "requirements," and "provisions" are omitted from the revised law for the reason stated in the reviser's note under Section 361.132 of this code.

(5) Section 5(m), V.A.C.S. Article 6674v, declares that it is the intention of the legislature that the provisions of that paragraph be mandatory. The requirements of that statute are sufficient to make them binding on the authority. Therefore, the revised law omits as unnecessary the provision making those requirements mandatory. The omitted law reads:

(m) ... [I]t is hereby declared to be the intention of the Legislature that the provision of this paragraph shall be mandatory ... .

Revised Law
Sec. 361.232. SUBSTITUTION FOR AND EFFECT ON EXISTING ROADS.
(a) A turnpike project may not be undertaken to substitute for an existing highway.

(b) The authority may construct a grade separation at an intersection of a turnpike project with a railroad or highway and change the line or grade of a highway to accommodate it to the design of a grade separation. The authority shall pay the cost of a grade separation and any damage incurred in changing a line or grade of a railroad or highway as part of the cost of the turnpike project.

(c) The authority shall move and replace, with an equal or better facility, a county or other public road that a turnpike project affects or severs. The authority shall pay the expenses and any resulting damages.
(d) If the authority finds it necessary to change the location of a portion of a highway, it shall reconstruct the highway at the location the authority and the department determine to be most favorable. The reconstructed highway must be of substantially the same type and in as good condition as the original highway. The authority shall determine and pay the cost of the reconstruction and any damage incurred in changing the location of a highway as part of the cost of the turnpike project.

(V.A.C.S. Art. 6674v, Secs. 5(i) (part), 6 (part).)

Source Law

Sec. 5. [The Authority is hereby authorized, empowered, and it shall be its duty:]

... (i) ... in all cases where county or other public roads are affected or severed, the Authority is hereby empowered and required to move and replace the same, with equal or better facilities; and all expenses and resulting damages, if any, shall be paid by the Authority ...

Sec. 6. The Authority shall have authority to construct grade separations at intersections of Turnpike Projects with railroads and with highways, and to change and adjust the lines and grades of such highways so as to accommodate the same to the design of such grade separation. The cost of such grade separations and any damage incurred in changing and adjusting the lines and grades of railroads or such highways shall be paid by the Authority as a part of the cost of such Turnpike Project.

If the Authority shall find it necessary to change the location of any portion of any highway, it shall cause the same to be reconstructed at such location as the Authority and the Texas Highway Department shall deem most favorable and of substantially the same type and in as good condition as the original highway. The cost of such reconstruction and any damage incurred in changing the location of any such highway shall be ascertained and paid by the Authority as a part of the cost of such Turnpike Project. No Project shall be instituted for the purpose of being substituted for or taking the place of an existing highway ...

Revisor's Note

(1) Section 6, V.A.C.S. Article 6674v, refers to the "Texas Highway Department." The revised law substitutes "department" for "Texas Highway Department" for the reason stated in the revisor's note under Section 201.003 of this code.
Section 6, V.A.C.S. Article 6674v, provides that a turnpike project may not be instituted as a substitute for an existing highway and that "[e]ach Project shall be essentially an additional facility."
The revised law omits the quoted language as unnecessary because it is redundant. The omitted law reads:

Sec. 6. . . Each Project shall be essentially an additional facility. . . .

Revised Law
Sec. 361.233. RIGHT OF ENTRY. (a) The authority and its authorized agents may enter any real property, water, or premises in this state to make a survey, sounding, drilling, or examination it determines necessary or appropriate for the purposes of this chapter.

(b) An entry under this section is not:

(1) a trespass; or

(2) an entry under a pending condemnation proceeding.

(c) The authority shall make reimbursement for any actual damages to real property, water, or premises that result from an activity described by Subsection (a). (V.A.C.S. Art. 6674v, Sec. 6 (part).)

Source Law
Sec. 6. . . In addition to the foregoing powers, the Authority and its authorized agents and employees may enter upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings and examinations as it may deem necessary or appropriate for the purpose of this Act, and such entry shall not be deemed a trespass, nor shall any entry for such purposes be deemed an entry under any condemnation proceedings which may be then pending. The Authority shall make reimbursement for any actual damages resulting to such lands, waters and premises as a result of such activities. . . .

Revisor's Note
Section 6, V.A.C.S. Article 6674v, refers to "agents and employees" of the authority. The reference
to "employees" is omitted from the revised law because "employees" is included within the meaning of "agents."

Revised Law

Sec. 361.234. PUBLIC UTILITY FACILITIES. (a) The authority may adopt rules for the installation, construction, maintenance, repair, renewal, relocation, and removal of a public utility facility in, on, along, over, or under a turnpike project.

(b) If the authority determines it is necessary that a public utility facility located in, on, along, over, or under a turnpike project be relocated in the project, removed from the project, or carried along or across the turnpike by grade separation, the owner or operator of the facility shall relocate or remove the facility in accordance with the order of the authority. The authority, as a part of the cost of the turnpike project or the cost of operating the project, shall pay the cost of the relocation, removal, or grade separation, including the cost of:

(1) installing the facility in a new location or locations;

(2) interests in real property, and other rights acquired to accomplish the relocation or removal; and

(3) maintenance of grade separation structures.

(c) The owner or operator of a relocated public utility facility and the owner's or operator's successors may use and operate the facility with the necessary appurtenances in the new location for as long as and on the same terms as they had the right to maintain and operate the facility in its former location.

(d) Notwithstanding anything in this chapter to the contrary, Chapter 228, Acts of the 51st Legislature, Regular Session, 1949 (Article 1436a, Vernon's Texas Civil Statutes), applies to the erection, construction, maintenance, and operation of lines and poles owned by a corporation described by Section 1 of that Act over, under, across, on, and along a turnpike project constructed by the authority. The authority has the powers and
duties delegated to the commission by Chapter 228, Acts of the 51st
Legislature, Regular Session, 1949 (Article 1436a, Vernon's Texas
Civil Statutes).

