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
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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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Sec. 362.001. DEFINITIONS. In this subchapter:

(1) "Authority" means the Texas Turnpike Authority or its successor.

(2) "Bonds" includes certificates, notes, and other obligations of an issuer authorized by statute, municipal home-rule charter, or the Texas Constitution.

(3) "Cost" means those costs included under Section 361.004.
(4) "Local governmental entity" means a political subdivision of the state, a political subdivision of a county, a group of adjoining counties, a defined district, or a nonprofit corporation, including a transportation corporation created under Chapter 431.

(5) "Turnpike project" has the meaning assigned by Section 361.001. (V.A.C.S. Art. 6674v.1, Secs. 2(1), (2), (4), (6) (part), (7).)

Source Law

Sec. 2. In this Act the following words shall be defined:

(1) "Authority" shall mean the Texas Turnpike Authority or any successor thereto.

(2) "Bonds" shall mean and include all bonds, certificates, notes, and other obligations authorized to be issued by any issuer by any statute, city home-rule charter, or the Texas Constitution.

(4) "Cost" shall have the meaning described in Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes).

(6) "Local governmental entity" shall mean any county, political subdivision of a county, a number of adjoining counties, political subdivision of the state, defined district, town, village, or municipal corporation, and . . . includes any nonprofit corporations, including but not limited to transportation corporations created under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes).

(7) "Turnpike projects" shall have the meaning described in Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes).

Revisor's Note

(1) Sections 2(3) and (5), V.A.C.S. Article 6674v.1, define "commission" and "department" respectively. 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 Highways and Public Transportation Commission) and "department" to mean the Texas Department of Transportation. Those definitions apply to this chapter. The omitted
definitions read:

(3) "Commission" shall mean
the State Highway and Public Transportation
Commission or any successor thereto.

(5) "Department" shall mean
the State Department of Highways and Public
Transportation or any successor thereto.

(2) Section 2(4), V.A.C.S. Article 6674v.1,
provides that "cost" has "the meaning described in
Chapter 410, Acts of the 53rd Legislature, Regular
Session, 1953 (Article 6674v, Vernon's Texas Civil
Statutes)." The relevant portion of that statute is
codified in this code as Section 361.004. Section
361.004 does not define "cost"; instead it lists the
items that may be included in the cost of a turnpike
project. The revised law is drafted accordingly.

(3) Section 2(6), V.A.C.S. Article 6674v.1,
refers to a "county, . . . political subdivision of
the state, . . . town, village, or municipal
corporation." The revised law omits the references to
"county" and to "town, village, or municipal
corporation" as unnecessary because each of those
entities is a political subdivision of the state.

(4) Section 2(6), V.A.C.S. Article 6674v.1,
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.

(5) Section 2(6), V.A.C.S. Article 6674v.1,
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.
(6) Section 2(7), V.A.C.S. Article 6674v.1, refers to Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6674v, Vernon's Texas Civil Statutes). The relevant portion of that statute is codified in this code as Section 361.001, and the revised law is drafted accordingly.

Revised Law

Sec. 362.002. CONSTRUCTION. This subchapter shall be liberally construed. (V.A.C.S. Art. 6674v.1, Sec. 9.)

Source Law

Sec. 9. This Act shall be liberally construed in conformity with the intention of the legislature herein expressed.

Revised Law

Sec. 362.003. APPLICABILITY OF OTHER LAW; CONFLICTS. (a) Bonds issued by a local governmental entity under this subchapter are subject to all laws affecting the issuance of bonds by a local governmental entity, including Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(b) Bonds issued by the authority under this subchapter are subject to all laws affecting the issuance of bonds by the authority.

(c) This subchapter prevails to the extent of any conflict between this subchapter and another law affecting the commission, the department, or a local governmental entity. (V.A.C.S. Art. 6674v.1, Secs. 8(a), (c), (d) (part).)

Source Law

Sec. 8. (a) This Act is cumulative of all laws affecting the issuance of bonds by local governmental entities, particularly, but not by way of limitation, provisions of Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), are hereby made
applicable to and shall apply to all bonds issued to
this Act, regardless of any classification of any such
local governmental entities thereunder; provided,
however, in the event of any conflict between such laws
and this Act, the provisions of this Act shall prevail.

(c) This Act is cumulative of all laws affecting
the commission, the department, and the local
governmental entities, except that in the event any
such law conflicts with this Act, the provisions of
this Act shall prevail.

(d) This Act is cumulative of all laws affecting
the authority ... Particularly, but not by way of
limitation, the provisions of Chapter 410, Acts of the
53rd Legislature, Regular Session, 1953 (Article 6674v,
Vernon's Texas Civil Statutes), Chapter 503, Acts of
the 54th Legislature, Regular Session, 1955 (Article
717k, Vernon's Texas Civil Statutes), the Bond
Procedures Act of 1981 (Article 717k-6, Vernon's Texas
Civil Statutes), and Chapter 656, Acts of the 68th
Legislature, Regular Session, 1983 (Article 717q,
Vernon's Texas Civil Statutes), are hereby made
applicable to the bonds issued by the authority
hereunder.

Revisor's Note

(1) The revised law omits as unnecessary the
provisions in Section 8, V.A.C.S. Article 6674v.1,
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(a), V.A.C.S. Article 6674v.1,
provides in part that bonds issued by a local
governmental entity under that article are subject to
Chapter 503, Acts of the 54th Legislature, Regular
Session, 1955 (Article 717k, Vernon's Texas Civil
Statutes), and the Bond Procedures Act of 1981 (Article
717k-6, Vernon's Texas Civil Statutes). The references
to those statutes are omitted from the revised law as
unnecessary because each statute by its terms applies
to a local governmental entity.

(3) Section 8(d), V.A.C.S. Article 6674v.1,
provides in part that bonds issued by the Texas
Turnpike Authority under that article are subject to
Chapter 503, Acts of the 54th Legislature, Regular
Session, 1955 (Article 717k, Vernon's Texas Civil
Statutes), the Bond Procedures Act of 1981 (Article
717k-6, Vernon's Texas Civil Statutes), Chapter 656,
Acts of the 68th Legislature, Regular Session, 1983
(Article 717q, Vernon's Texas Civil Statutes), and
Chapter 410, Acts of the 53rd Legislature, Regular
Session, 1953 (Article 6674v, Vernon's Texas Civil
Statutes). The references to those statutes are
omitted from the revised law as unnecessary because
each statute by its terms applies to the Texas Turnpike
Authority.

Revised Law

Sec. 362.004. AGREEMENTS BETWEEN AUTHORITY AND DEPARTMENT.
(a) The commission and the authority by agreement may establish a
joint venture to share the cost of the construction of a turnpike
project to be owned and operated by the authority if the commission
finds that:
(1) the project is immediately needed to relieve
traffic congestion on existing state highways; or
(2) the project, if constructed in the shortest
possible time, will provide to the state a free highway more
economically than if the department constructed the project.
(b) The term of an agreement under this section may not
exceed 40 years.
(c) An agreement under this section may:
(1) be payable from any money lawfully available to
the department;
(2) be subject to legislative appropriation if the
intended source of payment requires legislative appropriation;
(3) specify the length of time the turnpike project
will remain a toll facility;
(4) specify the use of the revenue from the project;

and

(5) provide for the use of revenue from any turnpike project for a turnpike project that is an extension of the original project or is part of an integrated system of turnpike projects.

(d) An agreement under this section shall provide that the turnpike project will become part of the state highway system when it is no longer a toll facility. (V.A.C.S. Art. 6674v.1, Sec. 3(a).)

Source Law
Sec. 3. (a) Upon a finding by the commission that a project is immediately needed to relieve traffic congestion on existing state highways or such project, if constructed in the shortest possible time, will provide to the state a free highway more economically than if the department constructed such project, the commission on behalf of the department is authorized to enter into agreements with the authority, and the authority is authorized to enter into agreements with the department, for the purpose of joint ventures with respect to the sharing of costs of such project as a turnpike, toll road, or toll bridge to be owned and operated by the authority. Such agreements shall not exceed 40 years in term and may be payable from any money lawfully available to the department, and may be subject to legislative appropriation if the source of payment is intended to be derived from sources that require legislative appropriations. Such agreements may also specify the length of time that the applicable project will remain a toll facility, and the use of revenues therefrom, may provide for the use of revenues from any project for a project or projects that are extensions of such original project or extensions thereto or are part of an integrated system of turnpike projects, and shall provide that when the project is no longer a toll facility it will become a part of the state highway system.

Revised Law
Sec. 362.005. ISSUANCE OF BONDS BY AUTHORITY. The authority may issue bonds payable in whole or in part from payments to be made under an agreement under Section 362.004. (V.A.C.S. Art. 6674v.1, Sec. 3(b).)

Source Law
(b) The authority is authorized to issue bonds payable from, in whole or in part, payments to be made pursuant to a contract.
Sec. 362.006. USE OF FEDERAL FUNDS. The department may use federal funds for any purpose described by this subchapter.

(V.A.C.S. Art. 6674v.1, Sec. 4 (part).)

Source Law

Sec. 4. . . . Accordingly, the department is, without limiting the generality of Section 3 hereof, authorized to use federal funds for any purpose described in this Act.

Revisor's Note

Section 4, V.A.C.S. Article 6674v.1, contains legislative findings regarding the possible uses of federal funds under existing and future law. This portion of Section 4 is omitted from the revised law because it is nonsubstantive and executed. The omitted provision reads:

It is recognized that existing federal law permits federal funds to be used for that portion of costs of turnpike projects that are toll bridges and federal law may hereafter permit federal funds to be used for all or any portion of the costs of turnpike projects.

Revised Law

Sec. 362.007. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) Under Subsection (b), Section 52, Article III, Texas Constitution, a local governmental entity other than a nonprofit corporation may:

(1) agree with the authority to issue bonds and to make payments to aid in the construction, maintenance, or operation of a turnpike project of the authority; and

(2) impose taxes to pay the interest on bonds issued under Subdivision (1).

(b) In addition to Subsection (a), a local governmental entity may, within any applicable constitutional limitations, agree with the authority to issue bonds and make payments to construct, maintain, or operate any portion of a turnpike project of the
authority.

(c) To pay the interest on bonds issued under Subsection (b), a local governmental entity may:

(1) pledge revenue from any available source, including annual appropriations;

(2) impose taxes; and

(3) provide for a sinking fund.

(d) The term of an agreement under this section may not exceed 40 years.

(e) An election to permit action under this subchapter must be held in conformance with Chapter 1, Title 22, Revised Statutes, or other law applicable to the local governmental entity.

(V.A.C.S. Art. 6674v.1, Secs. 2(6) (part), 5, 7, 8(b).)

Source Law

Sec. 2.

... (6) ["Local governmental entity" shall mean any county, political subdivision of a county, a number of adjoining counties, political subdivision of the state, defined district, town, village, or municipal corporation,) and except for the purposes of Section 5 hereof, includes any nonprofit corporations, [including but not limited to transportation corporations created under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes).]

Sec. 5. Under authority of Subsection (b) of Article III, Section 52, of the Texas Constitution local governmental entities may, upon the required vote of the qualified voters, in addition to all other debts, issue bonds or enter into and make payments under agreements with the authority, not to exceed 40 years in term, in any amount not to exceed one-fourth of the assessed valuation of real property within such local governmental entity, except that the total indebtedness of any city or town shall never exceed the limits imposed by other provisions of the constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, for the purposes of construction, maintenance, and operation of turnpike projects of the authority, or in aid thereof.

Sec. 7. Within any constitutional limitations and in addition to the powers granted in Sections 5 and 6 hereof, local governmental entities may issue bonds or enter into and make payments under agreements with the authority, not to exceed 40 years in term, and pledge revenues from any available source, including annual appropriations, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the purposes of construction, maintenance, and
operation of any portion of turnpike projects of the
authority.
Sec. 8.
... (b) Any election held as required by or to
permit action pursuant to this Act shall be held
generally in conformance with Chapter 1, Title 22,
Vernon's Texas Civil Statutes, or other law applicable
to the local governmental entity.

Revisor's Note
(1) Section 5, V.A.C.S. Article 6674v.1, provides in part that a local governmental entity may
issue bonds "upon the required vote of the qualified
voters." This provision is omitted from the revision
because Subsection (b), Section 52, Article III, Texas
Constitution, requires a two-thirds majority vote
before bonds may be issued under that subsection.
Section 5 also provides in part that a local
governmental entity may issue bonds "in any amount not
to exceed one-fourth of the assessed valuation of real
property within such local governmental entity" and
that a local governmental entity may provide a sinking
fund for the redemption of the bonds. These provisions
are omitted from the revision because they are
substantively identical to Article III, Section 52,
Subsection (b), of the Texas Constitution. The policy
of the legislative council's statutory revision program
is to omit from the revised codes the duplicating
statutory provisions because a statute that tracks the
language of the constitution is not only superfluous
but may foster the erroneous belief that a
constitutional requirement is merely statutory and
subject to amendment through the ordinary legislative
process.
(2) Section 5, V.A.C.S. Article 6674v.1,
provides in part that "the total indebtedness of any
city or town shall never exceed the limits imposed by
other provisions of the constitution." This provision is omitted from the revision because the legislature cannot authorize a municipality to exceed a constitutional limit on indebtedness.

(3) Section 8(b), V.A.C.S. Article 6674v.1, refers to an election held "as required by or to permit action pursuant to this Act," meaning V.A.C.S. Article 6674v.1. The reference to an election held "as required by . . . this Act" is omitted from the revised law because V.A.C.S. Article 6674v.1 does not contain an independent requirement for an election. Chapter 1, Title 22, Revised Statutes, the general law relating to bond issues, contains election requirements that apply to bonds issued under V.A.C.S. Article 6674v.1.

Revised Law
Sec. 362.008. ADDITIONAL AGREEMENTS OF AUTHORITY. The authority may enter into any agreement necessary or convenient to achieve the purposes of this subchapter. (V.A.C.S. Art. 6674v.1, Sec. 8(d) (part).)

Source Law
(d) . . . and the authority is authorized to enter into all agreements necessary or convenient to effectuate the purposes of this Act. . . .

Revisor's Note
(End of Subchapter)
(1) Section 1, V.A.C.S. Article 6674v.1, contains legislative findings regarding the benefits of joint ventures between the Texas Turnpike Authority and the Texas Department of Transportation and between the authority and local governmental entities. Section 1 is omitted from the revised law because it is nonsubstantive and executed. As omitted, Section 1 reads:

Sec. 1. The legislature hereby finds that it is a benefit to the state and its
inhabitants to encourage the construction, improvement, maintenance, and operation of turnpike projects by the Texas Turnpike Authority and in connection therewith to authorize joint venture agreements between the State Department of Highways and Public Transportation and the authority and agreements between local governmental entities and the authority.

(2) Section 6, V.A.C.S. Article 6674v.1, is omitted from the revision as unnecessary. Section 6 provides for the issuance of bonds by a county under the authority of Subsection (c), Section 52, Article III, Texas Constitution. That constitutional provision is self-executing and does not require any legislative action to permit a county to issue bonds. As omitted, Section 6 reads:

Sec. 6. Under authority of Subsection (c) of Article III, Section 52, of the Texas Constitution, any county is authorized to issue its bonds in an amount not to exceed one-fourth of the assessed valuation of the real property in the county for the construction, maintenance, and operation of all or any portion of turnpike projects of the authority, or in aid thereof, upon a vote of the majority of the qualified voters voting thereon. Such county may levy and collect taxes to pay interest on such bonds as it comes due and provide a sinking fund for the redemption of such bonds.

(3) Section 10, V.A.C.S. Article 6674v.1, provides that the validity of Article 6674v.1 is not affected by its enactment before the approval of a constitutional provision or federal statute with respect to any portion of Article 6674v.1. Section 10 also states that in the judgment of the legislature, the state agencies and local governmental entities to which Article 6674v.1 applies have authority to jointly participate in the cost of turnpike projects under existing constitutional provisions. The revised law omits Section 10 as unnecessary because there is no legally sound basis on which to argue that legislation is void because it is adopted in anticipation of the
enactment of a constitutional amendment or federal statute and because the legislature's determination of a state agency's or local governmental entity's authority to act is sufficiently expressed in the substantive provisions of the statute. As omitted, Section 10 reads:

Sec. 10. The enactment of this Act prior to the approval of any constitutional provision or federal act with respect to any portion of the subject of this Act shall not affect the validity of this Act, and this Act shall nevertheless become effective since, in the judgment of the legislature, the department, the authority, and local governmental entities have the authority to jointly participate in the cost of many projects under existing constitutional provisions.

[Sections 362.009-362.050 reserved for expansion]

SUBCHAPTER B. COMMISSION APPROVAL OF TOLL PROJECTS

Revised Law

Sec. 362.051. COMMISSION APPROVAL OF TOLL PROJECT REQUIRED.

(a) Except as provided by Section 362.055, a governmental or private entity must obtain the commission's approval before beginning construction of a toll road, toll bridge, or turnpike that is to be a part of the state highway system.

(b) In deciding whether to approve a proposed toll road, toll bridge, or turnpike, the commission shall consider:

(1) the feasibility of effectively integrating the toll road, toll bridge, or turnpike into the state highway system; and

(2) the ability of the department to construct any connecting roads necessary for the toll road, toll bridge, or turnpike to produce sufficient revenue to pay the debt incurred for its construction. (V.A.C.S. Art. 6674v-6, Subsec. (a) (part).)

Source Law

Art. 6674v-6. (a) A governmental or private entity, [other than a county with a population of more than 1.5 million, according to the most recent federal census, and other than a local government corporation]
created by a county with a population of more than 1.5 million, according to the most recent federal census, under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes), may not begin construction of a toll road, toll bridge, or turnpike without the approval of the Texas Transportation Commission if the toll road, toll bridge, or turnpike is to become a part of the state highway system. When deciding whether to approve a proposed toll road, toll bridge, or turnpike project, the commission shall consider:

(1) the feasibility of effectively integrating the toll road, toll bridge, or turnpike into the state highway system; and

(2) the ability of the Texas Department of Transportation to construct any connecting roads necessary for the toll road, toll bridge, or turnpike to generate sufficient revenue to pay the debt incurred for its construction.

Reviser's Note

Subsection (a), V.A.C.S. Article 6674v-6, refers to the "Texas Transportation Commission" and the "Texas Department of Transportation." The revised law substitutes "commission" for "Texas Transportation Commission" and "department" for "Texas Department of Transportation" for the reason stated in Reviser's Note (1) under Section 362.001 of this code.

Revised Law

Sec. 362.052. COMMISSION REVIEW OF BONDS. Except as provided by Section 362.055, the commission must review bonds of a political subdivision or a nonprofit corporation acting on behalf of a political subdivision that are payable in whole or in part from revenue derived from the ownership or operation of a toll road, toll bridge, or turnpike. (V.A.C.S. Art. 6674v-6, Subsec. (b) (part).)

Source Law

(b) Any bonds of a county, municipality, or political subdivision [(other than a county with a population greater than 1.5 million, according to the most recent federal census, or a local government corporation created under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes) in such a county)] or any nonprofit corporation acting on behalf of a county, municipality, or political subdivision, payable in whole or in part from revenues derived from the ownership or operation of a toll road, toll bridge, or turnpike must be
reviewed by the Texas Transportation Commission.

Revisor's Note
Subsection (b), V.A.C.S. Article 6674v-6, refers to a "county, municipality, or political subdivision."
The references to "county" and "municipality" are omitted from the revised law for the reason stated in Revisor's Note (3) under Section 362.001 of this code.

Revised Law
Sec. 362.053. CONTRACTS BETWEEN COMMISSION AND TEXAS TURNPIKE AUTHORITY. (a) Except as provided by Subsection (c), the commission may contract with the Texas Turnpike Authority to review on the commission's behalf:

(1) a toll road project requiring approval under this subchapter; or

(2) bonds to be issued in connection with a project requiring review under this subchapter.

(b) The review may include an analysis of a proposed toll road project or of toll road bonds and may make recommendations to the commission.

(c) The commission may not contract with the Texas Turnpike Authority to review:

(1) a toll road project of the authority; or

(2) bonds issued in connection with a project of the authority. (V.A.C.S. Art. 6674v-6, Subsec. (c).)