(e) Notwithstanding anything in this chapter to the
contrary, the laws of this state applicable to the use of public
roads, streets, and waters of this state by a telephone and
telegraph corporation apply to the erection, construction,
maintenance, location, and operation of a line, pole, or other
fixture by a telephone and telegraph corporation over, under,
across, on, and along a turnpike project constructed by the
authority.

(f) In this section, "public utility facility" means a
track, pipe, main, conduit, cable, wire, tower, pole, or other item
of equipment or an appliance of a public utility or other person.

(V.A.C.S. Art. 6674v, Sec. 6 (part).)

Source Law

Sec. 6. The Authority also shall have
power to make reasonable regulations for: the
installation, construction, maintenance, repair,
renewal, relocation and removal of tracks, pipes,
 mains, conduits, cables, wires, towers, poles and other
equipment and appliances (herein called "Public Utility
Facilities") of any public utility, railroad or
pipeline company, or of any person, in, on, along, over
or under the Turnpike Project. Whenever the Authority
shall determine that it is necessary that any Public
Utility Facilities which now are, or hereafter may be,
located in, on, along, over or under the Turnpike
Project should be relocated in such Project, or should
be removed from such Project, or should be carried
along or across the Turnpike by grade separation, the
owner or operator of such facilities shall relocate or
remove the same in accordance with the order of the
Authority; provided, however, that the cost and
expenses of such relocation or removal or grade
separation, including the cost of installing such
facilities in a new location or new locations, and the
cost of any land, or any rights, or interest in lands,
and any other rights, acquired to accomplish such
relocation or removal, and the cost of maintenance of
grade separation structures, shall be paid by the
Authority as a part of the cost of or cost of operating
such Turnpike Project. In case of any such relocation
or removal of facilities, the owners or operators of
the same, their successors or assigns, may use and
operate such facilities, with the necessary
appurtenances, in the new location or new locations,
for as long a period, and upon the same terms and
conditions, as they had the right to maintain and
operate such facilities in their former location or
locations. Provided, however, notwithstanding anything
contained herein to the contrary, the provisions of
House Bill No. 393, Acts, Fifty-first Legislature,
1949, Chapter 228, Page 427, shall apply to the
errection, construction, maintenance, and operation of
lines and poles owned by corporations organized under
the Electric Cooperative Corporation Act of this State,
and all other corporations (including River Authorities
created by the Legislature of this State) engaged in
either the generation, transmission, or distribution of
electric energy in Texas and whose operations are
subject to the Judicial and Legislative processes of
this State, over, under, across, upon and along any
Project constructed by the Authority; provided,
however, that the Authority shall have the same powers
and duties as are delegated the State Highway
Commission under the provisions of said House Bill No.
393, Acts, Fifty-first Legislature, 1949, Chapter 228,
Page 427, and further provided that notwithstanding
anything contained herein to the contrary, the existing
laws of the State of Texas applicable to the use of
public roads, streets and waters of the State by
telephone and telegraph corporations shall apply also
to the erection, construction, maintenance, location
and operation of lines, poles and other fixtures by
telegraph and telephone corporations over, under,
across, upon and along any Project constructed by the
Authority. . .

Revisor's Note

(1) Section 6, V.A.C.S. Article 6674v, refers to
"reasonable" regulations. The reference to
"reasonable" is omitted from the revised law as
unnecessary because it is implied that the authority's
rules must be reasonable. The revised law substitutes
"rules" for "regulations" 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.

(2) Section 6, V.A.C.S. Article 6674v, refers to
the "State Highway Commission." The revised law
substitutes "commission" for "State Highway Commission"
for the reason stated in the revisor's note under
Section 201.003 of this code.

(3) Section 6, V.A.C.S. Article 6674v, refers to
public utility facilities of "any public utility,
railroad or pipeline company, or of any person." The
revised law omits the reference to "railroad or
pipeline company" as unnecessary because those entities are included within the meaning of "any person."

(4) Section 6, V.A.C.S. Article 6674v, refers to the owners or operators of facilities and their "successors or assigns." The revised law omits as unnecessary "assigns" because in this context "assigns" is included within the meaning of "successors."

(5) Section 6, V.A.C.S. Article 6674v, refers to "terms and conditions." The reference to "conditions" is omitted from the revised law for the reason stated in the reviser's note under Section 361.132 of this code.

(6) Section 6, V.A.C.S. Article 6674v, refers to "corporations organized under the Electric Cooperative Corporation Act of this State, and all other corporations (including River Authorities created by the Legislature of this State) engaged in either the generation, transmission, or distribution of electric energy in Texas and whose operations are subject to the Judicial and Legislative processes of this State." The revised law refers to Chapter 228, Acts of the 51st Legislature, Regular Session, 1949 (Article 1436a, Vernon's Texas Civil Statutes), and substitutes "Section 1 of that Act" because that is the statute from which the quoted language is derived.

Revised Law

Sec. 361.235. USE OF STATE REAL PROPERTY. (a) The authority may use real property owned by the state, including submerged land, that the authority considers necessary for the construction or operation of a turnpike project.

(b) This section does not deprive the School Land Board of the authority to execute leases for the development of oil, gas, and other minerals on state-owned real property adjoining a

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turnpike project or in tidewater limits. The leases may provide
for directional drilling from the adjoining property or tidewater
area. (V.A.C.S. Art. 6674v, Sec. 6 (part).)