Source Law
(c) The Commission is authorized to contract with the Texas Turnpike Authority to review on its behalf any toll road project or any toll road bonds proposed pursuant to this section, other than a project of the Authority, and to make recommendations to the Commission. The Texas Turnpike Authority is authorized to perform such review and analysis and to make recommendations as described herein to the Commission.
Revisor's Note

Subsection (c), V.A.C.S. Article 6674v-6, refers to a "toll road project or any toll road bonds proposed pursuant to this section," (meaning V.A.C.S. Article 6674v-6). That article does not deal with proposals for toll road projects, but only with approval of those projects. The revised law substitutes "toll road project requiring approval" for "toll road project proposed" and "bonds ... requiring review" for "bonds proposed" to more accurately describe the actions taken under this subchapter.

Revised Law

Sec. 362.054. BONDS NOT CONSIDERED OBLIGATIONS OF STATE.

Bonds or other debt obligations of a political subdivision reviewed under this subchapter are obligations of the issuing entity and are not obligations of the state. (V.A.C.S. Art. 6674v-6, Subsec. (d).)

Source Law

(d) The bonds or other debt obligations of any county, municipality, or political subdivision approved and issued pursuant to this Act shall never be considered obligations of the State of Texas and remain obligations of the issuing entities.

Revisor's Note

Subsection (d), V.A.C.S. Article 6674v-6, refers to a "county, municipality, or political subdivision." The references to "county" and "municipality" are omitted from the revised law for the reason stated in Revisor's Note (3) under Section 362.001 of this code.

Revised Law

Sec. 362.055. EXCEPTION. This subchapter does not apply to:

(1) a county that has a population of more than 1.5 million; or

(2) a local government corporation created under
Chapter 431 by a county that has a population of more than 1.5 million. (V.A.C.S. Art. 6674v-6, Subsecs. (a) (part), (b) (part).)

Source Law

[Art. 6674v-6. (a) A governmental or private entity, other than a county with a population of more than 1.5 million, according to the most recent federal census, and other than a local government corporation created by a county with a population of more than 1.5 million, according to the most recent federal census, under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes), may not begin construction of a toll road, toll bridge, or turnpike without the approval of the Texas Transportation Commission if the toll road, toll bridge, or turnpike is to become a part of the state highway system. . . .] (b) Any bonds of a county, municipality, or political subdivision (other than a county with a population greater than 1.5 million, according to the most recent federal census, or a local government corporation created under the Texas Transportation Corporation Act (Article 15281, Vernon's Texas Civil Statutes) in such a county) or any nonprofit corporation acting on behalf of a county, municipality, or political subdivision, payable in whole or in part from revenues derived from the ownership or operation of a toll road, toll bridge, or turnpike must be reviewed by the Texas Transportation Commission.]

Revisor's Note

(1) Subsections (a) and (b), V.A.C.S. Article 6674v-6, describe a population number that is to be determined according to the most recent federal census. The revised law omits the reference to the federal census because the reference is unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

(2) Subsections (a) and (b), V.A.C.S. Article 6674v-6, refer 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.

[Sections 362.056-362.100 reserved for expansion]
SUBCHAPTER C. PRIVATE TURNPIKES AND TOLL PROJECTS

Revised Law

Sec. 362.101. DEFINITION. In this subchapter, "turnpike or toll project" means a road, highway, bridge, ferry, or similar project that is financed in whole or in part through the issuance of revenue bonds payable from toll revenue collected from users. The term does not include a project constructed, operated, maintained, or financed:

(1) under Chapter 361; or

(2) by a toll road authority created by a county.

(V.A.C.S. Art. 6674v.1a, Subsec. (a).)

Source Law

Art. 6674v.1a. (a) In this section, "turnpike or toll project" means a road or highway, bridge, ferry or similar project other than those constructed, operated, maintained and/or financed under Article 6674v, Revised Statutes, as amended by H.B. 749, Acts of the 72nd Legislature, Regular Session, 1991, or toll road authorities created by counties, and that is financed in whole or part through the issuance of revenue bonds payable from toll revenues collected from users.

Reviser's Note

Subsection (a), V.A.C.S. Article 6674v.1a, refers to Article 6674v, Revised Statutes, as amended by H.B. 749, Acts of the 72nd Legislature, Regular Session, 1991. That statute is codified in this code as Chapter 361, and the revised law is drafted accordingly.

Revised Law

Sec. 362.102. COMMISSION APPROVAL OF PRIVATE TURNPIKE OR TOLL PROJECT REQUIRED. Notwithstanding any other provision of law, a private entity may not construct a privately owned turnpike or toll project that connects to a road, bridge, or highway in the state highway system unless the commission approves the private turnpike or toll project as provided by this subchapter. (V.A.C.S.
Art. 6674v.1a, Subsec. (b).)

Source Law

(b) Notwithstanding any other provision of law, a private entity or corporation may not construct any privately owned turnpike or toll project which connects to a road, bridge or highway included in the state highway system unless the private turnpike or toll project is approved by the Texas Transportation Commission and the Texas Department of Transportation as provided in this section.

Revisor's Note

(1) Subsection (b), V.A.C.S. Article 6674v.1a, refers to "a private entity or corporation." The reference to "corporation" is omitted from the revised law because "corporation" is included within the meaning of "entity."

(2) Subsection (b), V.A.C.S. Article 6674v.1a, provides that certain privately owned turnpike or toll projects must be approved by "the Texas Transportation Commission and the Texas Department of Transportation." Under V.A.C.S. Article 6663(a) (revised as Section 201.201 of this code) the Texas Transportation Commission governs the Texas Department of Transportation, and therefore when the commission approves a project the department may be considered to have approved it. The revised law is drafted accordingly.

Revised Law

Sec. 362.103. RULES. The commission shall adopt procedural and substantive rules relating to approval of a project under this subchapter, including rules requiring consideration of:

(1) the integration of the project into the state highway system embodied in the existing regional transportation plan, including the plan developed by the metropolitan planning organization, if any, of a municipality the territory or extraterritorial jurisdiction in which the project is proposed to
be located;

(2) the potential effect of the project on the economy
of the region in which the project is located, including the
economy of each county in which the project is located and the
economy of each municipality in those counties; and

(3) the potential effect of the project on the free
flow of trade between the United Mexican States and this state, if
the project is located in whole or in part in:

(A) a county bordering the United Mexican
States; or

(B) a county adjacent to a county described by

Paragraph (A). (V.A.C.S. Art. 6674v.1a, Subsec. (c).)

Source Law

(c) The Texas Transportation Commission, no
later than January 1, 1993, shall adopt procedural and
substantive rules and regulations for the approval of
construction of a project governed by this section.
Such rules shall include, but are not limited to,
consideration of:

(1) the integration of the turnpike or
toll project into the state highway system embodied in
the existing regional transportation plan, including
but not limited to, the plan developed by the
metropolitan planning organization, if any, of a
municipality within whose municipal limits or
extraterritorial jurisdiction the proposed turnpike or
toll project is to be located;

(2) the potential impact, if any, of the
turnpike or toll project on the economy of the region
in which the turnpike or toll project is to be located,
including the economies of each county in which the
project is to be located and of the municipalities
within those counties; and

(3) with respect to a project located in
whole or in part in a county adjacent to the border
between the State of Texas and the Republic of Mexico
or in a county adjacent to such a county, the potential
impact of the turnpike or toll project on the free flow
of trade between the Republic of Mexico and the State
of Texas.

Revisor's Note

(1) Subsection (c), V.A.C.S. Article 6674v.1a,
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.

(2) Subsection (c), V.A.C.S. Article 6674v.1a, requires the Texas Transportation Commission to adopt certain rules "no later than January 1, 1993." The reference to that date is omitted from the revised law because that provision is executed.

(3) Subsection (c), V.A.C.S. Article 6674v.1a, refers to "shall include but are not limited to." "But are 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.

(4) Subsection (e), V.A.C.S. Article 6674v.1a, provides that the Texas Transportation Commission may not approve a proposed turnpike or toll project before adopting rules. Subsection (f), V.A.C.S. Article 6674v.1a, provides that a private entity or corporation may begin certain preconstruction activities before the commission adopts its rules. The revised law omits those subsections as executed. As omitted, Subsections (e) and (f) read:

(e) The Texas Transportation Commission may not approve a proposed turnpike or toll project under this section prior to the adoption of rules and regulations as provided in Subsection (c) of this section.

(f) Any private entity or corporation, prior to the adoption of rules and regulations relating to private toll road projects, may begin pre-construction activities including route studies, environmental studies, feasibility studies, and other activities regarding such projects deemed appropriate by the Texas Transportation Commission.
Sec. 362.104. FEASIBILITY, ALIGNMENT, AND ENVIRONMENTAL STUDIES. A private entity shall conduct studies concerning the feasibility, route or alignment, and environmental effect of a proposed turnpike or toll project before requesting approval under this subchapter. (V.A.C.S. Art. 6674v.1a, Subsec. (d).)

(d) Prior to requesting approval of construction by the Texas Transportation Commission, a private entity or corporation shall conduct studies concerning the feasibility, route or alignment, and environmental impacts of the proposed turnpike or toll project.

Revisor's Note
Subsection (d), V.A.C.S. Article 6674v.1a, refers to "a private entity or corporation." The reference to "corporation" is omitted from the revised law for the reason stated in Revisor's Note (1) to Section 362.102 of this code.

CHAPTER 363. COUNTY TOLL BRIDGES
Sec. 363.001. DEFINITION. In this chapter, "contractor" includes a contractor's successor. (New.)
revised law substitutes in Chapter 363 the term "contractor" and defines "contractor" to include a contractor's successor.

Revised Law

Sec. 363.002. CONTRACT FOR TOLL BRIDGE. (a) The commissioners court of a county may contract for the construction of a toll bridge over a large creek or watercourse if it is inexpedient for the county to build the bridge.

(b) The commissioners court shall determine the toll to be imposed for crossing the bridge.

(c) The commissioners court may grant to the contractor the right to the tolls for a period not to exceed 10 years. (V.A.C.S. Art. 6702-1, Sec. 2.202(a) (part).)

Source Law

Sec. 2.202. (a) If it is inexpedient for the road force to build bridges over large creeks or watercourses, the commissioners court may contract with a proper person to build a toll bridge. The court shall determine the toll to be levied on all persons, cattle, horses, vehicles, and the like passing over the bridge. The tolls may be granted to the contractor for a number of years, not to exceed 10 years, that the court considers proper. . . .

Revisor's Note

Section 2.202(a), V.A.C.S. Article 6702-1, refers to the "road force." The statutes providing for a county road force to build and maintain roads and bridges were repealed by Chapter 459, Acts of the 59th Legislature, Regular Session, 1965. The revised law therefore substitutes the term "county" for "road force."

Revised Law

Sec. 363.003. DUTY TO REPAIR; FORFEIT OF TOLLS. (a) The contractor shall maintain the bridge during the term of the contract.

(b) A contractor who fails to maintain the bridge forfeits
all right to the tolls. (V.A.C.S. Art. 6702-1, Sec. 2.202(a)
(part).)

Source Law

(a) . . . The builder and his successors shall keep the bridge in constant repair during the term of the contract. A builder or successor who defaults on this duty forfeits all right and claim to the tolls.

Revisor's Note

Section 2.202(a), V.A.C.S. Article 6702-1, refers to "right and claim" to tolls. The reference to "claim" is omitted from the revised law because "claim" is included within the meaning of "right."

Revised Law

Sec. 363.004. SURETY BOND; ACTION ON BOND. (a) Before granting a license to a contractor to construct a toll bridge, the commissioners court shall require a bond in the amount of $1,000 with a good and sufficient surety. The bond shall be conditioned on:

(1) the construction of the bridge by the contractor;

and

(2) the maintenance of the bridge by the contractor for the agreed term.

(b) A person who sustains damage because a contractor has not complied with the conditions of the bond may:

(1) sue the contractor on the bond; and

(2) recover any judgment for damages.

(c) A suit for damages under this section shall be brought in the county in which the license is granted. (V.A.C.S. Art. 6702-1, Sec. 2.202(b).)

Source Law

(b) Before granting a license to any person to build a toll bridge, the commissioners court shall take bond in the sum of $1,000, with good and sufficient sureties, conditioned that the contractor shall build the bridge and keep it in constant repair for the term of years agreed on. If any person sustains damages in consequence of the owner or keeper of any toll bridge
not having complied with the conditions of his bond, the person may bring an action of debt on the bond against the owner or keeper of the toll bridge and recover judgment for the damages so sustained. The suit must be brought in the county in which the license was granted.

Revised Law

Sec. 363.005. COUNTY TOLLS. The commissioners court of a county that issues bonds to construct a bridge may, under rules adopted by the commissioners court, impose tolls sufficient to:

(1) pay the interest on the bonds; or

(2) pay the interest and create a sinking fund for payment of the principal at maturity. (V.A.C.S. Art. 6702-1, Sec. 2.202(c).)

Source Law

(c) If county bonds are issued to build bridges, the commissioners court may assess and collect tolls on the bridges sufficient to pay the interest on the bonds and, if thought proper, sufficient to pay the interest and create a sinking fund with which to pay the principal at maturity, all of which shall be done under rules that the court prescribes.

CHAPTER 364. TOLL BRIDGES IN COUNTIES BORDERING THE RIO GRANDE

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CHAPTER 364. TOLL BRIDGES IN COUNTIES
BORDERING THE RIO GRANDE
SUBCHAPTER A. ESTABLISHMENT OF TOLL BRIDGE AND
GENERAL PROVISIONS

Revised Law

Sec. 364.001. AUTHORITY TO ACQUIRE TOLL BRIDGE. (a) A
county bordering the Rio Grande, acting through the commissioners
court of the county, as a part of its road and bridge system may
acquire a toll bridge by any method, including by:
(1) construction; or
(2) purchase of an entire toll bridge or only that
part of the toll bridge that is located in this state.
(b) The county is not required to:
(1) hold an election to authorize the acquisition of a
toll bridge under this chapter;

(2) give or publish notice of its intent to acquire a
toll bridge under this chapter; or

(3) advertise or call for competitive bids in
connection with the acquisition of a toll bridge under this
chapter.

(c) The county may acquire a toll bridge owned by a
corporation by purchasing the toll bridge itself or by purchasing
all of the capital stock of the corporation or a sufficient amount
of the stock as required by law to dissolve and liquidate the
corporation. The county may take title to the stock in the name of
the county or in the name of a trustee for the county. After
purchasing the stock, the county or its trustee shall:

(1) vote its shares in the corporation as necessary to
vest title to the toll bridge, together with any associated right
or property described by Section 364.002 to be acquired in
connection with the acquisition of the toll bridge, in the county;
and

(2) immediately dissolve and liquidate the
corporation, pay its debts, liabilities, and obligations, wind up
its business and affairs, and convey the properties to the county.

(d) The purchase and acquisition of toll bridge property or
stock in a corporation under this section must be made at the price
and on the terms agreed on by the owners of the property or stock
and the commissioners court. The commissioners court shall act
under this subsection by appropriate resolution or order consistent
with this chapter.

(e) A county may not acquire a toll bridge under this
chapter by eminent domain. (V.A.C.S. Art. 6795c, Secs. 1 (part),
4 (part), 19 (part).)

Source Law
Art. 6795c
Sec. 1. Any county in this State which borders
on a river between the State of Texas and the Republic
of Mexico, acting through its Commissioners Court, is hereby authorized and empowered as a part of its road and bridge system to acquire a toll bridge or bridges by construction or otherwise, and to acquire any existing toll bridge or bridges . . . by purchase thereof from the owner or owners thereof; either by purchase of the properties as such, or, if such toll bridge or bridges are owned by a private corporation, either by purchase from it of the properties, as such, or by purchasing the capital stock of such corporation from the owner or owners of such stock, either all of the outstanding capital stock of such corporation, or a sufficient amount thereof as required under the law for the dissolution and liquidation of such corporation, and immediately liquidating such corporation, paying the debts and obligations or liabilities thereof, and winding up its business and affairs, and causing conveyance of its properties to said county, taking the title to such stock either in the name of such county or in the name of a trustee therefor, and voting or causing such stock to be voted to carry out and accomplish such purposes, all in such manner and to such effect as to vest title to said toll bridge or bridges with all their rights, franchises and appurtenant properties in such county. The purchase and acquisition of any such properties or stock of such corporation from the owner or owners thereof shall be for such price, upon such terms and conditions, and upon such covenants and agreements as may be mutually agreed upon in respect thereto, by and between such owner or owners and the Commissioners Court of such county, the action of the latter being expressed by appropriate resolution or order consistent with the subject and purpose of this Act, but under no event shall the said bridge or bridges be acquired by condemnation under the powers of eminent domain.

Sec. 4. . . . provided, however, that any such county, in exercising the powers herein granted may acquire by purchase as herein provided, all or any part of any such toll bridge or bridges that is, either the entire bridge or only that part thereof which is situated within the State of Texas . . .

Sec. 19. Such counties may purchase such properties . . . without the necessity of any referendum, and without the necessity of calling or holding any election to authorize any such action, and without the necessity of giving or publishing any notice of intention to acquire any such properties . . ., and without the necessity of advertising or calling for any competitive bids in respect thereto.

Revisor's Note

(1) Section 1, V.A.C.S. Article 6795c, states that the acquisition of toll bridge property is to be made "upon such terms and conditions, and upon such covenants and agreements" as may be agreed to by the county and the owners of the property. The revised law
omits the references to "conditions," "covenants," and "agreements" because they are included within the meaning of "terms."

(2) Section 4, V.A.C.S. Article 6795c, states that a county may purchase "any part" of a toll bridge. Immediately following that statement is an explanatory provision stating that the county may purchase either an entire bridge or only that part located in Texas. Accordingly, the revised law omits as unnecessary the provision stating that the county may buy any part of a toll bridge.

Revised Law
Sec. 364.002. RIGHTS AND PROPERTIES ASSOCIATED WITH TOLL BRIDGE. When a county acquires a toll bridge under Section 364.001, the county may, as determined by the commissioners court of the county, acquire any or all of the following items in connection with the toll bridge:

(1) a permit, grant, franchise, right, or privilege granted or extended by the United States, the United Mexican States, or a state, municipality, or political subdivision of the United States or United Mexican States, for or related to the maintenance or operation of the toll bridge or the collection of a toll or charge for the use of the toll bridge;

(2) an interest in real property in either the United States or the United Mexican States that is held or used for or incident to the maintenance or operation of the toll bridge or an approach to it, or for the use or occupancy of any building or other structure, appurtenance, appliance, road or street, park, grounds, or convenience or facility of any kind relating to or incident to the maintenance or operation of the toll bridge;

(3) a building or other structure, appurtenance, appliance, equipment, convenience, or facility of any kind held or used for or incident to the maintenance or operation of the toll
bridge; or
(4) any other right or property used for or incident
to the maintenance or operation of the toll bridge. (V.A.C.S.
Art. 6795c, Secs. 1 (part), 4 (part)).

Source Law

Sec. 1. [Any county in this State which borders
on a river between the State of Texas and the Republic
of Mexico, acting through its Commissioners Court, is
hereby authorized and empowered . . . to acquire any
existing toll bridge or bridges] with their rights and
franchises and appurtenant properties, by purchase
thereof from the owner or owners thereof . . . .

Sec. 4. The term "toll bridge, with its rights
and franchises and appurtenant properties" as used
herein is hereby defined to mean and include the
physical properties of any such bridge together with
and including all permits, grants, franchises, rights
and privileges, of every kind granted or extended by
the United States of America, or the Congress thereof,
or by the Republic of Mexico, or the Congress thereof
or any department, officer, agency or governmental
authority of either of said Nations; or by any State or
municipality or political subdivision of either or both
of said two (2) Nations; for or in relation to or in
respect of the maintenance or operation of any such
toll bridge, or the collection of tolls, fees and
charges for the use thereof; and including all lands,
right of ways, easements, leaseholds, contractual or
other interests of any kind in the land in either or
both of said two (2) Nations, held or used or in any
manner incident to or for the maintenance, or operation
of any such bridge or the approaches thereto, or for
the use or occupancy of any buildings, structures,
appurtenances, appliances, roads, streets, parks,
grounds, or conveniences and facilities of any kind,
relating or in any manner incident thereto; including
all buildings, structures, appurtenances, appliances,
equipment, conveniences and facilities of every kind,
held or used or in any manner incident to or for the
maintenance and operation of such bridge; and including
all rights and properties of every kind incident to or
used for the maintenance or operation of any such toll
bridge; [provided, however, that any such county, in
exercising the powers herein granted may acquire by
purchase as herein provided] . . . either all or any
part of or any of the respective grants, permits,
franchises, rights, contracts, privileges, easements,
leases, lands, right of ways, buildings, structures,
appurtenances, appliances, equipment, facilities and
other interests and items above-enumerated, as included
within the meaning of the term "toll bridge with its
rights and franchises and appurtenant properties" and
as used in this Act, as the Commissioners Court of any
such county may, in its discretion determine and deem
best.
(1) Section 4, V.A.C.S. Article 6795c, refers to the "Republic of Mexico." The reference to "Republic of Mexico" is replaced by "United Mexican States," the official name of that nation.