Source Law

Sec. 6. . . The State of Texas hereby
consents to the use of all lands owned by it, including
lands lying under water, which are deemed by the
Authority to be necessary for the construction or
operation of any Turnpike Project. 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 Project, or in tidewater limits, and to this
end such leases may provide for directional drilling
from such adjoining land and tidewater area.

Revised Law

Sec. 361.236. MAINTENANCE OF TURNPIKE PROJECT. The
authority shall maintain and keep in good condition and repair each
turnpike project opened to traffic. (V.A.C.S. Art. 6674v, Sec.
21(a) (part).)

Source Law

Sec. 21. (a) Each Turnpike Project when
constructed and opened to traffic shall be maintained
and kept in good condition and repair by the
Authority. . . .

Revised Law

Sec. 361.237. OPERATION OF TURNPIKE PROJECT. (a) The
authority shall police and operate a turnpike project through a
force of police, toll-takers, and other employees of the authority.
(b) The authority may arrange with the Department of Public
Safety for the services of officers of that agency. (V.A.C.S.
Art. 6674v, Sec. 21(a) (part).)

Source Law

Sec. 21. (a) . . . Each such project shall
also be policed and operated by such force of police,
toll-takers and other operating employees as the
Authority may in its discretion employ. Within its
discretion the Authority may make arrangements with the
Department of Public Safety for the services of police
officers of that Agency.
Revisor's Note

Section 21(a), V.A.C.S. Article 6674v, authorizes the authority to make arrangements with the Department of Public Safety for the services of "police officers" of that agency. Chapter 411, Government Code, which governs that agency, refers to "officers" of that agency rather than "police officers." Accordingly, the revised law refers to "officers" of that agency.

Revised Law

Sec. 361.238. CESSATION OF TOLLS; TRANSFER OF PROJECT TO COMMISSION. (a) A turnpike project that is in good condition and repair to the satisfaction of the commission becomes part of the state highway system when:

(1) the bonds issued under this chapter for the project and the interest on the bonds are paid; or

(2) a sufficient amount to pay the bonds and the interest on the bonds to maturity or to redeem the bonds has been set aside in trust for the benefit of the bondholders.

(b) The authority shall continue to operate as a toll facility a turnpike project that the commission determines is not in a state of repair so as to justify its acceptance as part of the state highway system. The authority shall continue the tolls then in effect or revise the tolls to provide money sufficient to assure payment of the expenses of maintenance and operation and the making of repairs and replacements as necessary to meet the minimum requirements of the commission within the shortest practicable time.

(c) The commission shall maintain a turnpike project it accepts free of tolls. The authority shall deliver to the commission at the time of acceptance any money remaining to the credit of the project after retirement of the bonds issued for the project. The commission shall deposit the money in a fund to be used to maintain the project facilities. The commission shall
administer the fund in accordance with commission rules.

(d) Not later than the first anniversary of the date the commission accepts a turnpike project, the department shall advertise for public sale each installation on the project other than the road bed and highway sections and shall solicit sealed bids for those installations. The department may reject any or all bids but shall dispose of the properties not later than the second anniversary of the date the commission accepts title to the project. (V.A.C.S. Art. 6674v, Sec. 19.)

**Source Law**

Sec. 19. When all bonds issued under the provisions of this Act in connection with any Turnpike Project, and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof or for the redemption thereof, shall have been set aside in trust for the benefit of the bondholders, such Project, if then in good condition and repair to the satisfaction of the State Highway Commission, shall become part of the State Highway Commission and shall thereafter be maintained by the State Highway Commission, free of tolls. But if at the time such bonds are so paid or the redemption thereof so provided for, the State Highway Commission determines that the Project is not in such state of repair as justifies its acceptance as a part of the State Highway System, the Authority shall continue to operate the Project as a toll facility, and shall continue the tolls then in effect or revise the tolls so as to provide money sufficient to assure payment of the expense of maintenance and operation, and the making of such repairs and replacements as are necessary to meet the minimum requirements of the State Highway Commission within the shortest practicable time. Any money remaining to the credit of such Project after retirement of all of the bonds issued on its account—shall, upon acceptance of the Project by the State Highway Commission, be delivered by the Authority to the State Highway Commission and shall be held by it as a special reserve fund to assure continued maintenance of the facilities comprising the Project, to be administered under rules and regulations to be prescribed by the State Highway Commission. When the bonds issued to finance a Turnpike Project are fully paid and the Turnpike Project has been accepted by the State Highway Commission as provided for in this Section 19, within one (1) year from date of acceptance of said Project, including all the installations thereon, excepting only the road bed and highway sections, the State Highway Department shall advertise for public sale all of said installations which may have been acquired as provided in Section 12 hereof, and shall receive sealed bids therefor. It may reject any or all bids but shall dispose of all such properties within two (2) years after accepting title to the Turnpike Project.

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Revisor's Note

(1) Section 19, V.A.C.S. Article 6674v, refers to the "State Highway Commission." The revised law substitutes "commission" for "State Highway Commission" for the reason stated in the revisor's note under Section 201.003 of this code.

(2) Section 19, V.A.C.S. Article 6674v, refers to "a special reserve fund to assure continued maintenance" of a turnpike project accepted by the commission. The revised law deletes the designation of the fund as a "special reserve" fund because that designation is unnecessary. The designation of a fund as a "special reserve" fund has no legal effect.

(3) Section 19, V.A.C.S. Article 6674v, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (6) under Section 361.042 of this code.

(4) Section 19, V.A.C.S. Article 6674v, refers to the "State Highway Department." The revised law substitutes "department" for "State Highway Department" for the reason stated in the revisor's note under Section 201.003 of this code.