(2) Section 4, V.A.C.S. Article 6795c, refers to the "Congress" of the United States or Mexico. The revised law omits the references to the respective congresses because a reference to an act of either nation includes an act of that nation's legislative body.

Sec. 364.003. LIBERAL CONSTRUCTION. This chapter shall be liberally construed to effect its purposes. (V.A.C.S. Art. 6795c, Sec. 22.)

Sec. 22. This Act and all of the terms and provisions thereof shall be liberally construed to effectuate the purposes set forth herein.

[Sections 364.004-364.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATION OF TOLL BRIDGES

Sec. 364.021. APPLICATION OF SUBCHAPTER. This subchapter applies only to a county that acquires a toll bridge under Section 364.001. (New.)

This section providing for the application of Subchapter B of this chapter to counties that acquire a toll bridge under Section 364.001 of this code is added for drafting convenience. The provisions of V.A.C.S. Article 6795c codified in Subchapter B repeatedly use "such counties" or similar expressions to refer to...
counties that acquire toll bridges under that article.

This application section eliminates the awkward expression "such counties" or the repeated use of a longer phrase to describe those counties.

Revised Law

Sec. 364.022. MAINTENANCE AND OPERATION OF TOLL BRIDGES.

(a) A county through the commissioners court of the county may own, hold, control, maintain, and operate the toll bridge and may make or provide for any repairs or improvements to the bridge. To carry out this subsection, the county may acquire property by eminent domain under general law.

(b) The county may:

(1) renew or extend an existing franchise or obtain a new or additional franchise for the toll bridge; and

(2) render services to the public and to the users of the toll bridge.

(c) To accomplish the purposes of this section, the county may enter into and carry out a contract, agreement, or undertaking of any kind required by the United States or the United Mexican States or a department, officer, governmental agency, or public authority of the United Mexican States. (V.A.C.S. Art. 6795c, Sec. 2.)

Source Law

Sec. 2. Any such county thus acquiring any such toll bridge or bridges, through its Commissioners Court, shall have power to maintain and operate same, and to own, hold and control same, and to make or cause to be made any repairs, or improvements thereto, and to such end shall have all rights and privileges of acquiring property by condemnation under the power of eminent domain accruing to counties of this State for public purposes under general law. Any such county thus acquiring any such properties shall have the power to renew or extend any franchise therefor, and to obtain new or additional franchises therefor, and to do any and all things required, or that may be proper or necessary to the maintenance and operation thereof, and conduct of the business thereof, and of rendering the services thereof to the public and to the patrons of said bridge or bridges; and to such end and for such purposes shall have power to make and enter into and to carry out, observe, and perform any and all contracts, agreements, and undertakings, of any and every kind,
required by the United States of America or the Republic of Mexico or any of their departments, officers, or governmental agencies, or the public authorities thereof.

Revisor's Note

(1) Section 2, V.A.C.S. Article 6795c, grants a county authority to "do any and all things required, or that may be proper or necessary to the maintenance and operation" and to the "conduct of the business" of a county toll bridge. The revised law omits these phrases as unnecessary because that authority is included within the general authority to maintain and operate toll bridges retained in the revised law.

(2) Section 2, V.A.C.S. Article 6795c, refers to "the United States of America or the Republic of Mexico or any of their departments, officers, or governmental agencies, or the public authorities thereof." The references to the departments, officers, agencies, or public authorities of the United States are omitted as unnecessary because Section 311.005(9), Government Code (Code Construction Act), provides that "United States" includes a department, bureau, or other agency of the United States. The reference to the "Republic of Mexico" is replaced by "United Mexican States," the official name of that nation.

Revised Law

Sec. 364.023. OPERATING BOARD. The commissioners court of a county by the resolution or order providing for the issuance of bonds under this chapter or by the trust indenture securing those bonds may provide that the toll bridge be operated by an operating board if the court determines that the bridge could be better and more efficiently operated by the board. The operating board:

(1) is appointed as provided by the resolution, order, or trust indenture; and
(2) has the powers granted by the resolution, order, or trust indenture but may not be granted the power of eminent domain or the power to borrow money. (V.A.C.S. Art. 6795c, Sec. 3a.)

Source Law

Sec. 3a. Any such county acquiring any such toll bridge or bridges, upon a determination by the Commissioners Court thereof that the same could be better and more efficiently operated by an operating board, may provide by either the resolution or order providing for the issuance of bonds or the trust indenture securing same that such toll bridge or bridges will be operated by an operating board to be appointed as provided in such resolution, order, or trust indenture and with such powers, except the power of eminent domain and the power to borrow money, as may be granted by such resolution, order, or trust indenture.

Revised Law

Sec. 364.024. RECREATIONAL FACILITIES. (a) A county, in connection with the maintenance and operation of the toll bridge, may acquire real property or another site adjacent to the toll bridge to construct, maintain, or operate a park, recreational grounds or facilities, a camp, quarters, accommodations, or other facility for the use and convenience of the public. The county may manage and regulate those facilities and may adopt and enforce reasonable rules for those facilities.

(b) A county may not acquire property under this section by eminent domain.

(c) The county may impose a fee, rental, or other charge for the use of a facility established under this section. The charge must be just, reasonable, and nondiscriminatory. (V.A.C.S. Art. 6795c, Sec. 5.)

Source Law

Sec. 5. Any such county acquiring any such toll bridge or bridges shall have the power, in connection with the maintenance and operation thereof, to acquire land and a site or sites for the purpose, adjacent to such bridge or bridges, and to construct, maintain and operate parks, recreation grounds and facilities, camps, quarters, accommodations and facilities for the use and convenience of the public; and to fix and enforce and collect fees, rentals and charges for the
use thereof, which shall be just and reasonable and non-discriminatory, as determined by and fixed from time to time by the Commissioners Court of such county; and to make and enforce reasonable rules and regulations therefor, and to manage, control, govern, police and regulate the same but under no event shall the land, site or sites mentioned in this Section be acquired by condemnation under the powers of eminent domain.

Revisor's Note

(1) Section 5, V.A.C.S. Article 6795c, 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.

(2) Section 5, V.A.C.S. Article 6795c, provides for a county to "manage, control, govern, police and regulate" certain recreational facilities. The references to "control" and "govern" are omitted from the revised law because they are included within the meaning of "manage." The reference to "police" is omitted because "police" is included within the meaning of "regulate."

(3) Section 5, V.A.C.S. Article 6795c, allows a county operating a toll bridge to "fix and enforce and collect fees, rentals, and charges." The revised law authorizes the county to "impose" those charges because the power to impose includes the power to fix, enforce, and collect those charges.

[Sections 364.025-364.040 reserved for expansion]

SUBCHAPTER C. BONDS AND FINANCES

Revised Law

Sec. 364.041. TOLLS. (a) A county that acquires a toll bridge under this chapter or that owns or controls any
international toll bridge, by order or resolution of the
commissioners court, may impose tolls and other charges for the use
of the bridge and for the transportation of persons or property,
including passengers, vehicles, or freight and commodities, over
the bridge.

(b) In accordance with any applicable permit or franchise
granted by a governmental authority, the tolls must be just,
reasonable, nondiscriminatory, and sufficient to provide revenue in
an amount that is at least adequate to:

(1) pay all expenses necessary to maintain and operate
the toll bridge or bridges;
(2) make necessary payments and comply with any
applicable permit or franchise;
(3) pay the interest on and principal of all bonds or
warrants issued under this chapter as due;
(4) pay as due all sinking fund or reserve fund
payments agreed to be made in connection with bonds or warrants
issued under this chapter and payable from that revenue;
(5) comply with any agreement made with the holders of
bonds or warrants issued under this chapter or with any person on
behalf of those holders; and
(6) recover a reasonable rate of return on invested
capital.

(c) The commissioners court may use revenue received under
this section in excess of the amounts required by Subsection (b)
to:

(1) establish a reasonable depreciation and emergency
fund;
(2) retire by purchase and cancellation or by
redemption any outstanding bonds or warrants issued under this
chapter;
(3) provide needed budgetary support to local
government for public purposes and the general welfare; or
(4) accomplish the purposes of this chapter.
(d) The commissioners court shall impose tolls and other charges under this section for use of a bridge subject to an encumbrance.

(e) This chapter does not deprive this state, the United States, or any other agency having jurisdiction of its power to regulate or control tolls and other charges to be collected for a purpose listed in Subsection (b) or (c).

(f) Until bonds or warrants issued under this chapter have been paid and discharged, together with all interest on the bonds or warrants, interest on unpaid interest installments on the bonds or warrants, other costs or expenses incurred in connection with any acts or proceedings taken by or on behalf of the holders of the bonds or warrants, and all other obligations of the county incurred in connection with the bonds or warrants, this state pledges to and agrees with the purchasers and successive holders of the bonds or warrants that it will not:

(1) limit or alter the power of a county to impose tolls and other charges under this section sufficient to pay the items listed in Subsection (b) or (c); or

(2) take any action that will impair the rights or remedies of the holders of the bonds or warrants or of persons acting on their behalf. (V.A.C.S. Art. 6795c, Secs. 3 (part), 11 (part).)

Source Law

Sec. 3. Any such county thus acquiring any such toll bridge or bridges or constructing a new toll bridge shall have power, through its Commissioners Court as expressed by appropriate resolution or order thereof, to fix and to enforce and collect tolls, fees and charges for the use thereof, and for the passage or transportation of persons or property, passengers, vehicles, freight and commodities, over and across such toll bridge or bridges. Such tolls, fees and charges shall be fixed from time to time by the Commissioners Court of such county and collected under its direction in accordance with the provisions and requirements of any permits or franchises granted or extended by any governmental authority in respect of or applicable thereto; and, subject to the provisions and requirements of such permits or franchises, such tolls, fees and charges shall be just and reasonable and non-discriminatory, as determined by the Commissioners Court of such county, and, subject to the provisions
and requirements of any such permits and franchises, shall be sufficient to at least produce revenues adequate:

(a) To pay all expenses necessary for the maintenance and operation of such toll bridge or bridges, and to comply with the requirements and make all payments necessary under the provisions of any such permits and franchises therefor;

(b) To pay the interest on and the principal of all bonds and/or warrants issued under this Act, when and as the same shall become due and payable;

(c) To pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds and/or warrants, and, payable out of such revenues, when and as the same shall become due and payable; and

(d) To fulfill the terms of any agreements made with the holders of such bonds and/or warrants and/or with any person in their behalf;

(e) To recover a reasonable rate of return on invested capital;

(f) Out of the revenues which may be received in excess of those required for the purposes specified in (a), (b), (c), (d), and (e) above, the Commissioners Court of any such county may in its discretion use such excess revenues for any or all of the following:

1. to establish a reasonable depreciation and emergency fund;
2. to retire by purchase and cancellation or redemption any outstanding bonds or outstanding warrants issued under the authority of this Act and amendments thereto;
3. to provide needed budgetary support to local government for legitimate public purposes and for the general welfare;
4. to apply the same to accomplish the purposes of this Act and amendments thereto;

(g) . . . Nothing herein shall be construed as depriving the State of Texas or the United States of America, or other appropriate agencies having jurisdiction, of its power to regulate and control tolls and charges to be collected for such purposes, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds and/or warrants issued hereunder that the State will not limit or alter the power hereby vested in any such county and the Commissioners Court thereof to establish and collect such tolls and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c), (d), (e), and (f) of this Section 3 of this Act, or exercise its powers in any way which may impair the rights or remedies of the holders of the bonds and/or warrants, or of any person acting in their behalf until the bonds and/or warrants, together with interest thereon and with interest on unpaid installments of interest and all costs and expenses in connection with any acts or proceedings by or on behalf of the bondholders and/or warrant holders and all other obligations of any such county in connection with such bonds and/or warrants are fully met and discharged.

(h) This section shall apply to international toll bridges now in existence and owned by a county or that may be acquired or controlled by a county in the future.
Sec. 11. ... it shall be the mandatory duty of
the Commissioners Court to impose such tolls and
charges for the use of the bridge or bridges thus
encumbered as will be fully sufficient to satisfy all
the purposes set forth in Section 3 of this Act. ... .

Reviser's Note
(1) Section 3, V.A.C.S. Article 6795c, allows a
county operating a toll bridge "to fix and to enforce
and collect tolls, fees and charges" for the use of the
bridge. The revised law authorizes the county to
"impose" those tolls and other charges because the
power to impose includes the power to fix, enforce, and
collect those charges. The revised law omits the
references to "fees" because that term is included
within the meaning of "tolls and other charges."

(2) The revised law omits as unnecessary the
provision of Section 3(g), V.A.C.S. Article 6795c,
stating that it is the intention of the law that the
tolls, fees, and charges be sufficient to pay the items
listed in Section 3. That provision merely restates
what is already required by Section 3. The omitted
provision reads:

It is the intention of this Act that the
tolls, fees and charges herein provided for
shall be those necessary to fulfill all
obligations imposed by this Act and
amendments thereto, and shall be sufficient
to produce revenues to comply with the
above subparagraphs (a), (b), (c), (d),
(e), and (f).

Revised Law
Sec. 364.042. AUTHORITY TO BORROW MONEY OR ACCEPT FEDERAL
ASSISTANCE. (a) To accomplish the purposes of this chapter, a
county may:

(1) borrow money from any person; or

(2) accept grants from the United States.

(b) In connection with a loan or grant from the United
States, a county may enter into any related agreement that the
United States requires. (V.A.C.S. Art. 6795c, Sec. 6.)

Sec. 6. To accomplish the purposes of this Act, any such county shall have the power to borrow money from any person or corporation, and, without limiting the generality of the foregoing to borrow money and accept grants from the United States of America, or from any corporation or agency created by the United States of America, or designated or empowered to act as agency thereof, and in connection with any such loan or grant, to enter into such agreements as the United States of America or such agency or corporation thereof may require in respect or in relation thereto.

Revisor's Note
(1) Section 6, V.A.C.S. Article 6795c, provides that a county may borrow money from any person or corporation and adds that the county may borrow money from the United States or its agencies. The references to "corporation" and to the federal government or its agencies are omitted from the revised law because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include a corporation, government or governmental agency, or any other legal entity. That definition applies to the revised law.

(2) Section 6, V.A.C.S. Article 6795c, refers to the United States or any corporation or agency created by or authorized to act as an agency of the United States. The references to federal corporations and agencies are omitted from the revised law because under Section 311.005(9), Government Code (Code Construction Act), "United States" includes any department, bureau, or other agency of the United States.

Revised Law
Sec. 364.043. AUTHORITY TO ISSUE BONDS. (a) A county, through the commissioners court, may issue, sell, and deliver negotiable bonds to accomplish the purposes of this chapter. The county may use the bonds or the proceeds of the sale of the bonds
to acquire a toll bridge under this chapter or may exchange the
bonds for property to accomplish the purposes of this chapter.

(b) Bonds issued under this chapter may be authorized by
resolution or order from time to time.

(c) Except as required by Section 364.045, a county by
resolution or order of its commissioners court may issue bonds
under this chapter and use the bonds or proceeds from their sale as
provided by this chapter without:

(1) holding an election to authorize that action;

(2) giving or publishing notice of the county's intent
to take that action; or

(3) advertising or calling for competitive bids in
connection with that action. (V.A.C.S. Art. 6795c, Secs. 7 (part),
11 (part), 19 (part).)

Source Law

Sec. 7. Any such county, through its
Commissioners Court, shall have the power to accomplish
the purposes of this Act, by the issuance, sale and
delivery of its negotiable bonds; which bonds or the
proceeds of the sale thereof may be used to acquire a
toll bridge or bridges by construction, purchase or
otherwise. . . . and which bonds may be exchanged for
property or sold to accomplish any of the purposes of
this Act as herein provided.

Sec. 11. The bonds issued hereunder may be
authorized by resolution or order at one time or from
time to time.

Sec. 19. Such counties may . . . issue such
bonds as are herein provided and may use such bonds or
the proceeds of the sale thereof for the purchase of
any such properties, or to accomplish any other
purposes of this Act by action of its Commissioners
Court as expressed by resolution or order authorizing
and effecting same, and without the necessity of any
referendum, and without the necessity of holding any
election to authorize any such action, and
without the necessity of giving or publishing any
notice of intention . . . to issue any such bonds, and
without the necessity of advertising or calling for any
competitive bids in respect thereto.

Revisor's Note

(1) Section 7, V.A.C.S. Article 6795c, provides
that the bonds or bond proceeds may be used to acquire
a toll bridge "by construction, purchase or otherwise."
Section 1, V.A.C.S. Article 6795c, codified in this chapter as Section 364.001, provides for the means of acquiring a toll bridge. Accordingly, the revised law substitutes a reference to acquisition of a toll bridge "under this chapter" for the phrase "by construction, purchase or otherwise."

Section 7, V.A.C.S. Article 6795c, also describes in detail the purchase of an existing toll bridge, including purchase from a corporation by purchase of the corporation's stock and liquidation of the corporation. The revised law omits as unnecessary the description of the specific means of purchasing an existing toll bridge set out in Section 7, Article 6795c, because those same means are described in Section 1, V.A.C.S. Article 6795c, revised as Section 364.001 of this code. The omitted provision of Section 7 reads:

In the event such bonds or the proceeds thereof are used to purchase any then existing toll bridge with its rights and franchises and appurtenant properties from the owner or owners thereof, or such part or portion thereof as may be purchased by any such county as herein provided for, either by purchase of the properties, as such, or by using such bonds or the proceeds of the sale thereof for the purchase from any owner or owners thereof of the stock of any corporation owning such toll bridge or bridges and for the liquidation and winding up of the business and affairs of such corporation and paying the debts and obligations or liabilities thereof, and all in such manner and to such effect as to vest title to such toll bridge or bridges with their rights and franchises and appurtenant properties for such part or portion thereof as may be purchased, in said county, as provided for herein. . . .

(2) The provisions of Section 19, V.A.C.S. Article 6795c, exempting the issuance of bonds from the requirements of an election and public notice, do not apply to tax or combination bonds authorized by Section 20A of that article, added in 1989, for which an
election and notice of the election are specifically required. Accordingly, the revised law provides an exception from the election and notice exemptions for the combination bonds. The authority to issue those combination bonds is codified from Section 20A as Section 364.045 of this chapter, and the revised law is drafted accordingly.

Revised Law

Sec. 364.044. REVENUE BONDS. (a) Except for bonds issued under Section 364.045, bonds issued under this chapter are not a debt of the county issuing them and are a charge on and payable solely from the revenues of the toll bridge or bridges and appurtenances acquired through the issuance of the bonds, as provided by the bond proceedings.

(b) Revenue bonds issued under this chapter are not considered in determining the authority of a county to issue bonds for any purpose authorized by law.

(c) A revenue bond issued under this chapter must include the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." (V.A.C.S. Art. 6795c, Secs. 9 (part), 11 (part).)

Source Law

Sec. 9. No bonds authorized to be issued by this Act shall ever be a debt of the county issuing them, but shall be solely a charge upon the revenues of the toll bridge or bridges and appurtenances constructed and acquired through the issuance of such bonds and shall never be reckoned in determining the power of the county to issue any bonds for any purpose authorized by law. Each such bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." . . .

Sec. 11. . . . Such bonds shall be payable solely from the revenues to be derived from the operation of the toll bridge or bridges referred to in the bond proceedings . . . .
Revisor's Note
Section 9, V.A.C.S. Article 6795c, provides that bonds issued under that article are payable solely from revenues of the county's toll bridge operations and includes certain other provisions relating to those revenue bonds. However, Section 20A, Article 6795c, added in 1989, provides a method by which combination tax and revenue bonds may be used to construct a toll bridge. Accordingly, the revised law clarifies that revenue bonds are not the exclusive means of financing the construction of a toll bridge under this chapter by limiting the application of the revised law to revenue bonds and excepting the combination bonds issued under Section 364.045 of this chapter, the revised law codifying the provisions of Section 20A, Article 6795c, authorizing the combination tax and revenue bonds.

Revised Law
Sec. 364.045. COMBINATION BONDS AND AD VALOREM TAX TO FINANCE INTERNATIONAL TOLL BRIDGE OR IMPROVEMENT. (a) A county may issue combination tax and revenue bonds to construct all or part of an international toll bridge or other improvement spanning the Rio Grande and may impose an ad valorem tax to pay all or part of the bonds if the issuance of the bonds and the imposition of the tax are approved by a majority of the votes received at an election held in the county for that purpose.

(b) The commissioners court of a county may call an election under this section on its own motion at any regular session of the court. The commissioners court shall call an election under this section at the next regular session of the court following the submission to the court of a petition requesting the election signed by a number of registered voters of the county that is equal to at least one percent of the number of votes cast in the county in the most recent general election for governor.
(c) The election order and notice of election must include:

(1) the purpose for which the bonds are to be issued;
(2) the amount of the bonds;
(3) the rate of interest; and
(4) a statement that unlimited ad valorem taxes are to be imposed annually on all taxable property in the county in amounts sufficient, together with revenues from the county toll bridge or toll bridge system, to pay the bonds at maturity.

(d) The bonds must be made payable from revenues of the county toll bridge or toll bridge system and from ad valorem taxes imposed and collected in accordance with Section 52, Article III, Texas Constitution. The ad valorem taxes must be imposed in amounts that, together with revenues from the county toll bridge or toll bridge system, are sufficient to retire the bonds.

(e) The county may execute an agreement, contract, or trust with a private entity or with the United Mexican States or a political subdivision, department, or agency of the United Mexican States to finance, construct, operate, or maintain an international toll bridge in its entirety or other improvement spanning the Rio Grande. (V.A.C.S. Art. 6795c, Secs. 20A(a), (b), (c) (part), (d).)

Source Law

Sec. 20A. (a) Notwithstanding any other provision of this Act, a county that may issue bonds under Section 7 of this Act may issue combination tax and revenue bonds to construct all or part of an international toll bridge or other improvements spanning the Rio Grande and levy an annual ad valorem tax to repay at least a part of the bonds if the issuance and the levy are approved by a majority of qualified voters of the county voting at an election called and held for that purpose.

(b) The commissioners court of a county on its own motion may at a regular session of the court, or shall, at the regular session of the court following the receipt by the court of a petition signed by the number of qualified voters of the county equal to one percent or more of the total votes cast in the preceding general election for governor, call the election. The election order and notice of election must state the purpose for which the bonds are to be issued, the amount of the bonds, the rate of interest, and the fact that unlimited ad valorem taxes are to be levied annually on all taxable property in the county in amounts sufficient, with the revenues from the county toll bridge or county toll bridge system, to pay the bonds at maturity.
(c) The bonds must be made payable from the revenues of the county toll bridge or county toll bridge system and from ad valorem taxes levied and collected from time to time by the county in accordance with Article III, Section 52, of the Texas Constitution, and in amounts necessary, with the revenues from the county toll bridge or county toll bridge system sufficient to retire the bonds...

(d) The county, in accordance with any applicable requirements of Chapter 262, Local Government Code, may execute an agreement, contract, or trust with a private entity or with Mexico or a political subdivision, department, or agency of Mexico to finance, construct, operate, or maintain an international toll bridge in its entirety or other improvements spanning the Rio Grande.

Revisor's Note

(1) Section 20A(b), V.A.C.S. Article 6795c, requires a petition to be signed by the "qualified voters" of the county. The revised law uses "registered voters" instead because Section 277.0021, Election Code, provides that "qualified voters" means "registered voters" in determining the validity of a petition.

(2) Section 20A(d), V.A.C.S. Article 6795c, provides that action taken under that section must be taken "in accordance with any applicable requirements of Chapter 262, Local Government Code," which covers county purchasing and competitive bidding generally. The reference to Chapter 262 is omitted as unnecessary. The applicable provisions of that chapter apply by their own terms to action taken under Section 20A or any other law to the extent it does not conflict with the other law.

(3) The reference in Section 20A(d), V.A.C.S. Article 6795c, to "Mexico" is replaced in the revised law by "United Mexican States," the official name of that nation.

(4) Section 20A(c), V.A.C.S. Article 6795c, provides that the combination bonds must be issued in accordance with the applicable provisions of the Bond
Procedures Act of 1981 (V.A.C.S. Art. 717k-6) and
V.A.C.S. Article 717k-8 that do not conflict with
Section 20A. That provision is omitted from the
revised law because those statutes by their own terms
apply to all bonds issued by a county. The statement
that only those provisions of Articles 717k-6 and
717k-8 that do not conflict with Section 20A apply to
the combination bonds is unnecessary because any
specific conflicting provisions in Section 20A would
take precedence over the general law provided by
Articles 717k-6 and 717k-8 according to general rules
of statutory construction. The omitted provision
reads:

The bonds must be issued in accordance with
the applicable provisions of the Bond
Procedures Act of 1981 (Article 717k-6,
Vernon's Texas Civil Statutes) and Article
3, Chapter 53, Acts of the 70th
Legislature, 2nd Called Session, 1987
(Article 717k-8, Vernon's Texas Civil
Statutes), that do not conflict with this
section.

Revised Law
Sec. 364.046. MORTGAGE OR PLEDGE OF REVENUE TO SECURE BONDS.
To accomplish any of the purposes of this chapter, a county
authorized to issue bonds under this chapter with respect to those
bonds may:

(1) mortgage or pledge:

(A) all or part of any interest in the county's
toll bridge or bridges, together with any associated right or
property described by Section 364.002, or any other property
acquired or to be acquired with the bonds or the proceeds of the
sale of the bonds; or

(B) all or part of the net or gross revenues of
any property described by Paragraph (A);

(2) secure the payment of the principal and interest
on the bonds and of the sinking fund and reserve fund agreed to be
established in connection with the bonds; and

(3) enter into any covenant or agreement with the
purchasers of the bonds or any person on behalf of those purchasers
with respect to the bonds to secure the payments described by
Subdivision (2) and to provide rights and remedies to the
purchasers or holders of the bonds or any person on their behalf as
the commissioners court may provide by order or resolution.

(V.A.C.S. Art. 6795c, Sec. 8.)

Source Law

Sec. 8. Any such county shall have the power, in
respect to any such bonds issued in pursuant of the
provisions of this Act to accomplish all or any of the
purposes of this Act, to mortgage or pledge all or any
part of or any interest in the said toll bridge or
bridges, with their rights and franchises and
appurtenant properties, or any other properties
acquired or to be acquired with such bonds or the
proceeds of the sale thereof, and all or any part of
the gross or net revenues thereafter received by such
county for or in respect of any such properties so
acquired or to be acquired by such county with such
bonds or the proceeds of the sale thereof; to secure
the payment of the principal of and interest on such
bonds, and of such sinking fund and reserve fund agreed
to be made in respect of such bonds and to make and
enter into such covenants and agreements with the
purchasers of such bonds or any person in their behalf
in respect thereto and for securing the payment thereof
and for providing rights and remedies to the owners and
holders of any such bonds or to any person in their
behalf, as the Commissioners Court of any such county
may in its discretion approve, determine and provide by
appropriate resolution or order adopted for such
purposes; all in accordance with the provisions of this
Act.

Revisor's Note

The last clause of Section 8, V.A.C.S. Article
6795c, provides that the actions authorized by that
section must be carried out in accordance with the
provisions of that article. That clause is omitted
from the revised law as unnecessary. Under general
rules of statutory construction, all the applicable
provisions of a statute are to be construed together.
Accordingly, any action taken under Section 8 must be
taken in accordance with other applicable provisions in
Sec. 364.047. ADDITIONAL BONDS. (a) A county that has outstanding bonds payable from the revenue of a toll bridge or bridges may issue additional bonds to the extent and under the conditions prescribed by the provisions of the outstanding bonds and the proceedings related to those bonds, including any trust indenture securing those bonds. The additional bonds may be secured by a pledge of and a lien on the net revenues of the bridge or bridges on a parity with the outstanding bonds under the conditions set out in the proceedings or trust indenture securing and authorizing the outstanding bonds.

(b) A county that has acquired a toll bridge or bridges under this chapter may, in the manner provided by this chapter for the issuance of original bonds, issue and deliver subsequent bonds to repair, improve, reconstruct, or replace a toll bridge. The issuance of bonds under this subsection is subject to the restrictions contained in the resolution or order of the commissioners court authorizing the original bonds and in the deed of indenture, if any, securing the issuance of the original issue of bonds. (V.A.C.S. Art. 6795c, Sec. 10.)

Source Law

Sec. 10. When any county has bonds outstanding payable from the revenues of any toll bridge or bridges, additional bonds may be issued to the extent and under the conditions prescribed by the provisions of the outstanding bonds and the proceedings relating thereto including the provisions of any trust indenture securing such outstanding bonds, and any such additional bonds may be secured by a pledge of and lien on the net revenues of the bridge or bridges on a parity with such outstanding bonds to the extent, in the manner, and under the conditions set out in the proceedings and/or the trust indenture securing and authorizing such previously issued and outstanding bonds. After any such county shall have acquired a toll bridge or bridges under the provisions of this Act it may in the manner herein prescribed with relation to the issuance of original bonds, issue and deliver subsequent bonds for the purpose of repairing or improving or reconstructing or replacing a toll bridge or bridges, or for any one or more of such purposes, subject only to the restrictions contained in the resolution or orders of the Commissioners Court.
authorizing the original bonds and in the deed of indenture, if any, securing such original issue of bonds.

Revised Law

Sec. 364.048. TERMS OF BONDS; NEGOTIABILITY. (a) The commissioners court may prescribe the terms and conditions of bonds issued under this chapter and determine the manner of their sale. The commissioners court by order or resolution shall determine:

1. the aggregate principal amount or amounts of the bonds;
2. the denominations of the bonds;
3. the date or dates of maturity;
4. the rate or rates of interest;
5. whether the bonds are payable annually or semiannually, and on what dates;
6. the form of the bonds;
7. the terms, provisions, and conditions of the bonds;
8. whether the bonds are coupon or registered bonds, and any registration privileges;
9. provisions for the call or redemption of the bonds before maturity; and
10. the place or places, in or outside of this state, at which the bonds are payable.

(b) Bonds issued under this chapter have all the qualifications and incidents of negotiable instruments as provided by the law of this state. (V.A.C.S. Art. 6795c, Secs. 11 (part), 14.)

Source Law

Sec. 11. ... The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof. All bonds issued hereunder shall and are hereby declared to have all of the qualifications and incidents of negotiable instruments under the Negotiable Instrument Law of Texas. ...

Sec. 14. Any such bonds issued by any such county in pursuance of and to accomplish the purposes
of this Act, shall be in such aggregate principal amount or amounts, of such denominations, shall bear such date or dates, and be of such maturities, bearing interest at such rate or rates, not exceeding six per cent (6%) per annum, payable annually or semiannually on such respective dates, in such form, containing such terms, provisions and conditions, either coupon or registered, with such registration privileges, such provisions for the call or redemption thereof before maturity, payable at such place or places within or without the State of Texas, as the Commissioners Court of any such county may in its discretion approve and determine and provide by resolution or order adopted for such purposes.

Reviser's Note

(1) Section 14, V.A.C.S. Article 6795c, provides a maximum interest rate of six percent for bonds issued under that article. The maximum rate is omitted from the revised law because it is superseded by V.A.C.S. Article 717k-2, enacted in 1969. Article 717k-2 establishes a maximum interest rate for all public securities issued by public agencies.

(2) Section 11, V.A.C.S. Article 6795c, refers to the "Negotiable Instrument Law of Texas." That reference is obsolete, since the laws governing negotiable instruments were replaced by the applicable provisions of the Uniform Commercial Code. Accordingly, the reference is revised to a general reference to the law governing negotiable instruments.

Revised Law

Sec. 364.049. SALE OR EXCHANGE OF BONDS. A bond issued under this chapter may be:

(1) sold for cash at a public or private sale at a price determined by the commissioners court;

(2) issued on terms determined by the commissioners court in exchange for property of any kind or an interest in property of any kind, as the commissioners court determines is necessary and proper to accomplish a purpose of this chapter; or

(3) issued in exchange for a bond of the same issue,
matured or unmatured, in the same principal amount. (V.A.C.S. Art. 6795c, Sec. 15.)

Source Law

Sec. 15. Any bonds issued by such county in pursuance of and to accomplish the purposes of this Act may either be:

(a) Sold for cash, at private or public sale, at such price or prices as the Commissioners Court of such county may determine, provided that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed six per cent (6%); or

(b) May be issued on such terms as the Commissioners Court of any such county shall determine in exchange for property of any kind, real, personal or mixed, or any interest therein, which the Commissioners Court of such county shall determine to be proper and necessary to accomplish any of the purposes of this Act; or

(c) May be issued in exchange for like principal amount of any other bonds of such issue matured or unmatured.

Revisor's Note

(1) Section 15, V.A.C.S. Article 6795c, provides a maximum interest rate of six percent for bonds issued under that article. The maximum rate is omitted from the revised law because it is superseded by V.A.C.S. Article 717k-2, enacted in 1969. Article 717k-2 establishes a maximum interest rate for all public securities issued by public agencies.

(2) Section 15, V.A.C.S. Article 6795c, refers to "property of any kind, real, personal or mixed." The phrase "real, personal or mixed" is omitted from the source law as unnecessary because those forms of property are covered by the term "property of any kind."

Revised Law

Sec. 364.050. TRUST INDENTURE. (a) Bonds issued under this chapter may be secured by a trust indenture between the county and a corporate trustee that is a trust company or a bank that has the powers of a trust company.
The trust indenture may:

1. Pledge or assign the tolls, charges, and revenues from the operation of the toll bridge or bridges; or
2. Mortgage all or part of the toll bridge or bridges. (V.A.C.S. Art. 6795c, Sec. 11 (part).)

Source Law

If so provided by the Commissioners Court bonds may be secured by a trust indenture by and between the county and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the State of Texas. Such trust indenture may either pledge or assign the tolls, fees and revenues or mortgage the bridge or bridges or any part thereof, or both.

Revisor's Note

Section 11, V.A.C.S. Article 6795c, refers to a trust company or bank having the powers of a trust company "within or outside of the State of Texas." The revised law omits the phrase "within or outside of the State of Texas" as unnecessary because a county may enter into a trust agreement with a corporate trustee that is not located in this state in the absence of an express prohibition.

Revised Law

Sec. 364.051. DEPOSITORY OF BOND PROCEEDS AND OTHER REVENUE.

(a) Any bank or trust company in this state may be the depository of the proceeds of bonds issued under this chapter or revenues derived from the operation of a toll bridge acquired under this chapter.

(b) The cash proceeds of the sale shall be deposited in the depository and shall be paid under the terms and conditions agreed on by the commissioners court and the purchasers of the bonds.

(c) A depository may furnish the indemnity bonds or pledge the securities required by the county. (V.A.C.S. Art. 6795c, Secs. 11 (part), 12.)
Sec. 11. ... It shall be lawful for any bank or trust company in this State to act as depository of the proceeds of the bonds or revenues derived from the operation of the bridge or bridges and to furnish such indemnity bonds or to pledge such securities as may be required by the county.

Sec. 12. If such bonds are sold for cash, the proceeds of the sale thereof shall be deposited in such depository and shall be paid out pursuant to such terms and conditions, as may be agreed upon between the Commissioners Court and the purchasers of such bonds.

Sec. 364.052. RIGHTS OF BONDHOLDERS; RECEIVERS. (a) The trust indenture or the order or resolution authorizing the issuance of bonds under this chapter may include provisions to protect and enforce the rights and remedies of bondholders, including covenants determining the duties of the county in relation to:

(1) the acquisition of properties and the construction, maintenance, operation, repair, and insurance of the toll bridge or bridges; and

(2) the custody, safekeeping, and disposition of the county's toll bridge revenues.

(b) The holder of a bond issued under this chapter, including the trustee for a bondholder, in addition to all other rights may by mandamus or other judicial proceeding enforce the bondholder's rights against the county and its officers and employees, including the right to:

(1) require the county and its commissioners court:

   (A) to impose and collect sufficient tolls and charges to carry out the agreements contained in the bond resolution or order or the trust indenture; or

   (B) to perform each agreement or covenant in the bond resolution or trust indenture and each duty arising from the agreement or covenant; or

(2) apply for and obtain the appointment of a receiver for the toll bridge or bridges.

(c) A receiver appointed under this section may enter and
take possession of and maintain a toll bridge and collect all
revenues and tolls derived from the bridge in the same manner as
the county. The receiver shall apply the money collected under
this subsection in accordance with the county's obligations under
the bond resolution or order or under the trust indenture and as
the court may direct. (V.A.C.S. Art. 6795c, Secs. 11 (part), 13.)

Source Law

Sec. 11. ... Either the resolution or order
providing for the issuance of the bonds or the trust
indenture securing same 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 county with relation to the acquisition
of properties and the construction, maintenance,
operation, repair and insurance of the bridge or
bridges and the custody, safeguarding, and application
of all moneys...

Sec. 13. Any holder or holders of bonds issued
hereunder, including the Trustee or Trustees for such
holders, shall have the right in addition to all other
rights, by mandamus or other proceedings in any court
of competent jurisdiction to enforce his or their
rights against the county and its officers and
employees including, but not limited to, the right to
require the county and its Commissioners Court to
impose and collect sufficient tolls and charges to
carry out the agreements contained in the bond
resolution or trust indenture, and to perform all
agreements and covenants therein contained and duties
arising therefrom, and to apply for and obtain the
employment of a receiver for the bridge or bridges. If
such receiver be appointed, he may enter and take
possession of such bridge or bridges and maintain them
and collect and receive all revenues and tolls arising
therefrom in the same manner as the county itself might
do and shall dispose of such moneys and apply same in
accordance with the provisions of the county's
obligations under the bond resolution or order or trust
indenture and as the court may direct.
Revisor's Note

(1) Section 11, V.A.C.S. Article 6795c, refers to provisions of an agreement, order, 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, order, or resolution may not contain an enforceable provision that is improper or that violates other law.

(2) Section 13, V.A.C.S. Article 6795c, refers to proceedings brought "in a court of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may be brought only in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

(3) Section 13, V.A.C.S. Article 6795c, 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.

Revised Law

Sec. 364.053. REFUNDING BONDS. The commissioners court by resolution or order may issue bonds to refund outstanding bonds that were issued under this chapter, subject to any restriction in the bond resolutions or orders or in the trust indentures relating to the issuance of the bonds. (V.A.C.S. Art. 6795c, Sec. 17.)
Sec. 17. Subject to any restrictions which may appear in the bond resolutions or orders or in the trust indentures pertaining to the issuance of bonds hereunder, the Commissioners Court may by resolution or order provide for the issuance of bonds for the purpose of refunding any bonds issued under this Act and at the time outstanding.

Sec. 364.054. TAX EXEMPTIONS; PAYMENTS IN LIEU OF TAXES.

(a) A county carrying out this chapter may not be required to pay an assessment on property acquired under this chapter.

(b) Bonds issued under this chapter, the transfer of those bonds, and income from those bonds, including profits from their sale, are exempt from taxation in this state.

(c) A county that purchases a toll bridge under this chapter from a private owner may make payments, in amounts determined by the commissioners court, in lieu of ad valorem taxes previously paid by the owner to any common or independent school district in which the property is located. The payments are considered operating expenses of the toll bridge for purposes of this chapter.

(V.A.C.S. Art. 6795c, Sec. 16.)