(5) Section 19, V.A.C.S. Article 6674v, requires the State Highway Department (now the Texas Department of Transportation) to sell "all the installations" on a turnpike project, other than "the road bed and highway sections," acquired as provided by Section 12, V.A.C.S. Article 6674v. Section 12 (codified in this code as Section 361.179) authorizes the authority to contract with or lease to a person any part of a turnpike project for the placement on the project of "gas stations, garages, stores, hotels, [or] restaurants" or for "any other purpose including for tracks for
railroad or railway use or for use by telephone, telegraph, electric light or power lines." The revised law omits the reference to Section 12 as unnecessary because the installations described by Section 12 are included within the meaning of "all the installations thereon, excepting only the road bed and highway sections."

[Sections 361.239-361.250 reserved for expansion]

SUBCHAPTER G. USE OF TURNPIKE PROJECTS

Revised Law

Sec. 361.251. OPERATION OF MOTOR VEHICLE FOR COMPENSATION ON TURNPIKE PROJECT. A turnpike project is a public highway under Chapters 801 and 802. A motor bus company, common carrier motor carrier, specialized motor carrier, contract carrier, or other motor vehicle operation for compensation may not be conducted on the turnpike project except under Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 911a, Vernon's Texas Civil Statutes), and Chapter 314, Acts of the 41st Legislature, Regular Session, 1927 (Article 911b, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 6674v, Sec. 4(c) (part).)

Source Law

Reviser's Note

Section 4(c), V.A.C.S. Article 6674v, refers to a motor vehicle operation "for compensation and hire."
The reference to "hire" is omitted from the revised law because "hire" is included within the meaning of "compensation."

Revised Law

Sec. 361.252. FAILURE OR REFUSAL TO PAY TOLL. (a) A person who uses a turnpike project and fails or refuses to pay a toll provided for using the project is liable for a fine not to exceed $100.

(b) The authority has a lien on the vehicle driven by the person for the amount of the toll and may take and retain the vehicle until the toll and related charges have been paid.

(V.A.C.S. Art. 6674v, Sec. 21(f).)

Source Law

(f) Any person who uses any turnpike project and fails or refuses to pay the toll provided therefor, shall be punished by a fine of not more than One Hundred Dollars ($100) and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof, until the amount of such toll and all charges in connection therewith shall have been paid.

[Sections 361.253-361.280 reserved for expansion]

SUBCHAPTER H. TRANSFER OF TURNPIKE PROJECT TO COUNTY OR LOCAL GOVERNMENT CORPORATION

Revised Law

Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter applies to:

(1) a county with a population of more than 1.5 million;

(2) a local government corporation serving a county with a population of more than 1.5 million; or

(3) an adjacent county in a joint turnpike authority
with a county with a population of more than 1.5 million.  
(V.A.C.S. Art. 6674v, Sec. 12c(a) (part).)

Source Law

Sec. 12c. (a) This section applies to a county,  
or a local government corporation serving a county, or  
an adjacent county in a joint turnpike authority with a  
county whose population is more than 1.5 million,  
according to the most recent federal decennial  
census . . . .

Revisor's Note

(1) Section 12c(a), V.A.C.S. Article 6674v,  
refers to "a county, or a local government corporation  
serving a county, or an adjacent county in a joint  
turnpike authority with a county whose population is  
more than 1.5 million." The revised law clarifies that  
the population limitation of 1.5 million modifies "a  
county" and "a local government corporation serving a  
county" as well as the second reference to a county in  
the phrase "an adjacent county in a joint turnpike  
authority with a county."

Section 12c was added by Chapter 586 (S.B. No.  
242), Acts of the 73rd Legislature, Regular Session,  
1993. As passed by the senate, Section 12c was not  
limited to counties of a certain population. In the  
house committee report, Section 12c(a) referred to "a  
county, or a local government corporation serving a  
county, with a population of more than 1.5 million";  
the limitation clearly modified the first reference to  
"a county." There is no reason to believe that the  
house floor amendment that added the language referring  
to an adjacent county in a joint turnpike authority was  
tended to change the meaning of the existing  
language.

In addition, if Section 12c(a) is read to mean  
that the population limitation modifies only the final
reference to "a county" in a joint turnpike authority,
both the reference to "an adjacent county" and the
limitation are unnecessary, because the first reference
to "a county" includes any county, without regard to
whether it is adjacent to a county with a population of
more than 1.5 million.

The revised law is drafted accordingly.

(2) Section 12c(a), V.A.C.S. Article 6674v,
describes a population number that is to be determined
according to the most recent federal decennial census.
The revised law omits the reference to the federal
census for the reason stated in Reviser's Note (2)
under Section 361.055 of this code.

Revised Law
Sec. 361.282. LEASE, SALE, OR CONVEYANCE OF TURNPIKE
PROJECT. (a) The authority may lease, sell, or convey in another
manner a turnpike project to a county or a local government
 corporation created under Chapter 431.

(b) The authority, the commission, and the governor must
approve the transfer of the turnpike project as being in the best
interests of the state and the county. (V.A.C.S. Art. 6674v, Secs.
12c(a) (part), (b).)

Source Law
(a) [This section applies to a county, or a
local government corporation serving a county, or an
adjacent county in a joint turnpike authority with a
county whose population is more than 1.5
million,] . . . as to which the Authority, the Texas
Transportation Commission, and the governor approve the
transfer of a Turnpike Project as being in the best
interests of the state and the county.

(b) The Authority may lease, sell, or otherwise
convey a Turnpike Project to a county or a local
government corporation created under the Texas
Transportation Corporation Act (Article 15281, Vernon's
Texas Civil Statutes). A county or a local government
corporation may lease, buy, or otherwise receive a
Turnpike Project.
Revisor's Note

(1) Section 12c(b), V.A.C.S. Article 6674v, refers to the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 431, and the revised law is drafted accordingly.

(2) Section 12c(b), V.A.C.S. Article 6674v, provides that the authority may lease, sell, or otherwise convey a turnpike project to a county or a local government corporation and that a county or a local government corporation may lease, buy, or otherwise receive a turnpike project. The revised law omits as unnecessary the provision authorizing a county or a local government corporation to lease, buy, or otherwise receive a turnpike project because that is implicit in the provision authorizing the authority to lease, sell, or otherwise convey a turnpike project to a county or a local government corporation.

Revised Law

Sec. 361.283. DISCHARGE OF AUTHORITY'S OUTSTANDING BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a turnpike project under Section 361.282 must provide for the discharge and final payment or redemption of the authority's outstanding bonded indebtedness for the project. (V.A.C.S. Art. 6674v, Sec. 12c(c).)

Source Law

(c) An agreement to lease, sell, or convey a Turnpike Project under Subsection (b) of this section must provide for the discharge and final payment or redemption of all of the Authority's outstanding bonded indebtedness issued for the Turnpike Project being leased, sold, or conveyed.

Revised Law

Sec. 361.284. ELIGIBILITY OF TURNPIKE PROJECT TO BECOME PART OF STATE HIGHWAY SYSTEM. A turnpike project that is leased, sold, or conveyed under Section 361.282 is not eligible to become part of
the state highway system until the obligations, including refunding obligations, that are payable from or secured by revenue of the project or the system of pooled projects of which the project is a part are discharged and finally paid or redeemed. (V.A.C.S. Art. 6674v, Sec. 12c(d).)

(d) A Turnpike Project that is leased, sold, or conveyed under Subsection (b) of this section is not eligible to become a part of the state highway system until all obligations, including refunding obligations, that are payable from or secured by revenues of the Turnpike Project or the system of pooled projects of which the Turnpike Project is a part are discharged and finally paid or redeemed.

Sec. 361.285. APPROVAL OF AGREEMENT BY ATTORNEY GENERAL.
(a) An agreement for the lease, sale, or conveyance of a turnpike project under this subchapter shall be submitted to the attorney general for approval as part of the records of proceedings relating to the issuance of bonds of the county or local government corporation.
(b) If the attorney general determines that the agreement is in accordance with law, the attorney general shall approve the agreement and deliver to the commission a copy of the legal opinion of the attorney general stating that approval. (V.A.C.S. Art. 6674v, Sec. 12c(e).)

(e) An agreement for the lease, sale, or conveyance of a Turnpike Project under this section shall be submitted to the attorney general for approval as a part of the records of proceedings relating to the issuance of bonds of the county or local government corporation. If the attorney general determines that the agreement is in accordance with law, the attorney general shall approve the agreement and deliver to the Texas Transportation Commission a copy of the legal opinion of the attorney general stating that approval.

[Sections 361.286-361.300 reserved for expansion]
SUBCHAPTER I. PRIVATE PARTICIPATION IN TURNPIKE PROJECTS

Revised Law

Sec. 361.301. AGREEMENTS WITH PRIVATE ENTITIES TO CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS. (a) The authority may enter into an agreement with a private entity, including a toll road corporation, to permit the entity, independently or jointly with the authority, to construct, maintain, repair, and operate turnpike projects.

(b) The authority may authorize the investment of private money, including debt and equity participation, to finance a function described by this section. (V.A.C.S. Art. 6674v, Sec. 20a(a).)

Source Law

Sec. 20a. (a) The Authority may enter into agreements with private entities, including toll road corporations, to permit them, independently or jointly with the Authority, to construct, to maintain, to repair, and to operate turnpike projects, and the Authority may authorize the investment of private funds, including debt and equity participation, as a means for financing all or any of the above functions.

Revised Law

Sec. 361.302. EXCLUSIVE DEVELOPMENT AGREEMENTS WITH PRIVATE ENTITIES. The authority may use an exclusive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a turnpike project by invested private funding. The authority:

(1) has broad discretion to negotiate the terms of financing; and

(2) may negotiate provisions relating to professional and consulting services with regard to the turnpike project and to the construction, maintenance, and operation of the project, including provisions for combining those services. (V.A.C.S. Art. 6674v, Sec. 20a(b).)
(b) In the construction, maintenance, repair, and operation of any new turnpike project and the extension and expansion of any existing turnpike project by invested private funding, the Authority may utilize exclusive development agreements with private entities in which the Authority shall have broad latitude to negotiate the terms and conditions for the methods and types of financing and in which it may combine and negotiate any or all professional and consulting services, construction, operation, and maintenance of such turnpike projects.

Revisor's Note

Section 20a(b), V.A.C.S. Article 6674v, provides that the authority "shall have broad latitude to negotiate the terms and conditions for the methods and types of financing." The revised law provides that the authority has broad discretion to negotiate the "terms of financing." "Conditions" is included within the meaning of "terms." In addition, the authority to negotiate the terms of financing includes the authority to negotiate the methods and types of financing.

Revised Law

Sec. 361.303. OWNERSHIP OF TURNPIKE PROJECT. (a) A turnpike project that is the subject of a development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and belongs to the authority.

(b) Notwithstanding Subsection (a), the authority may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a turnpike project, including supplemental facilities. At the termination of the agreement, the turnpike project, including the facilities, is to be in a state of proper maintenance as determined by the authority and shall be returned to the authority in satisfactory condition at no further cost. (V.A.C.S. Art. 6674v, Sec. 20a(c).)
Source Law

(c) Every turnpike project which is the subject of a development agreement with a private entity at all times shall be, and all the facilities acquired or constructed thereon shall be, public property and shall belong to the Authority. However, the Authority may enter into agreements which include provisions for the leases of rights-of-way, for the granting of easements and for the issuance of franchises, licenses, permits, or any lawful uses to enable a private entity to construct, to operate, and to maintain turnpike projects and those which supplement a turnpike project. At the termination of any such agreements, the turnpike project and all facilities shall be in a state of proper maintenance as determined by the Authority and returned to the Authority in satisfactory condition at no further cost.