Sec. 16. The accomplishment of the purposes stated in this Act being for the benefit of the people of this State and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the properties acquired hereunder or on any part thereof and the bonds issued hereunder and their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within this State. It is provided, however, that any such county which may acquire any such toll bridge or bridges by purchase from private owner or owners thereof may make payments in lieu of ad valorem taxes previously paid by such private owner or owners to any common or independent school district in which such properties are situated. Any payments so made shall be in such amounts as may be determined upon by the Commissioners Court and shall be considered as an operation expense for all purposes of this Act.
Revisor's Note

(1) Section 16, V.A.C.S. Article 6795c, states that carrying out the purposes of that article is "an essential governmental function" that is "for the benefit of the people of this State and for the improvement of their commerce and property." The revised law omits those provisions because they are unnecessary and have no effect. The recitation does not affect whether the establishment and operation of toll bridges under this chapter is in fact an essential governmental function.

(2) Section 16, V.A.C.S. Article 6795c, states that a county may not be required to pay a tax on properties acquired under that article. The revised law omits that provision because Section 9, Article XI, Texas Constitution, provides that all county property owned and held for a public purpose is exempt from taxation. The policy of the legislative council's statutory revision program is to omit from the revised codes a statutory provision that duplicates a provision of the constitution because the duplicative provision 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.

Revised Law

Sec. 364.055. LIMITATIONS ON COUNTY AUTHORITY. Except as provided by Section 364.045, this chapter does not authorize a county to:

(1) impose or collect a tax or assessment or pledge the credit of this state; or

(2) issue, sell, or deliver a bond, create an obligation, incur a liability, or enter an agreement to be paid,
performed, met, or discharged using any tax or assessment.

(V.A.C.S. Art. 6795c, Sec. 20 (part).)

Source Law

Sec. 20. Nothing in this Act shall authorize any such county acting in pursuance hereof or to accomplish any of the purposes hereof, to levy or collect any taxes or assessments therefor or in any respect thereto or to pledge the credit of the State in any manner; or to issue or sell or deliver any bonds or to create any obligations of any kind or to incur any liabilities of any kind or to make or enter into any contracts or agreements of any kind, to be paid or performed or met or discharged out of or from any taxes or assessments.

Reviser's Note

Section 20, V.A.C.S. Article 6795c, provides that that article does not authorize a county to impose a tax or assessment or to incur general obligations or public debt backed by taxes or assessments. Section 20A of that article, enacted in 1989, specifically provides for bonds to be paid in part by ad valorem taxes and for an ad valorem tax to pay those bonds. Accordingly, the revised law includes an exception for the bonds and tax authorized by Section 20A, revised in this chapter as Section 364.045.

Reviser's Note

(End of Subchapter)

(1) The revised law omits the portion of Section 9, V.A.C.S. Article 6795c, relating to the submission of bonds to the attorney general for approval, the registration of bonds with the comptroller, and the incontestability of approved and registered bonds because V.A.C.S. Article 717k-8 provides substantively identical provisions applicable to all local government bonds. The omitted provisions of Section 9 read:

Bonds issued hereunder may be presented to the Attorney General for his approval and if such bonds have been issued in accordance with the Constitution and laws of this State, they shall be approved by the Attorney General and shall be
registered by the Comptroller of Public
Accounts in the same manner as provided for
the approval of tax bonds issued by
counties of this State. After such
approval and registration the bonds shall
be incontestable.

(2) The revised law omits Section 18, V.A.C.S.
Article 6795c, relating to the status of bonds issued
under that article as authorized investments and as
security for deposits because Section 9, V.A.C.S.
Article 717k-6, contains the same provisions applicable
to all counties and other public entities in Texas.
The omitted section reads:

Sec. 18. All bonds issued under the
law 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 or
other political corporations or
subdivisions of the State of Texas,
including the State Permanent School Fund;
and such bonds shall be lawful and
sufficient security for such deposits to
the extent of their par value, when
accompanied by all unmatured coupons
appurtenant thereto.

(3) The revised law omits the second sentence of
Section 20, V.A.C.S. Article 6795c, which provides
that the authority granted by that article for a county
to authorize or issue bonds is full authority in itself
and that a county is not impeded or restricted in
issuing bonds or handling their proceeds by any other
statute, because that sentence is unnecessary. Under
general rules of statutory construction, the specific
provisions of Article 6795c, revised as this chapter,
would prevail over any general statute on the same
subject. In addition, that sentence would not be
effective to prevent the legislature from enacting a
subsequent statute that was intended to supersede the
provisions of this chapter. The omitted sentence of
Section 20, V.A.C.S. Article 6795c, reads:

This Act shall constitute full authority for the authorization and issuance of bonds hereunder and no other act or law with regard to the authorization or issuance of obligations, or the deposit of the proceeds thereof in any way impeding or restricting the carrying out of the acts and things herein authorized to be done shall be construed as applying thereto or to any acts or proceedings taken hereunder and acts or things done pursuant hereto and for the accomplishment of the purposes of this act.

(4) Section 20A(e), V.A.C.S. Article 6795c, validated certain agreements, contracts, and trusts of a county made in connection with the financing, construction, operation, or maintenance of an international toll bridge or other improvements. This provision is omitted from the revised law because it served its purpose on the day it took effect and thus is executed law. Section 311.031(a)(2), Government Code (Code Construction Act), applicable to the revised law, provides that the repeal of a statute does not affect any validation previously made under the statute. The omitted provision reads:

(e) An agreement, contract, or trust executed before the effective date of this section by a county with a private entity, Mexico, or a political subdivision, department, or agency of Mexico to finance, construct, operate, or maintain an international toll bridge is validated as of the date the agreement, contract, or trust was executed. This subsection does not apply to any matter that on the effective date of this section:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or 

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

Revisor's Note
(End of Chapter)

The revised law omits as unnecessary Section 21, V.A.C.S. Article 6795c, 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 Section 21 reads:

Sec. 21. This Act is declared
cumulative of all other acts and laws; and
the powers, rights, privileges and
functions hereby conferred on any such
county, shall not prevent the exercise by
any such county of any and all other
powers, rights, privileges, or functions
conferred upon such county by any other act
or law now existing or hereafter enacted.

CHAPTER 365. ROAD DISTRICT TOLL ROADS

SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 365.001. DEFINITIONS. In this chapter:

(1) "Bonds" means tax bonds, tax and revenue bonds, revenue bonds, tax anticipation notes, revenue anticipation notes, grant anticipation notes, or a combination of those evidences of indebtedness.

(2) "District" means a district created under Chapter 441 or Subchapter B, Chapter 257.

(3) "Toll road project" means a road, street, highway, or turnpike constructed under this chapter and includes:

(A) a necessary bridge, overpass, underpass, interchange, entrance plaza, approach, toll structure, or service station;

(B) an administration, storage, or other necessary building; and

(C) property rights, easements, and interests acquired in connection with the project. (V.A.C.S. Art. 6674r-1, Secs. 12A(b) (part), (d)(1) (part).)

(b) In this section:

(3) "District" means a district created by the commissioners court of a county pursuant to Chapter 288, Acts of the 68th Legislature, Regular Session, 1983 (Article 6702-1, Vernon's Texas Civil Statutes), or a road utility district.

(4) "Road" means a bridge, road, street, highway, or turnpike.
Any district is authorized to construct a toll road, including all necessary interchanges, overpasses, underpasses, entrance plazas, toll structures, service stations, approaches, fixtures, accessories, equipment, and administration, storage, and other necessary buildings, together with all property rights, easements, and interests acquired in connection therewith, and is authorized to issue tax bonds, tax and revenue bonds, revenue anticipation notes, or a combination thereof (herein called bonds).

Revisor's Note

(1) Section 12A, V.A.C.S. Article 6674r-1, refers to "a district created by the commissioners court of a county pursuant to Chapter 288, Acts of the 68th Legislature, Regular Session, 1983 (Article 6702-1, Vernon's Texas Civil Statutes)." The relevant portion of that statute is codified in this code as Subchapter B, Chapter 257. The revised law is drafted accordingly. The reference to creation of the district by the commissioners court is omitted because any district created under that act is created by a commissioners court.

(2) Section 12A(b), V.A.C.S. Article 6674r-1, contains a definition of "road." That definition is omitted and the elements of the definition are contained in the definition of "toll road project."

(3) The definition of "commission" in Section 12A, V.A.C.S. Article 6674r-1, is omitted from the revised law because the term is not used again. The omitted definition reads:

   (1) "Commission" means the State Highway and Public Transportation Commission.

(4) The definitions of "County Toll Road Act" and "Road Utility District Act" contained in Section 12A, V.A.C.S. Article 6674r-1, are omitted from the revised law. Those acts are revised as Chapters 284
and 441 of this code, respectively. The revised law substitutes a cross-reference to the appropriate chapter at each place one of those acts is mentioned.

The omitted definitions read:

(2) "County Toll Road Act" means Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes).

(6) "Road Utility District Act" means this Act.

(5) The definition of "Road utility district" contained in Section 12A, V.A.C.S. Article 6674r-1, is omitted from the revised law. The term is defined as a district created under "this Act," meaning V.A.C.S. Article 6674r-1, the relevant part of which is revised as Chapter 441 of this code. The term is used only in the definition of "district." The revised law makes it clear that the term "district" includes a district created under Chapter 441 of this code. The omitted definition reads:

(5) "Road utility district" means a road utility district created pursuant to the provisions of this Act.

Revised Law
Sec. 365.002. APPLICABILITY. This chapter applies only to a county with a population of 175,000 or more. (V.A.C.S. Art. 6674r-1, Sec. 12A(a).)

Source Law
Sec. 12A. (a) This section applies only to a county with a population of 175,000 or more, according to the most recent federal decennial census.

Revisor's Note
Section 12A, V.A.C.S. Article 6674r-1, 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.
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.

Revised Law

Sec. 365.003. DESIGNATION AS PART OF ROAD SYSTEM. A district may act to have a toll road become part of the state highway system or part of the road system of a county or municipality. (V.A.C.S. Art. 6674r-1, Sec. 12A(c)(2).)

Source Law

(2) A district may seek to have a road project designated as a part of the state highway system by the State Department of Highways and Public Transportation or part of the road system or road system of a county or municipality and take any such action as is necessary to accomplish such purpose.

Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, refers to designation of a road "as a part of the state highway system by the State Department of Highways and Public Transportation." The revised law omits the reference to the State Department of Highways and Public Transportation (now the Texas Department of Transportation) because under V.A.C.S. Article 6665 (revised as Section 201.103 of this code) that department is responsible for designating a road as part of the state highway system.

Revised Law

Sec. 365.004. USE OF CERTAIN INTEREST. A district may use interest earned on its construction account for a purpose for which the district's financing documents permit the construction account to be used. For this purpose, the district's governing body may
redeposit into the construction account any interest that has been
transferred to the credit of an interest and sinking account.
(V.A.C.S. Art. 6674r-1, Sec. 12A(c)(1).)

Source Law

(c)(1) A district may utilize interest earned on
its construction account to accomplish the purposes of
the construction account set out in the financing
documents of the district and if such interest has been
transferred to an interest and sinking account, the
board of directors may order it redeposited into its
construction account to be used for such purposes
stated in the financing documents as specified in the
financing documents, to the extent such funds have not
been utilized to pay the debt service on any district
obligation.

Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, refers to
a district's "board of directors." Because "board of
directors" is not a defined term, and because a road
district created under the County Road and Bridge Act
(V.A.C.S. Article 6702-1), revised as Chapter 257 of
this code, is governed by the commissioners court of
the county in which the district is located, the
revised law substitutes the more descriptive term
"governing body." The term "governing body" also
includes the board of directors of a road utility
district.

[Sections 365.005-365.010 reserved for expansion]

SUBCHAPTER B. PROVIDING TOLL ROAD

Revised Law

Sec. 365.011. AUTHORITY TO PROVIDE TOLL ROAD. A district
may construct, acquire, improve, operate, repair, maintain, and
finance a toll road project. (V.A.C.S. Art. 6674r-1,
Sec. 12A(d)(1) (part).)

Source Law

(d)(1) Any district is authorized and empowered
to construct, acquire, improve, operate, repair,
maintain, finance, and refinance a toll road . . . .
Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, allows a district to "finance, and refinance" a toll road project. The reference to "refinance" is omitted from the revised law because "refinance" is included within the meaning of "finance."

Revised Law

Sec. 365.012. TOLL ROAD DISTRICT POWERS. In exercising its authority under Section 365.011, a district has the powers of a county owning or operating a toll project under Chapter 284 regardless of whether the district is in a county to which that chapter applies. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(1) (part).)

Source Law

In constructing, acquiring, improving, extending, repairing, operating, maintaining, financing, or refinancing a toll road project, a district shall have all of the rights, powers, and privileges of a county owning or operating a toll project pursuant to the provisions of the County Toll Road Act, even though the district may not be located in a county described in the County Toll Road Act.

Revisor's Note

(1) Section 12A, V.A.C.S. Article 6674r-1, refers to a district's "rights, powers, and privileges." The references to "rights" and "privileges" are omitted from the revised law because those terms are included within the meaning of "powers."

(2) Section 12A, V.A.C.S. Article 6674r-1, refers to the County Toll Road Act, meaning Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 284, and the revised law is drafted accordingly.
Sec. 365.013. NATURE AND LOCATION OF ROAD AND STRUCTURE.

(a) A toll road must be all or part of a state highway or a major arterial road that connects two state highways, two federal highways, or a combination of state and federal highways.

(b) A district may not construct a toll structure within two miles of the intersection of the toll road and a federal highway.

(V.A.C.S. Art. 6674r-1, Secs. 12A(d)(1) (part), (f) (part).)

Sec. 365.014. RIGHT OF FREE ACCESS OR PASSAGE. A district operating a toll road shall give to property that had access to and right of free passage on the road on or before August 28, 1989:

(1) free access to the toll road; or

(2) an alternative right of passage. (V.A.C.S. Art. 6674r-1, Sec. 12A(f) (part).)

(f) Properties that have access to and right of free passage on a road on and prior to the effective date of this Act shall be given free access to such road or an alternative right of passage by any district proposing to operate a toll road on such road . . . .

Section 12A, V.A.C.S. Article 6674r-1, refers to "the effective date of this Act." The revised law substitutes August 28, 1989, which is that effective date.

Sec. 365.015. USE OF PROPERTY OF GOVERNMENTAL ENTITY. (a)
Notwithstanding any other law, a district may use for a toll road project any real property, right-of-way, or other property of a governmental entity regardless of when or how the property is acquired.

(b) The governing body of a governmental entity may, without advertising, convey title to or rights or easements in property needed for a toll road project. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(6).)

Source Law

(6) Notwithstanding any other provision of law, the district may use any land, rights-of-way, or other property of a governmental entity, regardless of when or how the property is acquired, for a toll road project. The governing body of a governmental entity, without any form of advertisement, may convey title or right and easements to any property needed for a toll road project.

Revisor's Note

(End of Subchapter)

The revised law omits a provision of Section 12A(d)(1), V.A.C.S. Article 6674r-1, giving a district governed by that section the same powers as a toll road corporation created under Chapter 11, Title 32, Revised Statutes. That chapter was repealed by Section 28, Chapter 766, Acts of the 72nd Legislature, Regular Session, 1991. Section 16B, V.A.C.S. Article 15281 (revised as Section 431.073 of this code), contains a provision that grants toll road corporation powers to a transportation corporation created under that article and that is substantially similar to the omitted provision of Section 12A, V.A.C.S. Article 6674r-1. In Section 29 of the act that repealed Chapter 11, Title 32, Revised Statutes, the legislature provided that the repeal did not affect the grant of powers made by Section 16B, V.A.C.S. Article 15281, but was silent concerning the similar grant contained in Section 12A(d)(1), V.A.C.S. Article 6674r-1. For this reason
the legislature did not intend the grant contained in
Section 12A(d)(1) to continue after the repeal of
Chapter 11, Title 32, Revised Statutes. The omitted
provision reads:

A district shall also have all of the
rights, powers, privileges, and authority
given by the general laws of this state to
toll road corporations created pursuant to
the provisions of Chapter 11, Title 32,
Revised Statutes; provided, however, the
required right-of-way of any toll road
project may be of the width required or
approved by the district.

[Sections 365.016-365.030 reserved for expansion]

SUBCHAPTER C. FINANCIAL PROVISIONS

Revised Law

Sec. 365.031. AUTHORITY TO ISSUE BONDS. A district may
issue bonds to finance a toll road project:

(1) to the extent and for the purpose a county may pay
the cost of a project under Chapter 284; and

(2) as provided by Chapter 656, Acts of the 68th
Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas
Civil Statutes). (V.A.C.S. Art. 6674r-1, Secs. 12A(d)(1) (part),
(3) (part).)

Source Law

[(d)(1)] ... and is authorized to issue
its ... bonds ... to pay the cost
thereof ... Any district may issue its bonds to
finance or refinance the cost of a toll road project to
the extent and for the purpose a county may pay the
cost of a project pursuant to and in accordance with
the provisions of the County Toll Road Act....

[(3)] ... The district's bonds may be issued in
accordance with the provisions of the Bond Procedures
Act of 1981 (Article 717k-6, Vernon's Texas Civil
Statutes), and Chapter 656, Acts of the 68th
Legislature, Regular Session, 1983 (Article 717q,
Vernon's Texas Civil Statutes)....

Revisor's Note

(1) Section 12A, V.A.C.S. Article 6674r-1,
allows a district to "finance or refinance" a project.
The revised law omits the reference to "refinance" for the reason stated in the reviser's note to Section 365.011 of this code.

(2) Section 12A, Article 6674r-1, refers to the County Toll Road Act, meaning Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 284, and the revised law is drafted accordingly.

(3) Section 12A, V.A.C.S. Article 6674r-1, provides that the district's bonds may be issued in accordance with the provisions of the Bond Procedures Act of 1981 (V.A.C.S. Article 717k-6). The revised law omits this reference because the bond procedures act by its own terms applies to those bonds.

Revised Law
Sec. 365.032. BOND ELECTION. (a) Bonds issued under this chapter that are payable from ad valorem taxes must be approved at an election held as provided by Chapters 284 and 441.

(b) An election is not necessary for the issuance of bonds under this chapter, including refunding bonds, payable only from district revenues. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(3) (part).)

Source Law
(3) No election shall be necessary to authorize the issuance of any bonds including refunding bonds issued hereunder solely from district revenues; however, bonds payable from ad valorem taxes shall be approved at an election held in accordance with the provisions of the Road Utility District Act and the County Toll Road Act. . . .

Reviser's Note
(Article 6674r-1, Vernon's Texas Civil Statutes), and the County Toll Road Act, meaning Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes). Those statutes are codified in this code as Chapters 441 and 284, respectively, and the revised law is drafted accordingly.

**Revised Law**

Sec. 365.033. SALE OF BONDS. The district may sell bonds under this chapter in the manner, at public or private sale, and for the prices that the district's governing body determines is in the district's best interest. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(3) (part).)

**Source Law**

Bonds authorized to be issued under this Act may be sold in such manner, either at public or private sale and for such prices as the board may determine to be in the best interests of the district....

**Revisor's Note**

Section 12A, V.A.C.S. Article 6674r-1, refers to a district's "board." The revised law substitutes "governing body" for the reason stated in the revisor's note to Section 365.004 of this code.

**Revised Law**

Sec. 365.034. BOND SECURITY. Bonds issued under this chapter may be secured by a trust indenture between the district and a corporate trustee that is a trust company or a bank that has the powers of a trust company. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(5) (part).)

**Source Law**

If so provided by the district, the bonds may be secured by a trust indenture by and between the district and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the State of Texas....
Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, refers to a trust company or bank having the powers of a trust company "within or outside the State." The revised law omits the phrase "within or outside the State" as unnecessary because the governing body 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. 365.035. BONDHOLDER PROTECTION. The trust indenture or the resolution or order authorizing the issuance of bonds under this chapter may include provisions to protect and enforce the rights and remedies of bondholders, including covenants determining the district's duties in relation to:

(1) the acquisition and financing of the toll road project; and

(2) the custody, safeguarding, and application of the district's toll road revenues. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(5) (part).)

Source Law

... The resolution or order authorizing the issuance of the bonds or the trust indenture 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 district in relation to the acquisition and financing of the toll road project, and the custody, safeguarding, and application of all the district's toll road revenues.

Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, 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. 365.036. REFUNDING BONDS. (a) A district may issue
refunding bonds to refund its bonds under this chapter as provided
by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983
(Article 717q, Vernon's Texas Civil Statutes), and Chapter 441.
(b) Refunding bonds may be payable from taxes, revenues, or
a combination of taxes and revenues. (V.A.C.S. Art. 6674r-1,
Sec. 12A(d)(3) (part).)

Source Law

... A district may issue refunding bonds to refund
bonds in accordance with the provisions of those
articles, this Act, and the Road Utility District Act.
Refunding bonds may be payable from taxes, revenues, or
a combination thereof.

Revisor's Note

(1) Section 12A, V.A.C.S. Article 6674r-1,
refers to "those articles," meaning the previously
mentioned V.A.C.S. Articles 717k-6 (bond procedures
act) and 717q. The revised law omits the reference to
V.A.C.S. Article 717k-6 for the reason stated in
Revisor's Note (3) to Section 365.031 of this code.
(2) Section 12A, V.A.C.S. Article 6674r-1,
refers to "this Act," meaning V.A.C.S. Article 6674r-1,
and the Road Utility District Act, also meaning
V.A.C.S. Article 6674r-1. That statute is codified in
this code as Chapter 441, and the revised law is
drafted accordingly.

Revised Law

Sec. 365.037. COUNTY AD VALOREM TAX. (a) A county may
impose an ad valorem tax under Section 9, Article VIII, or Section
52, Article III, of the Texas Constitution, and contract to pay and
pledge taxes in support of its obligation to a district and the
district's bondholders.

(b) The tax proceeds shall be used annually to the extent
required and for the payments provided by the county's contract
with the district. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(4)
(part).)

Source Law

... A county may levy an ad valorem tax under Article
VIII, Section 9, or Article III, Section 52, of the
Texas Constitution, and contract to pay and pledge
taxes in support of its obligation to a district and
its bondholders. The proceeds of any tax levied and
pledged under this section shall be utilized annually
to the extent required by the county's contract with
the district, . . . .

Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, provides
that a county may define and describe certain payments
by contract. The revised law omits this provision as
unnecessary because this authority is included in the
county's general power to contract. The omitted law
reads:

and the county may define and describe in
its contract the payments which will be
paid by the county from the proceeds of the
tax.

Revised Law

Sec. 365.038. COUNTY PAYMENTS RELATING TO DISTRICT BONDS.

(a) A county in which a district is located may pay:

(1) part of the principal or redemption price of or
interest on the district's bonds; or

(2) the cost of operating or maintaining the
district's toll road project.

(b) The county may establish or maintain a reserve fund or a
depreciation and replacement fund for the district's bonds or toll
road project as a supplement to the district's pledge of revenue
for those purposes or instead of a pledge of the district's revenue
or taxes. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(4) (part).)

Source Law

(4) A county in which the district is located may pay any portion of the principal, interest, or redemption price on the district's bonds or the cost of operating or maintaining a district's toll road project, may establish or maintain a reserve fund or a depreciation and replacement fund for the district's bonds or toll road project, either as a supplement to the pledge of revenues for those purposes by the district or in lieu of a pledge of the district's revenues or taxes.

Revised Law

Sec. 365.039. COUNTY BONDS AND CERTIFICATES OF OBLIGATION.

A county may authorize, issue, and sell its bonds or certificates of obligation and use the proceeds to:

(1) call, redeem, and retire a district's outstanding bonds;

(2) remove the pledge of the revenue from a district's toll road project or other road, street, or highway project and the district's covenants in connection with the bonds and toll road project; and

(3) make the toll road project available for use of the public free from tolls and charges. (V.A.C.S. Art. 6674r-1, Sec. 12A(e).)

Source Law

(e) A county may authorize, issue, and sell its bonds or certificates of obligation and use the proceeds therefrom to call, redeem, and pay off a district's outstanding tax, revenue, or combination tax and revenue bonds, and thereby remove the pledge of the revenues from a district's toll road project or other road, street, or highway project and the district's covenants in connection with said bonds and the toll road project, and make such toll road project available for use of the public free of charge.

Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, refers to a district's outstanding "tax, revenue, or combination tax and revenue bonds." The revised law omits "tax, revenue, or combination tax and revenue" because these
descriptive terms are included in the definition of "bonds."

Revised Law

Sec. 365.040. AUTHORITY FOR TOLLS AND CHARGES. A district may impose tolls and other charges for the use of a toll road project and may use toll revenue to retire outstanding indebtedness issued to pay the costs of a road providing service to the district. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(1) (part).)

Source Law

A district shall be authorized to fix, enforce, and collect tolls, fees, and charges for the use of any toll road project. A district may use toll revenues to retire any outstanding indebtedness issued to pay the costs of a road providing service to the district.

Revisor's Note

Section 12A, V.A.C.S. Article 6674r-1, allows a district to "fix, enforce, and collect tolls, fees, and charges for the use of any toll road project." The revised law authorizes a district to "impose" tolls because the power includes the power to fix, enforce, and collect tolls. The revised law omits the reference to "fees" because a fee for use of a toll road project is a toll or other charge.

Revised Law

Sec. 365.041. AMOUNT OF TOLLS. Revenue from tolls and other charges under Section 365.040 may be sufficient to:

1. pay all expenses necessary to maintain and operate the toll road project;
2. make necessary payments and otherwise comply with any permit or franchise for maintenance or operation of the toll road project;
3. pay the principal and redemption price of and interest on all bonds that the district is obligated to pay,
regardless of whether the bonds were issued as revenue bonds;

(4) pay all sinking fund or reserve fund payments agreed to be made in connection with bonds or other obligations as they become due and payable to establish a reasonable depreciation and emergency fund;

(5) comply with any agreement made with the holders of the district's bonds or other obligations or with another person on the bondholder's behalf; and

(6) recover a reasonable rate of return on invested capital. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(2).)

Source Law

(2) The tolls, fees, and charges of a district for the use of a toll road may be sufficient to produce revenues adequate:

(A) to pay all expenses necessary for the maintenance and operation of such toll road, and to comply with the requirements and make all payments necessary under the provisions of any such permits and franchises therefor;

(B) to pay the interest on and the principal and redemption price of all bonds that the district is obligated to pay, whether or not the bonds were initially issued as toll revenue bonds;

(C) to pay all sinking fund and/or reserve fund payments agreed to be made in respect of any bonds or other obligations when and as the same shall become due and payable to establish a reasonable depreciation and emergency fund;

(D) to fulfill the terms of any agreements made with the holders of the district's bonds or other obligations or with any person in their behalf; and

(E) to recover a reasonable rate of return on invested capital.

Reviser's Note

Section 12A, V.A.C.S. Article 6674r-1, refers to "tolls, fees, and charges . . . for the use of a toll road." The revised law omits the reference to "fees" for the reason stated in the reviser's note to Section 365.040 of this code.

Revised Law

Sec. 365.042. FINES AND PENALTIES. A district may impose fines and penalties as provided by Chapter 284 as if the district
were a county to which that chapter applies. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(1) (part).)

Source Law

A district shall be authorized to ... and levy fines and assess penalties to the extent and in accordance with the provisions of the County Toll Road Act as if it were a county described in such Act. ...

Revisor's Note

(1) Section 12A, V.A.C.S. Article 6674r-1, refers to the County Toll Road Act, meaning Chapter 304, Acts of the 50th Legislature, Regular Session, 1947 (Article 6795b-1, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 284, and the revised law is drafted accordingly.

(2) Section 12A, V.A.C.S. Article 6674r-1, allows a district to "levy fines and assess penalties." The revised law substitutes "impose fines and penalties" because that power includes the power to levy and assess.

Revised Law

Sec. 365.043. COUNTY EXPENSES. The district may reimburse a county, from any funds available to the district, for any expenses the county pays on behalf of the district. (V.A.C.S. Art. 6674r-1, Sec. 12A(d)(1) (part).)

Source Law

Expenses paid by a county on behalf of a district may be repaid to a county from any source of funds available to the district.

Revised Law

Sec. 365.044. COSTS OF CERTAIN ACQUISITIONS AND ALTERATIONS. A transportation corporation, state agency, political subdivision, or road district that acquires, inside or outside the right-of-way of a project, an interest in real property required for or beneficial to a project or to adjust utilities for a project or
design, construct, improve, or beautify a project, or that in
exercising the power of eminent domain requires the relocating,
raising, lowering, rerouting, changing of grade, or altering of
construction of a railroad, highway, pipeline, or electric
transmission or distribution, telegraph, or telephone line,
conduit, pole, or facility shall pay the cost of that action so as
to provide comparable replacement, less the salvage value, of any
replaced facility. (V.A.C.S. Art. 6674r-1, Sec. 12A(g).)

Source Law

(g) If any transportation corporation, state
agency, county, municipality, political subdivision, or
road district shall acquire, inside or outside of the
right-of-way of a project, an easement, land, or an
interest in land required for or beneficial to a
project, adjust utilities for a project, or design,
construct, improve, or beautify a project or if in
exercising the power of eminent domain, such entities
require relocating, raising, lowering, rerouting,
changing the grade, or altering the construction of any
railroad, highway, pipeline, or electric transmission
and electric distribution, telegraph, or telephone
lines, conduits, poles, or facilities, the entity must
bear the actual cost of relocating, raising, lowering,
rerouting, changing the grade, or altering the
construction to provide comparable replacement without
enhancement of facilities, after deducting the net
salvage value derived from the old facility.

Revisor's Note

(1) Section 12A, V.A.C.S. Article 6674r-1,
refers to a "county, municipality, political
subdivision, or road district." The revised law omits
the references to "county" and "municipality" because
those terms are included within the meaning of
"political subdivision."

(2) Section 12A, V.A.C.S. Article 6674r-1,
refers to "an easement, land, or an interest in land." The
references to "an easement" and "land" are omitted
from the revised law because "easements" and "land" are
included within the meaning of "interests in real
property."
Section 12A(d)(5), V.A.C.S. Article 6674r-1, gives a district full discretion in fixing the details of its bonds. The revised law omits this provision because it duplicates Section 3, Bond Procedures Act of 1981 (V.A.C.S. Article 717k-6), which applies to the district and its bonds. The omitted law reads:

(5) The district shall have full discretion in fixing the details of any bonds including refunding bonds.

[Chapters 366-390 reserved for expansion]

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SUBTITLE H. HIGHWAY BEAUTIFICATION

CHAPTER 391. HIGHWAY BEAUTIFICATION ON INTERSTATE
AND PRIMARY SYSTEMS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law
Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Automobile graveyard" means an establishment that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(2) "Interstate system" means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the commission and approved under Title 23, United States Code.

(3) "Junk" means:

(A) old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste;

(B) junked, dismantled, or wrecked automobiles or automobile parts; or

(C) iron, steel, and other old or scrap ferrous or nonferrous material.

(4) "Junkyard" means:

(A) an automobile graveyard;

(B) an establishment maintained, used, or operated for storing, buying, or selling junk or processing scrap metal; or

(C) a garbage dump or sanitary fill.

(5) "Outdoor advertising" means an outdoor sign,
display, light, device, figure, painting, drawing, message, plaque, 
poster, billboard, or other thing designed, intended, or used to 
adVERTISE or inform if any part of the advertising or information 
content is visible from the main-traveled way of the interstate or 
primary system. The term does not include a sign or marker giving 
information about the location of an underground electric 
transmission line, telegraph or telephone property or facility, 
pipeLINE, public sewer, or waterline.

(6) "Primary system" means that portion of connected 
main highways located in this state that is designated officially 
by the commission and approved under Title 23, United States Code.

(7) "Specific information logo sign" means a 
rectangular sign panel imprinted with the words "GAS," "FOOD," 
"LODGING," or "CAMPING," or with a combination of those words, and 
the names of commercial establishments offering those services, 
including specific brand names, giving specific information of 
interest to the traveling public.

(8) "Urban area" means an area defined by the 
commission in cooperation with local officials, subject to approval 
by the secretary of the United States Department of Transportation, 
that as a minimum includes an urban place as designated by the 
United States Bureau of the Census having a population of 5,000 or 
more and not located within an urbanized area.

(9) "Urbanized area" means an area defined by the 
commission in cooperation with local officials, subject to approval 
by the secretary of the United States Department of Transportation, 
that as a minimum includes an urbanized area as defined by the 
United States Bureau of the Census or that part of a multistate 
urbanized area located in this state. (V.A.C.S. Art. 4477-9a, 
Secs. 4.01; 4.06(c); 4.07(a), (b) (part).)

Source Law

Sec. 4.01. In this article:
(1) "Commission" means the State Highway 
and Public Transportation Commission.
(2) "Interstate system" means that portion 
of the national system of interstate and defense
highways that is located in this state and is designated officially by the commission and approved pursuant to Title 23, United States Code.

(3) "Primary system" means that portion of connected main highways located in this state that is designated officially by the commission and approved pursuant to Title 23, United States Code.

(4) "Outdoor advertising" or "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform, if any part of the advertising or information content is visible from a place on the main-traveled way of the interstate or primary system.

(5) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste, or junked, dismantled, or wrecked automobiles or automobile parts, or iron, steel, and other old or scrap ferrous or nonferrous material.

(6) "Automobile graveyard" means an establishment or place of business that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(7) "Junkyard" means an establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk, for processing scrap metal, or for maintaining or operating an automobile graveyard. The term includes garbage dumps and sanitary fills.

(8) "Urbanized area" means an area defined by the commission in cooperation with local officials, subject to the approval of the secretary of the United States Department of Transportation, which as a minimum includes an urbanized area as defined by the United States Bureau of the Census or that part of a multistate urbanized area located in this state.

(9) "Urban area" means an area defined by the commission in cooperation with local officials, subject to the approval of the secretary of the United States Department of Transportation, which as a minimum includes an urban place as designated by the United States Bureau of the Census having a population of 5,000 or more and not located within an urbanized area.

[Sec. 4.06]

(c) This article does not apply to a sign or marker giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers, or waterlines.

Sec. 4.07. (a) In this section, "specific information logo sign" means a rectangular sign panel imprinted with the words "GAS," "FOOD," "LODGING," or "CAMPING," or with a combination of those words, and the names of commercial establishments offering those services.

(b) [The commission shall contract with a person, firm, group, or association in the State of Texas to erect and maintain signs] that give specific information of interest to the travelling public, including specific brand names, at appropriate locations along interstate highways in each county with a population less than 20,000].
(1) Section 4.01(1), V.A.C.S. Article 4477-9a, defines "Commission." That definition is omitted from the revised law because it is codified in this code in Section 201.001. See the reviser's note under Section 201.003 for a discussion of the evolution of the official name of the commission.

(2) Sections 4.01(6) and (7), V.A.C.S. Article 4477-9a, refer to "establishment or place of business." The reference to "place of business" is omitted from the revised law because that terminology is included within the meaning of "establishment."

(3) Sections 4.01(6) and (7), V.A.C.S. Article 4477-9a, include references to the "keeping" of certain materials. The revised law omits the references to "keeping" because "keeping" is included within the meaning of "storing."

(4) Section 4.01(4), V.A.C.S. Article 4477-9a, uses two terms, "outdoor advertising" and "sign," in conjunction to define the concept of outdoor advertising. "Sign" is omitted from the revised law as part of the defined term because "sign" is used elsewhere in the source law in a context other than "outdoor advertising." Also, the use of "outdoor advertising" consistently in the text rather than "sign" is not overly burdensome and eliminates the obvious problem of using two different terms to define the same concept.

Revised Law
Sec. 391.002. PURPOSE. (a) Subject to the availability of state and federal funds, it is the intent of the legislature to comply with the Highway Beautification Act of 1965 (23 U.S.C. Sections 131, 136, 319) to the extent that it is implemented by the
United States Congress. This chapter is conditioned on that law.

(b) The legislature declares that it is necessary to regulate the erection and maintenance of outdoor advertising and the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary systems to:

(1) promote the health, safety, welfare, morals, convenience, and enjoyment of the traveling public; and

(2) protect the public investment in the interstate and primary systems.

(c) The legislature considers that the following are means of protecting and providing for the general welfare of the traveling public and promoting the safety of citizens using the highways of this state:

(1) landscaping and developing recreational areas;

(2) acquiring interests in and improving strips of real property within, adjacent to, or within view of the interstate or primary system that are necessary for the restoration, preservation, and enhancement of scenic beauty; and

(3) developing publicly owned and controlled rest and sanitary facilities in or adjacent to highway rights-of-way.

(V.A.C.S. Art. 4477-9a, Sec. 4.02.)

Source Law

Sec. 4.02. Subject to the availability of state and federal funds, it is the intent of the legislature to comply with the Highway Beautification Act of 1965 (Public Law 89-285) to the extent that it is implemented by Congress. This article is conditioned on the provisions of that law. The legislature declares that to promote the health, safety, welfare, morals, convenience, and enjoyment of the traveling public and to protect the public investment in the interstate and primary highway systems, it is necessary to regulate the erection and maintenance of outdoor advertising and the establishment, operation, and maintenance of junkyards and automobile graveyards in areas adjacent to the interstate and primary systems. The legislature considers that the landscaping and developing of recreational areas, acquisition of interests in and improvement of strips of land within, adjacent to, or within view of the interstate or primary system, which are necessary for the restoration, preservation, and enhancement of scenic beauty, and developing publicly owned and controlled rest and sanitary facilities within or adjacent to highway rights-of-way are means of protecting and
providing for the general welfare of the traveling
public and promoting the safety of citizens using the
highways of this state.

Revisor's Note
Section 4.02, V.A.C.S. Article 4477-9a, references "junkyards and automobile graveyards." The revised law omits the references to "automobile graveyards" because under Section 391.001(4) of this code, "automobile graveyard" is included within the meaning of "junkyard."

Revised Law
Sec. 391.003. VIOLATION OF RULE; OFFENSE. (a) A person commits an offense if the person wilfully violates a rule adopted by the commission under this chapter.
(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000.
(c) Each day of a rule violation is a separate offense.
(V.A.C.S. Art. 4477-9a, Sec. 4.12 (part).)

Source Law
Sec. 4.12. A person who ... wilfully violates any rule adopted by the commission in accordance with this article is, on conviction, subject to a fine of not less than $500 nor more than $1,000. Each day of the ... violation constitutes a separate offense.

Revisor's Note
(End of Subchapter)

Section 1.02, V.A.C.S. Article 4477-9a, refers to the application of the Code Construction Act. That provision is omitted from the revised law because it is codified in this code in Section 1.002. The omitted source law reads:

Sec. 1.02. The Code Construction Act (Chapter 311, Government Code) applies to the construction of each provision of this Act except as otherwise expressly provided by this Act.

[Sections 391.004-391.030 reserved for expansion]

74C263 JD-D 1348
Sec. 391.031. UNLAWFUL OUTDOOR ADVERTISING; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains outdoor advertising:

(1) within 660 feet of the nearest edge of a right-of-way if the advertising is visible from the main-traveled way of the interstate or primary system; or

(2) outside an urban area if the advertising is located more than 660 feet from the nearest edge of a right-of-way, is visible from the main-traveled way of the interstate or primary system, and is erected for the purpose of having its message seen from the main-traveled way of the interstate or primary system.

(b) A person does not commit an offense if the person erects or maintains in an area described by Subsection (a):

(1) directional or other official outdoor advertising authorized by law, including advertising pertaining to a natural wonder or a scenic or historic attraction;

(2) outdoor advertising for the sale or lease of the property on which it is located;

(3) outdoor advertising solely for activities conducted on the property on which it is located;

(4) outdoor advertising located within 660 feet of the nearest edge of a right-of-way in an area in which the land use:

(A) is designated industrial or commercial under authority of law; or

(B) is not designated industrial or commercial under authority of law but the land use is consistent with an area designated industrial or commercial;

(5) outdoor advertising that has as its purpose the protection of life and property; or

(6) outdoor advertising erected on or before October 22, 1965, that the commission, with the approval of the secretary
of the United States Department of Transportation, determines to be a landmark of such historic or artistic significance that preservation is consistent with the purposes of this subchapter.

(c) The determination of whether an area is to be designated industrial or commercial must be made under criteria established by commission rule and according to actual land use.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense.