Revised Law

Sec. 361.304. LIABILITY FOR PRIVATE OBLIGATIONS. The authority may not incur a financial obligation for a private entity that constructs, maintains, or operates a turnpike project. The state, the authority, or a political subdivision of the state is not liable for any financial or other obligations of a turnpike project solely because a private entity constructs, finances, or operates any part of the project. (V.A.C.S. Art. 6674v, Sec. 20a(d).)

Source Law

(d) The Authority shall not incur any financial obligations for a private entity which constructs, maintains or operates a turnpike project; and neither the State, the Authority, nor any political subdivision of the State shall be liable for any financial or other obligations of any turnpike project solely because of its being, constructed, financed, or operated in whole or in part by a private entity.

Revised Law

Sec. 361.305. TERMS OF PRIVATE PARTICIPATION. The authority shall negotiate the terms of private participation in a turnpike project, including:

(1) methods to determine the applicable cost, profit, and project distribution between the private equity investors and the authority;

(2) reasonable methods to determine and classify toll
(3) acceptable safety and policing standards; and
(4) other applicable professional, consulting,
construction, operation, and maintenance standards, expenses, and
costs. (V.A.C.S. Art. 6674v, Sec. 20a(e).)

Source Law

(e) The Authority will be responsible for
negotiating in every turnpike project where private
entities are participants, the terms and conditions of
private participation which will include:

(1) methods of determining applicable
costs, profit, and project distribution between all
private equity investors and the Authority;
(2) reasonable methods for determining and
classifying toll rates;
(3) acceptable safety and policing
standards; and
(4) all other professional, consultant,
construction, operation and maintenance standards,
expenses, and costs applicable.

Revisor's Note

Section 20a(e), V.A.C.S. Article 6674v, refers to
the "terms and conditions" of private participation.
The revised law omits as unnecessary "conditions" for
the reason stated in the reviser's note under Section
361.132 of this code.

Revised Law

Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING
NEGOTIATING PROCESS. (a) The authority shall adopt rules,
procedures, and guidelines governing negotiations to promote
fairness, obtain private participants in turnpike projects, and
promote confidence among those participants. The rules must
contain criteria relating to the qualifications of the participants
and the award of the contracts.

(b) The authority shall have up-to-date procedures for
participation in negotiations on turnpike projects.

(c) The authority has exclusive judgment to determine the
terms of an agreement.

(d) The authority shall include the attorney general or the
attorney general's designated representative in a negotiation with
a private participant. (V.A.C.S. Art. 6674v, Sec. 20a(f).)

Source Law

(f) The Authority will establish, administratively, the rules, procedures, and guidelines which will govern the negotiating process with the intention of promoting fairness, of obtaining numbers of private participants in turnpike projects, and of promoting confidence among such participants. The rules concerning the negotiations shall contain criteria for qualifications of the participants and for the award of the contracts; and the Authority shall maintain updated procedures concerning participation in negotiations for all such projects. Agreements are to be upon terms determined in the exclusive judgment of the Authority. The Authority shall include the Attorney General, or his designee, in the negotiations with private participants.

Revisor's Note

Section 20a(f), V.A.C.S. Article 6674v, requires the authority to "administratively" establish rules, procedures, and guidelines governing the negotiating process. The revised law omits as unnecessary "administratively" because the term adds nothing to the meaning of the law. By implication, a state agency adopts rules administratively.

Revised Law

Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER GOVERNMENTAL AGENCIES. The authority and a private entity jointly may enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including a state of the United Mexican States, or a political subdivision, to provide services, to study the feasibility of a turnpike project, or to finance, construct, operate, and maintain a turnpike project. (V.A.C.S. Art. 6674v, Sec. 20a(g).)

Source Law

(g) The Authority also may enter agreements with other governmental agencies and entities, including, but not limited to, Federal agencies, State agencies of this and other states, including states in Mexico,
political subdivisions, and municipalities, jointly
with private entities to provide services, to study
feasibility of projects, to finance, to construct, to
operate, and to maintain turnpike projects pursuant to
the other terms hereof.

Revisor's Note

(1) Section 20a(g), V.A.C.S. Article 6674v,
refers to "including, but not limited to." "But not
limited to" is omitted as unnecessary because Section
311.005(13), Government Code (Code Construction Act),
and Section 312.011(19), Government Code, provide that
"includes" and "including" are terms of enlargement and
not of limitation and do not create a presumption that
components not expressed are excluded.

(2) Section 20a(g), V.A.C.S. Article 6674v,
refers to "political subdivisions" and
"municipalities." The revised law omits as unnecessary
"municipalities" because a municipality is a political
subdivision.

(3) Section 20a(g), V.A.C.S. Article 6674v,
refers to "Mexico." The revised law substitutes
"United Mexican States" for "Mexico" for the reason
stated in Revisor's Note (4) under Section 361.042 of
this code.

[Sections 361.308-361.330 reserved for expansion]

SUBCHAPTER J. POOLING OF TURNPIKE PROJECTS

Revised Law

Sec. 361.331. POOLED TURNPIKE PROJECTS. (a) The authority
may designate two or more turnpike projects that are wholly located
in the same county as a pooled turnpike project after:

(1) conducting a public hearing;
(2) obtaining the approval of the commission; and
(3) obtaining a resolution adopted by the
commissioners court of the county that:
(A) approves the action; and

(B) specifies the date the pooled project becomes toll free.

(b) All or part of one or more existing turnpike projects may be pooled with all or part of one or more new turnpike projects.

(c) Turnpike projects designated as a pooled project are a single turnpike project for purposes of this chapter.

(d) A turnpike project may not be pooled more than once.

(V.A.C.S. Art. 6674v, Sec. 27 (part).)

Source Law

Sec. 27. ... the authority is hereby authorized and empowered, but only as to projects located wholly within the same county and subject to all the provisions of this section:

(a) To determine after a public hearing, subject to prior approval by the State Highway and Public Transportation Commission and a resolution approving the same duly passed by the county commissioners court of the county where the projects are located, that any two or more projects now or hereafter constructed or determined to be constructed by the authority in the same county shall be pooled and designated as a "pooled project." Any existing project or projects may be pooled in whole or in part with any new project or projects or parts thereof. Upon designation such "pooled project" shall become a "project" or "turnpike project" as defined in Section 4(c) of this Act and as used in other sections of this Act. No project may be pooled more than once. ... [T]he resolution of the county commissioners court shall set a date certain when each of the projects being authorized to be pooled shall become toll free. ... .

Revisor's Note

Section 27(a), V.A.C.S. Article 6674v, refers 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 under Section 201.003 of this code.

Revised Law

Sec. 361.332. RELATIONSHIP TO OTHER LAW OR TRUST AGREEMENT.
(a) To the extent this subchapter conflicts with another provision of this chapter, this subchapter prevails.

(b) An action taken under this subchapter must be consistent with and is subject to a trust agreement securing bonds for the turnpike project to which the action applies. (V.A.C.S. Art. 6674v, Sec. 27 (part).)

Source Law

Sec. 27. Notwithstanding any conflicting provisions in this Act and superseding the same where in conflict with this section, [the authority is hereby authorized and empowered . . .

(a) To determine . . . that any two or more projects . . . shall be pooled.] Consistent with the trust indenture regarding securing bonds of that project, [the resolution of the county commissioners court shall set a date certain when each of the projects being authorized to be pooled shall become toll free.]

(b) Subject to . . . the terms of any trust agreement securing the payment of any turnpike revenue bonds, [the authority is authorized to provide by resolution . . . for the issuance of turnpike revenue bonds . . . for the purpose of paying all or any part of the cost of any pooled project]. . .

(c) Subject to the terms of any trust agreement securing the payment of any turnpike revenue bonds, [the authority is authorized to issue by resolution turnpike revenue refunding bonds of the authority for the purpose of refunding any bonds then outstanding, issued on account of any pooled project]. . .

[The authority may,] subject to the terms of any trust agreement securing the payment of any turnpike revenue bonds, [issue from time to time by resolution, bonds . . . for the purpose of paying the cost of all or any part of any pooled project]. . .

Revised Law

Sec. 361.333. ISSUANCE OF TURNPIKE REVENUE BONDS; PLEDGE OF PROJECT REVENUE. Subject to this chapter, the authority may:

(1) provide by resolution for the issuance of turnpike revenue bonds to pay all or part of the cost of a pooled turnpike project; and

(2) pledge all or part of the revenue of the project.

(V.A.C.S. Art. 6674v, Sec. 27 (part).)

Source Law

(b) Subject to the terms of this Act . . . the authority is authorized to provide by resolution from time to time for the issuance of turnpike revenue bonds to pay all or part of the cost of a pooled turnpike project; and

(2) pledge all or part of the revenue of the project.

(V.A.C.S. Art. 6674v, Sec. 27 (part).)
bonds of the authority for the purpose of paying all or any part of the cost of any pooled project or the cost of any part of such pooled project and to pledge revenues of such pooled project or any part thereof. . . .

Revisor's Note

(1) Section 27(b), V.A.C.S. Article 6674v, authorizes the authority to provide by resolution "from time to time" for the issuance of bonds. The revised law omits "from time to time" for the reason stated in Revisor's Note (1) under Section 361.171 of this code.

(2) Section 27(b), V.A.C.S. Article 6674v, authorizes the authority to issue turnpike revenue bonds "of the authority." The revised law omits the quoted language for the reason stated in Revisor's Note (2) under Section 361.171 of this code.

Revised Law

Sec. 361.334. ISSUANCE OF TURNPIKE REVENUE REFUNDING BONDS.

(a) The authority by resolution may issue turnpike revenue refunding bonds to:

(1) refund any outstanding bonds issued under this chapter for a pooled turnpike project, including any redemption premium on the bonds and any interest accrued as of the date of redemption of the bonds; and

(2) construct an improvement, extension, or enlargement to a pooled turnpike project.

(b) All or part of the revenue of a pooled turnpike project may be pledged to the payment of refunding and improvement bonds.

(c) An improvement, extension, or enlargement may be constructed on a part of the pooled turnpike project that is not covered by the bonds to be refunded.

(d) This chapter, to the extent applicable, governs:

(1) the issuance of the bonds;

(2) the maturities and other details of the bonds;

(3) the rights of the bondholders; and
(4) the rights and obligations of the authority with respect to the bonds and the bondholders.

(e) The authority may:

(1) issue refunding bonds in exchange for outstanding bonds; or

(2) sell refunding bonds and use the proceeds to redeem outstanding bonds. (V.A.C.S. Art. 6674v, Sec. 27 (part).)

Source Law

(c) The authority is authorized to issue by resolution turnpike revenue refunding bonds of the authority for the purpose of refunding any bonds then outstanding, issued on account of any pooled project or any part of any pooled project issued under the provisions of this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds and, if deemed advisable by the authority, for the additional purpose of constructing improvements, extensions, and enlargements to the pooled project or to any part of any pooled project in connection with which or in connection with any part of which bonds to be refunded shall have been issued. Revenues of all or any part of such pooled project may be pledged to the payment of such refunding and improvement bonds. Such improvements, extensions, or enlargements are not restricted to and need not be constructed on any particular part of a pooled project in connection with which bonds to be refunded may have been issued but may be constructed in whole or in part on other parts of the pooled project not covered by the bonds to be refunded. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the authority in respect of the same shall be governed by the provisions of this Act insofar as the same may be applicable. Within the discretion of the authority, the refunding bonds may be issued in exchange for outstanding bonds or may be sold and the proceeds used for the purpose of redeeming outstanding bonds. . . .