(V.A.C.S. Art. 4477-9a, Secs. 4.03(a), (b), (c); 4.12 (part).)
be designated industrial or commercial shall be based on actual land use under criteria established by rules of the commission.

Sec. 4.12. A person who wilfully commits an offense under this article . . . is, on conviction, subject to a fine of not less than $500 nor more than $1,000. Each day of the wilful offense . . . constitutes a separate offense.

Revisor's Note

See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

Revised Law

Sec. 391.032. REGULATION OF OUTDOOR ADVERTISING IN INDUSTRIAL OR COMMERCIAL AREA. (a) The commission by rule may regulate the orderly and effective display of outdoor advertising consistent with the customary use of outdoor advertising in this state in an area in which the land use:

(1) is designated industrial or commercial under authority of law; and

(2) is not so designated but in which the land use is consistent with areas designated industrial or commercial in the manner provided by Section 391.031(c).

(b) The commission may agree with the secretary of the United States Department of Transportation to regulate the orderly and effective display of outdoor advertising in an area described by Subsection (a). (V.A.C.S. Art. 4477-9a, Secs. 4.03(d), (e).)

Source Law

(d) The commission may adopt rules to regulate the orderly and effective display of outdoor advertising consistent with the customary use of outdoor advertising in this state in an area in which the land use is designated industrial or commercial under authority of law and in an area in which the land use is not designated industrial or commercial but in which the land use is consistent with areas designated industrial or commercial in the manner provided by Subsection (c) of this section.

(e) The commission may enter into agreements with the secretary of the United States Department of Transportation to regulate the orderly and effective display of outdoor advertising in the areas described in Subsection (d) of this section.
Revisor's Note

Section 4.03(d), V.A.C.S. Article 4477-9a, refers to an area designated industrial or commercial "in the manner provided by Subsection (c) of this section." Subsection (c) of Section 4.03 is codified in this chapter as Section 391.031(c), and the revised law is drafted accordingly.

Revised Law

Sec. 391.033. ACQUISITION OF OUTDOOR ADVERTISING BY COMMISSION. (a) The commission may purchase or acquire by eminent domain outdoor advertising that is lawfully in existence on a highway in the interstate or primary system.

(b) If an acquisition is by eminent domain, the commission shall pay just compensation to:

(1) the owner for the right, title, leasehold, and interest in the outdoor advertising; and

(2) the owner or, if appropriate, the lessee of the real property on which the outdoor advertising is located for the right to erect and maintain the outdoor advertising. (V.A.C.S. Art. 4477-9a, Secs. 4.03(f), (g).)

Source Law

(f) The commission may purchase or acquire by eminent domain a sign that is lawfully in existence on any highway in the interstate or primary system.

(g) If the commission takes a sign, the commission shall pay just compensation:

(1) to the owner for the right, title, leasehold, and interest in the sign; and

(2) to the owner or, if appropriate, the lessee of the real property on which the sign is located for the right to erect and maintain the sign.

Revisor's Note

See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.
Sec. 391.034. REMOVAL OF NUISANCE OUTDOOR ADVERTISING BY

COMMISSION. (a) Outdoor advertising that is erected or maintained
in violation of this chapter:

(1) endangers the health, safety, welfare, morals,
convenience, and enjoyment of the traveling public and the
protection of the public investment in the interstate and primary
highway systems; and

(2) is a public nuisance.

(b) On written notice by certified mail from the department,
an owner of outdoor advertising that is a public nuisance under
Subsection (a) shall remove the advertising. If the owner does not
remove the outdoor advertising within 45 days of the date of the
notice, the department may direct the attorney general to apply for
an injunction to:

(1) prohibit the owner from maintaining the
advertising; and

(2) require the removal of the advertising.

(c) The state is entitled to recover from the owner of
outdoor advertising removed under an action brought under
Subsection (b) all administrative and legal costs and expenses
incurred to remove the advertising, including court costs and
reasonable attorney's fees. (V.A.C.S. Art. 4477-9a, Sec. 4.03(h).)

(h)(1) The legislature declares that signs
erected and maintained in violation of this Act
endanger the health, safety, welfare, morals,
convenience, and enjoyment of the traveling public and
the protection of the public investment in the
interstate and primary highway systems and thereby
constitute a public nuisance.

(2) An owner of a sign erected or
maintained in violation of this section shall remove
the sign upon written notification by certified mail
from the Texas Department of Transportation. If the
owner of a sign does not remove the sign within 45
calendar days of the date of the notice, the department
may direct the attorney general to initiate injunctive
proceedings to enjoin the owner of the sign from
maintaining the sign and requiring the effective
removal of the sign.

(3) In an action brought under Subdivision
(2) of this subsection, the state is entitled to
recover from the owner of a sign removed as a result of injunctive proceedings all administrative and legal costs and expenses incurred to effect removal of the sign, including, but not limited to, court costs and reasonable attorney's fees.

Revisor's Note

(1) See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

(2) Section 4.03(h)(2), V.A.C.S. Article 4477-9a, refers to the Texas Department of Transportation. "Department" is substituted for the full agency name in the revised law to reflect the definition of "[D]epartment" in this code in Section 201.001.

(3) Section 4.03(h)(2), V.A.C.S. Article 4477-9a, refers to "calendar days." The revised law substitutes "days" for "calendar days" because in the context of the revised law it is clear that "days" means "calendar days."

(4) Section 4.03(h)(3), V.A.C.S. Article 4477-9a, refers to "including, but not limited to." "[B]ut 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.

Revised Law
Sec. 391.035. VIOLATION OF SUBCHAPTER; CIVIL PENALTY. (a)
In addition to being subject to a criminal penalty or injunctive action, a person who intentionally violates this subchapter is liable to the state for a civil penalty. The attorney general may sue to collect the penalty.
(b) The amount of the civil penalty is not less than $500 or more than $1,000 for each violation, depending on the seriousness of the violation. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the state highway fund. (V.A.C.S. Art. 4477-9a, Sec. 4.03(i).)

Source Law

(i)(1) In addition to being subject to a criminal penalty or injunctive action as otherwise provided by law, a person who intentionally violates this section is liable to the state for a civil penalty. The attorney general may sue to collect the penalty.

(2) The amount of the civil penalty is not less than $500 nor more than $1,000 for each violation, depending on the seriousness of the violation. A separate civil penalty may be collected for each day on which a continuing violation occurs.

(3) Civil penalties collected under this section shall be deposited in the state treasury to the credit of the state highway fund.

Revisor's Note

Section 4.03(i)(3), V.A.C.S. Article 4477-9a, specifies that a collected civil penalty shall be deposited in the state treasury to the credit of the state highway fund. The revised law omits as unnecessary the reference to the state treasury because the state highway fund is in the state treasury. Section 404.094, Government Code, requires that all money collected by a state agency, including a penalty, be deposited in the treasury.

Revised Law

Sec. 391.036. SCOPE OF COMMISSION RESPONSIBILITY. The commission's responsibility for the regulation of outdoor advertising is only on a federal-aid primary highway, interstate highway, state highway, or farm-to-market road. (V.A.C.S. Art. 4477-9a, Sec. 4.04(e).)
(e) The commission's only responsibility for the regulation of signs shall be on federal-aid primary highways, interstate highways, state highways, and farm-to-market roads.

Revisor's Note

See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

[Sections 391.037-391.060 reserved for expansion]

SUBCHAPTER C. LICENSE AND PERMIT FOR OUTDOOR ADVERTISING

Revised Law

Sec. 391.061. OUTDOOR ADVERTISING WITHOUT LICENSE; OFFENSE.

(a) A person commits an offense if the person wilfully erects or maintains outdoor advertising in an area described by Section 391.031(a) without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain outdoor advertising described by Section 391.031(b)(2) or (3). (V.A.C.S. Art. 4477-9a, Secs. 4.04(a); 4.06(a) (part), (b) (part); 4.12 (part).)

Source Law

Sec. 4.04. (a) A person who has not obtained a license under this article commits an offense if that person erects or maintains a sign:

(1) within 660 feet of the interstate or primary system, if the sign is visible from the main-traveled way; or

(2) outside an urban area if the sign is located more than 660 feet from the nearest edge of right-of-way, is visible from the main-traveled way of the interstate or primary system, and was erected for the purpose of having its message seen from the main-traveled way of the interstate or primary system.

Sec. 4.06. (a) A person is not required to obtain a license . . . to erect or maintain a sign advertising the sale or lease of the property on which it is located.

(b) A person is not required to obtain a license . . . to erect or maintain a sign that relates
solely to an activity conducted on the property on which the sign is erected or maintained.

Sec. 4.12. A person who wilfully commits an offense under this article ... is, on conviction, subject to a fine of not less than $500 nor more than $1,000. Each day of the wilful offense ... constitutes a separate offense.

Revisor's Note

See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

Revised Law

Sec. 391.062. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

(1) files with the commission a completed application form within the time specified by the commission;
(2) pays the appropriate license fee; and
(3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(V.A.C.S. Art. 4477-9a, Sec. 4.04(b) (part).)

Source Law

(b) The commission shall issue a license to a person who:

(1) completes the application form ... within the time specified by the commission;
(2) pays the license fee ...; provided,
however:
(C) at the commission's discretion, the license authorized pursuant to this section may be issued for periods of one year or longer ...; and
(3) files with the commission a surety bond ... .

Revisor's Note

Section 4.04(b)(2)(B), V.A.C.S. Article 4477-9a, refers to the refund or proration of permit fees paid before the effective date of the article. That reference is omitted from the revised law because that provision is executed law. The omitted source law reads:

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(B) any permit renewal fees paid in advance of the effective date of this article shall be either refunded or prorated as determined by the commission; . . .

Revised Law

Sec. 391.063. LICENSE FEE. The commission shall set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising owned by a license applicant. (V.A.C.S. Art. 4477-9a, Sec. 4.04(b) (part).)

Source Law

(b) [The commission shall issue a license to a person who: (1) completes the application form] . . . [(2) pays the license fee as determined by the commission;] . . . (C) . . . the license fee for such license may be based on a graduated scale by number of signs owned by a licensee . . . .

Revisor's Note

See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "signs" in the revised law.

Revised Law

Sec. 391.064. SURETY BOND. (a) The surety bond required of an applicant for a license under Section 391.062 must be:

(1) in the amount of $2,500 for each county in the state in which the person erects or maintains outdoor advertising; and

(2) payable to the commission for reimbursement for removal costs of outdoor advertising that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than $10,000 in surety bonds. (V.A.C.S. Art. 4477-9a, Secs. 4.04(b) (part), (c).)

Source Law

(b) [The commission shall issue a license to a person who: . . .]
files with the commission a surety bond:]

(A) in the amount of $2,500 for each
county in the state in which the person erects or
maintains outdoor advertising; and

(B) payable to the commission to
reimburse it for removal costs of a sign the licensee
unlawfully erects or maintains.

(c) A person may not be required to provide more

$10,000 in surety bonds.

Revisor's Note

See Revisor's Note (4) under Section 391.001 for
the rationale for using "outdoor advertising" rather
than "sign" in the revised law.

Revised Law

Sec. 391.065. RULES; FORMS. (a) The commission may adopt
rules to implement Sections 391.036, 391.061(a), 391.062, 391.063,
391.064, and 391.066.

(b) For the efficient management and administration of this
chapter and to reduce the number of employees required to enforce
this chapter, the commission shall adopt rules for issuing
standardized forms that are for submission by license holders and
applicants and that provide for an accurate showing of the number,
location, or other information required by the commission for each
license holder's or applicant's outdoor advertising. (V.A.C.S.
Art. 4477-9a, Secs. 4.04(d), (h) (part).)

Source Law

(d) For the efficient management and
administration of this article and in an effort to
reduce the number of employees required to enforce such
provisions, the commission shall promulgate rules for
the issuance of standardized forms for submission by
licensees which accurately reflect the number,
location, or other information required by the
commission of each licensee's signs.

(h) The commission may promulgate rules for the
implementation of the provisions of this
section . . . .

Revisor's Note

(1) See Revisor's Note (4) under Section 391.001
for the rationale for using "outdoor advertising"
rather than "sign" in the revised law.

(2) Section 4.04(h), V.A.C.S. Article 4477-9a, authorizes the commission to adopt rules to implement "this section," which refers to Section 4.04 of that article. Section 4.04, V.A.C.S. Article 4477-9a, is revised in Sections 391.036, 391.061(a), 391.062, 391.063, 391.064, and 391.066 of this code, and the revised law is drafted accordingly.

Revised Law

Sec. 391.066. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

(a) The commission may revoke or suspend a license issued under this subchapter if the license holder violates this chapter or a rule adopted under this chapter.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

Source Law

(f) The commission may revoke or suspend a license issued under this section if the licensee:
   (1) violates a provision of this article; or
   (2) violates a commission rule adopted under this article.

(g) A person whose license is revoked or suspended may appeal the revocation or suspension to a district court in Travis County. The appeal must be taken not later than the 15th day after the day of the commission's action.

(h) The commission may promulgate rules . . . for the reissuance of a revoked or suspended license and may set fees for such reissuance.

Revisor's Note

The revised law omits that part of Section 4.04(g), V.A.C.S. Article 4477-9a, providing that a person whose license is revoked or suspended may appeal the action to a district court in Travis County.
Chapter 2001, Government Code (Administrative Procedure Act), is applicable to the revised law. Section 2001.176(b) of that chapter provides that, unless otherwise provided by statute, the judicial appeal of a contested case is to a district court of Travis County, and it is unnecessary to repeat that requirement in the revised law.

Revised Law

Sec. 391.067. OUTDOOR ADVERTISING WITHOUT PERMIT; OFFENSE.

(a) A person who has a license issued under this subchapter commits an offense if the person wilfully erects or maintains outdoor advertising for which a license is required under Section 391.061 unless that person also has a permit for the outdoor advertising.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense.

(V.A.C.S. Art. 4477-9a, Secs. 4.05(a); 4.06(a) (part), (b) (part); 4.12 (part).)

Source Law

Sec. 4.05. (a) A person who has a license commits an offense if that person erects or maintains a sign for which a license is required by Section 4.04(a) of this article unless that person also has a permit for that sign.

Sec. 4.06. (a) A person is not required to obtain a . . . permit to erect or maintain a sign advertising the sale or lease of the property on which it is located.

(b) A person is not required to obtain a . . . permit to erect or maintain a sign that relates solely to an activity conducted on the property on which the sign is erected or maintained.

Sec. 4.12. A person who wilfully commits an offense under this article . . . is, on conviction, subject to a fine of not less than $500 nor more than $1,000. Each day of the wilful offense . . . constitutes a separate offense.
Revisor's Note

(1) See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

(2) Section 4.06(a), V.A.C.S. Article 4477-9a, provides that a person is not required to obtain a permit for a sign advertising the sale or lease of the property on which the sign is located. Subsection (b) of that section provides that a permit is not required for a sign that relates to an activity conducted on the property on which the sign is located. Section 4.05(a) of that article, revised as Section 391.067 of this code, refers to a person who is required to have a license by Section 4.04(a) of that article. Section 4.04(a) of that article is revised in Section 391.061 of this code. Section 391.061(c) provides that a person is not required to obtain a license for a sign described by Section 391.031(b)(2) of this code—a sign advertising the sale or lease of the property on which it is located, or Section 391.031(b)(3) of this code—a sign that relates solely to an activity conducted on the property on which the sign is erected or maintained. Rather than repeating the descriptions of those signs, the revised law cross-references the previous section of this code.

Revised Law
Sec. 391.068. ISSUANCE OF PERMIT. (a) The commission shall issue a permit to a person with a license issued under this subchapter:

(1) whose license application complies with rules adopted under Section 391.065; and

(2) whose outdoor advertising, whether owned or leased, if erected would comply with this chapter and rules adopted
under Section 391.032(a).

(b) The commission by rule shall prescribe:

(1) a reasonable fee for each permit;

(2) the time for and manner of applying for a permit;

and

(3) the form and content of the permit application.

(c) A permit issued to regulate the erection and maintenance of outdoor advertising by a political subdivision of this state within that subdivision's jurisdiction shall be accepted in lieu of the permit required by this subchapter if the erection and maintenance of outdoor advertising complies with this subchapter and rules adopted under Section 391.032(a). (V.A.C.S. Art. 4477-9a, Secs. 4.05(b) (part), (c), (d).)

Source Law

(b) The commission shall adopt rules specifying:

(1) a reasonable fee for each permit; . . .

(2) the time for and manner of applying for a permit and the form of the permit application; and

(3) the information that must be in a permit application.

(c) The commission shall issue a permit to a person with a license whose license application complies with the commission's rules adopted under Section 4.04 of this article and whose sign, or leased sign, if erected, would comply with this article and the commission's rules adopted under Section 4.03(d) of this article.

(d) A permit issued to control the erection and maintenance of outdoor advertising by a political subdivision of this state within the jurisdiction of the political subdivision shall be accepted in lieu of the permit required by this section if the erection and maintenance of outdoor advertising is in compliance with Section 4.04 of this article and the commission's rules adopted under Section 4.03(d) of this article.

Revisor's Note

See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

Revised Law

Sec. 391.069. FEE AMOUNTS. The license and permit fees
required by this subchapter may not exceed an amount reasonably
necessary to cover the administrative costs incurred to enforce
this chapter. (V.A.C.S. Art. 4477-9a, Secs. 4.04(b)(2)(A) (part),
4.05(b)(1) (part).)

Source Law

[Sec. 4.04]

... (A) such license fee and those
permit fees required by Section 4.05 of this article
shall not exceed an amount reasonably necessary to
cover the administrative costs incurred to enforce this
article; ...

[Sec. 4.05]

... (1) ... such permit fees and the license
fee required by Section 4.04 of this article shall not
exceed an amount reasonably necessary to cover the
administrative costs incurred to enforce this article;

Revised Law

Sec. 391.070. EXCEPTIONS FOR CERTAIN NONPROFIT
ORGANIZATIONS. (a) The combined license and permit fees under
this subchapter may not exceed $10 for outdoor advertising erected
and maintained by a nonprofit organization in a municipality or a
municipality's extraterritorial jurisdiction if the advertising
relates to or promotes only the municipality or a political
subdivision whose jurisdiction is wholly or partly concurrent with
the municipality.

(b) The nonprofit organization is not required to file a
bond as provided by Section 391.062(a)(3). (V.A.C.S. Art. 4477-9a,
Sec. 4.06(d).)

Source Law

(d) The combined license and permit fees may not
be more than $10 for a sign erected and maintained by a
nonprofit organization in a municipality or the
extraterritorial jurisdiction of a municipality if the
sign advertises or promotes only the municipality or
another political subdivision whose jurisdiction is in
whole or in part concurrent with the municipality. The
nonprofit organization is not required to file a bond
as provided by Section 4.04(b)(3) of this Act.
Reviser's Note
See Reviser's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

Reviser's Note
(End of Subchapter)

The revised law omits Section 4.05(e), V.A.C.S. Article 4477-9a, which provides that funds the commission receives are to be deposited in the Texas highway beautification fund. Acting under authority of Section 403.094(a), Government Code, the comptroller abolished the Texas highway beautification fund effective August 31, 1993. Section 4.05(e) also requires the commission to use the fund in the administration of Article 4477-9a. This requirement is omitted as repealed because Section 403.094(h), Government Code, abolishes the dedication of use of this fund. As omitted, Section 4.05(e) reads as follows:

(e) Funds the commission receives under this article shall be deposited in the state treasury in a special fund to be known as the Texas highway beautification fund. The commission shall use the fund in the administration of this article.

[Sections 391.071-391.090 reserved for expansion]

SUBCHAPTER D. SPECIFIC INFORMATION LOGO SIGNS

Revised Law
Sec. 391.091. ERECTION AND MAINTENANCE OF SIGNS. The commission shall contract with an individual, firm, group, or association in this state to erect and maintain specific information logo signs at appropriate locations along interstate highways in each county with a population of less than 20,000.

(V.A.C.S. Art. 4477-9a, Sec. 4.07(b) (part).)
(b) The commission shall contract with a person, firm, group, or association in the State of Texas to erect and maintain signs [that give specific information of interest to the travelling public, including specific brand names,] at appropriate locations along interstate highways in each county with a population less than 20,000.