Reviser's Note

(1) Section 27(c), V.A.C.S. Article 6674v, authorizes the authority to issue turnpike revenue refunding bonds "of the authority." The revised law omits "of the authority" for the reason stated in Reviser's Note (2) under Section 361.171 of this code.

(2) Section 27(c), V.A.C.S. Article 6674v, authorizes the authority to issue turnpike revenue refunding bonds to refund bonds issued for a pooled
project and, "if deemed advisable by the authority," to construct improvements, extensions, and enlargements to the pooled project. The revised law omits as unnecessary "if deemed advisable by the authority" because by implication if the authority issues bonds to construct improvements, extensions, and enlargements to a project, it has determined that it is advisable to do so.

(3) Section 27(c), V.A.C.S. Article 6674v, refers to the "duties" and "obligations" of the authority with respect to bonds. The revised law omits "duties" for the reason stated in Revisor's Note (3) under Section 361.175 of this code.

Revised Law
Sec. 361.335. ISSUANCE OF BONDS AND PLEDGE OF TURNPIKE PROJECT REVENUE WITHOUT REGARD TO WHETHER BONDS ARE REFUNDED. Without regard to whether bonds are refunded, the authority by resolution may:

(1) issue bonds, of parity or otherwise, to:

(A) pay all or part of the cost of a pooled turnpike project; or

(B) construct an improvement, extension, or enlargement to a pooled turnpike project; and

(2) pledge all or part of the revenue of the pooled turnpike project to the payment of the bonds. (V.A.C.S. Art. 6674v, Sec. 27 (part).)

Source Law
Sec. 27. . . . Whether bonds be refunded or not, the authority may . . . issue from time to time by resolution, bonds, of parity or otherwise, for the purpose of paying the cost of all or any part of any pooled project or for the purpose of constructing improvements, extensions, or enlargements to all or any part of any pooled project and to pledge revenues of all or any part of such pooled project to the payment thereof.
Section 27, V.A.C.S. Article 6674v, authorizes the authority to issue bonds by resolution "from time to time." The revised law omits "from time to time" for the reason stated in Reviser's Note (1) under Section 361.171 of this code.

Reviser's Note
(End of Chapter)

Section 18, V.A.C.S. Article 6674v, authorizes the authority to receive and accept a toll road constructed and operated by a toll road corporation as described by Section 5(n), V.A.C.S. Article 6674v. Section 5(n) was repealed in 1991, and Section 5(o) was relettered as Section 5(n). Accordingly, the revised law omits Section 18. Section 18 reads:

Sec. 18. The Authority hereby created is authorized, empowered and directed to receive and accept for the State of Texas as a part of the free highway system thereof any toll road constructed and operated by a toll road corporation as described in Section 5, subsection (n), hereof, subject to the following conditions and requirements:

"1. That at the time of such acceptance such toll road shall be free and clear of any and all encumbrances.

"2. That no compensation whatsoever shall be required to be paid therefor by the State of Texas.

"3. That at the time of such acceptance by the Authority such toll road shall be in good condition and repair to the satisfaction of the State Highway Commission.

"4. That such toll road shall have been constructed and maintained in such a manner as to be equal or superior to the standards of the State Highway Commission.

"5. That in letting the contracts for the construction and maintenance of said road such toll road corporation shall have followed the methods and procedures as are used by the State Highway Commission of Texas in such matters.

"A toll road corporation as described in Section 5, subsection (n) hereof, shall be obligated to make an irrevocable gift of all of its assets to the State of Texas and shall irrevocably bind itself to use all of its net income or profits to retire the
indebtedness created for the acquisition, construction, maintenance and operation of such road, and which corporation shall at the time of the acquisition of any real property execute such instruments as may be necessary to convey or transfer such real property to the State of Texas, which instruments shall be deposited in escrow with any banking corporation chartered under the laws of Texas or of the United States with an escrow agreement which shall authorize and empower said escrow agent to deliver such instruments of conveyance and transfer to the Authority herein created when the requirements and conditions set forth above have been met and complied with. The authority herein created is hereby authorized, empowered and directed on behalf of the State of Texas to execute such instruments as may be necessary to complete such escrow agreement.

"The equitable, beneficial and superior title to the property belonging to a corporation described in Section 5, subsection (n) hereof, which is subject to an escrow agreement provided herein shall be vested at all times in the State of Texas and shall constitute public property used for public purposes, subject only to any liens or encumbrances created against said property by such corporation to finance the acquisition, construction, maintenance or operation of such road, and the board of directors of such corporation is hereby authorized and empowered to pledge, mortgage or otherwise encumber any of its properties or revenues, whether realized or unrealized, for such purposes, and the authorities herein created shall be required to execute such instruments of consent and subordination as may be required to give and grant such corporation such rights to pledge, mortgage or otherwise encumber its property for the purposes above set forth and, provided further, that neither the State of Texas nor any of its political subdivisions nor the Authority herein created shall ever be liable in any way for any indebtedness created by such a corporation or for any claim, demand, or obligation of any kind which may arise or be asserted against such a corporation, and that all bonds or other evidences of indebtedness of such corporation shall contain a statement to that effect on the fact thereof."

CHAPTER 362. TURNPIKES AND TOLL PROJECTS

SUBCHAPTER A. JOINT TURNPIKE PROJECTS

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