Sec. 391.092. REGULATION OF SIGNS GENERALLY. (a) The commission shall:

(1) regulate the content, composition, placement, erection, and maintenance of specific information logo signs and supports on an interstate highway right-of-way; and

(2) adopt rules necessary to administer and enforce this subchapter.

(b) A specific information logo sign must:

(1) have a blue background with a white reflective border; and

(2) contain a principal legend equal in height to the directional legend.

(c) A specific information logo sign may not:

(1) contain a message, symbol, or trademark that resembles an official traffic-control device;

(2) have vertical spacing between establishment names that exceeds eight inches or horizontal spacing between establishment names that exceeds 12 inches;

(3) contain more than four establishment names for each service on one sign panel; or

(4) contain logos for more than one service on a sign panel except in an area in which not more than two eligible establishments are available for a service, in which case a sign panel may contain logos for two services. (V.A.C.S. Art. 4477-9a, Secs. 4.07(c), (j), (k).)
placement, erection, and maintenance of specific information logo signs and supports within interstate highway rights-of-way; and
(2) adopt rules necessary to administer and enforce this section.

(j) A specific information logo sign must:
(1) have a blue background with a white reflective border; and
(2) contain a principal legend equal in height to the directional legend.

(k) A specific information logo sign may not:
(1) contain a message, symbol, or trademark that resembles an official traffic control device;
(2) have vertical spacing between establishment names that exceeds eight inches or horizontal spacing between establishment names that exceeds 12 inches;
(3) contain more than four establishment names for each service on one sign panel; or
(4) contain logos for more than one service on a sign panel except in an area where not more than two qualified establishments are available for a service, in which event a sign panel may contain logos for two services.

Revised Law
Sec. 391.093. ELIGIBILITY FOR DISPLAY ON SIGN. (a) A commercial establishment, to be eligible to have its name displayed on a specific information logo sign, must provide gas, food, lodging, or camping and be located not more than three miles from an interchange on an interstate highway. If no service is located within three miles of an interchange, the commission may grant permits for commercial establishments located not more than 15 miles from the interchange.

(b) An establishment that provides gas must operate continuously at least 12 hours each day and provide:
(1) vehicle services, including fuel, oil, and water;
(2) tire repair, unless the establishment is self-service;
(3) restroom facilities and drinking water; and
(4) a telephone for use by the public.

(c) An establishment that provides food must:
(1) have any required license or other evidence showing compliance with applicable public health or sanitation laws;
operate continuously at least 12 hours a day and
serve three meals a day; and

provide:

(A) seating capacity for at least 16 persons;
(B) public restrooms; and
(C) a telephone for use by the public.

An establishment that provides lodging must:

(1) have any required license or other evidence showing compliance with applicable laws regulating facilities providing lodging;

(2) provide at least 10 rooms; and

(3) provide a telephone for use by the public.

An establishment that provides camping must:

(1) have any required license or other evidence showing compliance with applicable laws regulating camping facilities;

(2) provide adequate parking accommodations; and

(3) provide drinking water and modern sanitary facilities. (V.A.C.S. Art. 4477-9a, Secs. 4.07(e), (f), (g), (h), (i).)

To be eligible to have its name displayed on a specific information logo sign, a commercial establishment must provide gas, food, lodging, or camping and be located not farther than three miles from an interchange on an interstate highway. If no service is located within three miles of an interchange, the commission may grant permits for commercial establishments not farther than 15 miles from the interchange.

If an establishment provides gas, the establishment must provide:

(1) vehicle services, including providing fuel, oil, and water;
(2) if the establishment is not a self-service station, tire repair;
(3) restroom facilities and drinking water;
(4) continuous operation at least 12 hours a day, seven days a week; and
(5) a telephone for use by the public.

If an establishment provides food, the establishment must provide:

(1) a license or other evidence of compliance with public health or sanitation laws, if required by applicable other law;
(2) continuous operation at least 12 hours a day to serve three meals a day;
(3) seating capacity for at least 16 people;
(4) public restrooms; and
(5) a telephone for use by the public.

(h) If an establishment provides lodging, the establishment must provide:
(1) a license or other evidence of compliance with laws regulating facilities providing lodging, if required by applicable other law;
(2) at least 10 rooms; and
(3) a telephone for use by the public.

(i) If an establishment provides camping, the establishment must provide:
(1) a license or other evidence of compliance with laws regulating camping facilities, if required by applicable other law;
(2) adequate parking accommodations; and
(3) modern sanitary facilities and drinking water.

Revised Law
Sec. 391.094. DUTY NOT TO DISCRIMINATE. A commercial establishment identified on a specific information logo sign shall conform to all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin. (V.A.C.S. Art. 4477-9a, Sec. 4.07(d).)

Source Law
(d) A commercial establishment identified on a specific information logo sign shall conform to all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin.

Revised Law
Sec. 391.095. PLACEMENT OF SIGNS. (a) The contractor installing a specific information logo sign shall place the sign so that:
(1) the sign is at least 800 feet from the previous interchange and at least 800 feet from the exit direction sign at the interchange from which the services are available;
(2) two signs having the same legend are at least 800 feet apart, but are not excessively spaced;
(3) a motorist, after following the sign, can conveniently reenter the highway and continue in the original
direction of travel; and

   (4) if the service facilities are not visible from a single-exit interchange ramp terminal, the signs are placed along the ramp or at the ramp terminal.

(b) A specific information logo sign that is placed along a ramp or at a ramp terminal must be a duplicate of the corresponding establishment logo sign, except that the ramp sign must:

   (1) be smaller and omit the service information;
   (2) include the distance to the commercial establishment; and
   (3) include directional arrows instead of directions shown in words. (V.A.C.S. Art. 4477-9a, Secs. 4.07(1), (m).)

Source Law

(1) The contractor shall place a specific information logo so that:
   (1) the sign is at least 800 feet from the previous interchange and at least 800 feet from the exit direction sign at the interchange from which the services are available;
   (2) there are at least 800 feet between two signs having the same legend, but the signs are not excessively spaced;
   (3) a motorist, after following the sign, can conveniently reenter the highway and continue in the original direction of travel; and
   (4) if the service facilities are not visible from a single-exit interchange ramp terminal, the signs are placed along the ramp or at the ramp terminal.

(m) A specific information logo sign that is placed along a ramp or at a ramp terminal must be a duplicate of the corresponding establishment logo sign except that the ramp sign must be smaller and omit the service information. A ramp sign shall include the distance to the commercial establishment and directional arrows instead of directions written in words.

Revised Law

Sec. 391.096. DISPOSITION OF FUNDS. Funds received under this subchapter shall be deposited to the credit of the state highway fund. (V.A.C.S. Art. 4477-9a, Sec. 4.07(n).)

Source Law

(n) The commission shall remit money received under this section to the state treasurer for deposit into the state highway fund.
Revisor's Note

The revised law omits that part of Section 4.07(n), V.A.C.S. Article 4477-9a, providing that funds the commission receives under that section are to be deposited in the state treasury. Section 404.094, Government Code, requires that all money collected by a state agency be deposited in the treasury and it is unnecessary to repeat that requirement in the revised law.

[Sections 391.097-391.120 reserved for expansion]

SUBCHAPTER E. REGULATION OF JUNKYARDS AND AUTOMOBILE GRAVEYARDS

Revised Law
Sec. 391.121. PROHIBITED JUNKYARD; OFFENSE. (a) A person commits an offense if:

(1) the person wilfully establishes, operates, or maintains a junkyard any portion of which is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system; and

(2) the junkyard is not:

(A) screened by appropriate means, including natural objects, plantings, or fences, so that it is not visible from the main-traveled way of the interstate or primary highway; or

(B) located in an area that is a zoned or unzoned industrial area.

(b) The determination of whether an area is industrial must be made under criteria established by commission rule and according to actual land use.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than $500 or more than $1,000. Each day of the proscribed conduct is a separate offense. (V.A.C.S. Art. 4477-9a, Secs. 4.08(a), (b), 4.12 (part).)

Source Law
Sec. 4.08. (a) A person commits an offense if
that person establishes, operates, or maintains a junkyard or automobile graveyard if any portion of it is within 1,000 feet of the nearest edge of a right-of-way of the interstate or primary system, except:

(1) a junkyard or automobile graveyard screened by natural objects, plantings, fences, or other appropriate means so that it is not visible from the main-traveled way of the interstate or primary system; or

(2) a junkyard or automobile graveyard located in an area that is a zoned or unzoned industrial area.

(b) The determination of whether an area is to be designated industrial shall be based on actual land use under criteria established by rules of the commission.

Sec. 4.12. A person who wilfully commits an offense under this article is, on conviction, subject to a fine of not less than $500 nor more than $1,000. Each day of the wilful offense constitutes a separate offense.

Revisor's Note

Section 4.08(a), V.A.C.S. Article 4477-9a, includes three references to "a junkyard or automobile graveyard." The revised law omits the references to "automobile graveyard" for the reason stated in the revisor's note to Section 391.002 of this code.

Revised Law

Sec. 391.122. AUTHORITY OF COMMISSION TO SCREEN JUNKYARD.

(a) The commission may screen with appropriate means, including natural objects, plantings, or fences, a lawfully existing junkyard that is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system.

(b) The commission may acquire an area outside of a highway right-of-way so that a junkyard may be screened from the main-traveled way of a highway in the interstate or primary system.

(V.A.C.S. Art. 4477-9a, Sec. 4.08(c).)

Source Law

(c) The commission may screen with natural objects, plantings, fences, or other appropriate means, a lawfully existing junkyard or automobile graveyard if the junkyard or automobile graveyard is within 1,000 feet of the nearest edge of a right-of-way of the interstate or primary system. The commission may acquire an area outside of a highway right-of-way so
that a junkyard or automobile graveyard may be screened from the main-traveled way of the interstate or primary system.

Revisor's Note
Section 4.08(c), V.A.C.S. Article 4477-9a, includes three references to a "junkyard or automobile graveyard." The revised law omits the references to "automobile graveyard" for the reason stated in the revisor's note to Section 391.002 of this code.

Revised Law
Sec. 391.123. RULES RELATING TO SCREENING OF JUNKYARDS. The commission may adopt rules governing the location, planting, construction, and maintenance of the materials used in screening junkyards. (V.A.C.S. Art. 4477-9a, Sec. 4.08(d).)

Source Law
(d) The commission may adopt rules governing the location, planting, construction, and maintenance of the materials used in screening junkyards and automobile graveyards.

Revisor's Note
Section 4.08(d), V.A.C.S. Article 4477-9a, refers to "junkyards and automobile graveyards." The revised law omits the reference to "automobile graveyards" for the reason stated in the revisor's note to Section 391.002 of this code.

Revised Law
Sec. 391.124. COMPENSATION TO OWNER OF JUNKYARD. If the commission determines that the screening of a lawfully existing junkyard that is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system is not feasible, the commission shall pay just compensation to:

(1) the owner of the junkyard for its relocation, removal, or disposal; and

(2) the owner or, if appropriate, the lessee of the
real property on which the junkyard is located for the taking of
the right to erect and maintain a junkyard. (V.A.C.S. Art. 4477-9a, Secs. 4.08(e), (f).)

Source Law

(e) If the commission determines that screening
a junkyard or automobile graveyard is not feasible, the
commission shall pay just compensation to:
   (1) the owner of the junkyard or
   automobile graveyard for its relocation, removal, or
disposal; and
   (2) the owner or, if appropriate, the
   lessee of the real property on which the junkyard or
   automobile graveyard is located for the taking of the
   right to erect and maintain a junkyard or automobile
graveyard.

(f) The commission shall compensate an owner of
a junkyard or automobile graveyard and an owner or
lessee of real property on which the junkyard or
automobile graveyard is lawfully in existence on any
highway in the interstate or primary system.

Revisor's Note

Sections 4.08(e) and (f), V.A.C.S. Article 4477-9a, include references to a "junkyard or
automobile graveyard." The revised law omits the
references to "automobile graveyard" for the reason
stated in the revisor's note to Section 391.002 of this
code.

[Sections 391.125-391.150 reserved for expansion]

SUBCHAPTER F. ACQUISITION FOR SCENIC ENHANCEMENT OR PUBLIC
ACCOMMODATION

Revised Law

Sec. 391.151. ACQUISITION FOR SCENIC ENHANCEMENT. The
commission may acquire, improve, and maintain a strip of real
property adjacent to a federal-aid highway in this state if the
property is necessary to restore, preserve, or enhance scenic
beauty. (V.A.C.S. Art. 4477-9a, Sec. 4.09(a) (part).)

Source Law

Sec. 4.09. (a) The commission may acquire,
 improve, and maintain a strip of land adjacent to a
 federal aid highway in this state if the land is
necessary to restore, preserve, or enhance scenic beauty... 

Revised Law
Sec. 391.152. ACQUISITION FOR PUBLIC ACCOMMODATION. The commission may acquire and provide rest and recreation areas or sanitary and other facilities in or adjacent to a highway right-of-way if the area or facility is necessary to accommodate the traveling public. (V.A.C.S. Art. 4477-9a, Sec. 4.09(a) (part).)

Source Law
Sec. 4.09. (a) ... The commission may also acquire and develop rest and recreation areas and sanitary and other facilities within or adjacent to a highway right-of-way if the area or facility is necessary to accommodate the traveling public. [Sections 391.153-391.180 reserved for expansion]

SUBCHAPTER G. ACQUISITIONS BY COMMISSION

Revised Law
Sec. 391.181. POWERS AND METHODS OF ACQUISITION. (a) The commission may acquire by gift, purchase, exchange, or condemnation any right or property interest that it considers necessary or convenient to implement this chapter.

(b) The exercise of the power of eminent domain authorized by this chapter is the same as that authorized by Subchapter D, Chapter 203.

(c) Real property owned by the state is subject to this chapter. (V.A.C.S. Art. 4477-9a, Secs. 4.09(b), 4.10(a), (c), (d).)

Source Law
(b) The interest in land authorized by this section to be acquired and maintained may be the fee simple or a lesser interest, as determined necessary by the commission. The acquisition may be by gift, purchase, exchange, or condemnation. Sec. 4.10. (a) The commission may acquire by gift, purchase, exchange, or condemnation land or an interest in land and property or a property right of any kind or character that it considers necessary or convenient to carry out this article.
(c) Land owned by the state or by a state agency or department is subject to the terms of this article.
(d) The exercise of the power of eminent domain authorized by this article is the same as that authorized by Section 4, Chapter 300, Acts of the 55th Legislature, Regular Session, 1957 (Article 6674w-3, Vernon's Texas Civil Statutes).

Revisor's Note

(1) Section 4.10(a), V.A.C.S. Article 4477-9a, refers to "land or an interest in land." The reference to "land" is omitted from the revised law because that term is included within the meaning of "interest in land."

(2) Section 4.10(d), V.A.C.S. Article 4477-9a, refers to Section 4, Chapter 300, Acts of the 55th Legislature, Regular Session, 1957 (Article 6674w-3, Vernon's Texas Civil Statutes). That law is codified in this code as Subchapter D, Chapter 204, and the revised law is drafted accordingly.

(3) Section 4.10(c), V.A.C.S. Article 4477-9a, refers to "[L]and owned by the state or by a state agency or department." The reference to "or by a state agency or department" is omitted from the revised law because that terminology is included within the meaning of "state."

Revised Law

Sec. 391.182. STATE VOUCHERS AND WARRANTS. (a) On delivery to and acceptance by the commission of an instrument conveying to the state an interest described by Section 391.181(a), the commission shall prepare and transmit to the comptroller a voucher covering the commission's costs in acquiring the interest.

(b) The comptroller shall issue a warrant on the appropriate account covering the state's obligation as evidenced by the voucher. (V.A.C.S. Art. 4477-9a, Sec. 4.10(b).)
Source Law

(b) On delivery to and acceptance by the commission of instruments conveying to the state an interest in land, property, or property rights considered necessary or convenient by the commission to effectuate the purposes of this article, the commission shall prepare and transmit to the comptroller of public accounts vouchers covering the commission's costs in acquiring the interests in land, property, or property rights, and the comptroller shall issue warrants on the appropriate account covering the state's obligation as evidenced by the vouchers.

Reviser's Note

Section 4.10(b), V.A.C.S. Article 4477-9a, refers to the "comptroller of public accounts." The revised law substitutes the term "comptroller" because Section 403.001, Government Code, defines "comptroller" in any state statute to mean the comptroller of public accounts.

Revised Law

Sec. 391.183. RECORDING OF INSTRUMENTS. (a) An instrument conveying an interest in real property to the state in connection with the implementation of this chapter must be recorded in the deed records of each county in which the property is situated.

(b) The state shall pay the fee for recording the instrument in the same manner as a fee is paid for the recording of a highway right-of-way instrument and in accordance with the law establishing the fee to be charged by the county clerk for recording a highway right-of-way instrument. (V.A.C.S. Art. 4477-9a, Sec. 4.11(a).)

Source Law

Sec. 4.11. (a) In the implementation of this article instruments conveying land or an interest in land to the state must be recorded in the deed records of the county or counties in which the land is situated. The state shall pay the fees for recording the instruments in the same manner as fees are paid for the recording of highway right-of-way instruments and in accordance with the laws of this state establishing fees to be charged by the county clerk for the recording of these instruments.
Reviser's Note

The revised law omits "land" from the source law reference to "land or an interest in land" for the reason stated in Reviser's Note (1) under Section 391.181.

Revised Law

Sec. 391.184. DISPOSAL OF STATE REAL PROPERTY. An interest in real property acquired to implement this chapter that becomes surplus and is determined by the commission as no longer necessary to the state for the purpose for which it was acquired or for a highway purpose shall be disposed of in accordance with Subchapter B, Chapter 202. (V.A.C.S. Art. 4477-9a, Sec. 4.11(b).)

Source Law

(b) Land or an interest in land acquired to carry out this article that becomes surplus and is, in the opinion of the State Highway and Public Transportation Commission, no longer needed by the state for the purposes for which it was acquired or for highway purposes shall be disposed of in accordance with the provisions of Chapter 99, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 6673a, Vernon's Texas Civil Statutes).

Reviser's Note

(1) The revised law omits "land" from the source law reference to "land or an interest in land" for the reason stated in Reviser's Note (1) under Section 391.181.

(2) Section 4.11(b), V.A.C.S. Article 4477-9a, refers to Chapter 99, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 6673a, Vernon's Texas Civil Statutes). That law is codified in this code as Subchapter B, Chapter 202, and the revised law is drafted accordingly.

[Sections 391.185-391.210 reserved for expansion]
SUBCHAPTER H. REGULATION OF OUTDOOR ADVERTISING
ON STATE HIGHWAY 288

Revised Law
Sec. 391.211. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to outdoor advertising that is erected on or after September 1, 1993.

(b) This subchapter does not limit any authority granted to the department under this chapter. (V.A.C.S. Art. 4477-9a, Secs. 4.13(d), (f).)

Source Law
(d) This section applies to signs erected on or after the effective date of this Act.

(f) Nothing in this section shall be construed to limit any authority granted to the Texas Department of Transportation under this Act.

Revisor's Note
See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

Revised Law
Sec. 391.212. REGULATION OF CERTAIN OUTDOOR ADVERTISING.
The department may license or otherwise regulate the erection of outdoor advertising that is located within 1,000 feet of the center line of that part of State Highway 288 in the unincorporated area of a county. (V.A.C.S. Art. 4477-9a, Sec. 4.13(c).)

Source Law
(c) The Texas Department of Transportation may license, control, or otherwise regulate the erection of a sign that is located within 1,000 feet of the center line of that part of State Highway 288 that is located in the unincorporated area of the county.

Revisor's Note
(1) Section 4.13(c), V.A.C.S. Article 4477-9a, refers to "license, control, or otherwise regulate."
The reference to "control" is omitted from the revised law because that term is included within the meaning of "otherwise regulate."

(2) See Revisor's Note (4) under Section 391.001 for the rationale for using "outdoor advertising" rather than "sign" in the revised law.

Revised Law

Sec. 391.213. VIOLATION OF RULE; OFFENSE. (a) A person commits an offense if the person violates a rule adopted under this subchapter.

(b) An offense under this section is a Class C misdemeanor.

(V.A.C.S. Art. 4477-9a, Sec. 4.13(e).)

Source Law

Sec. 4.13. finds that:

(a) The legislature (1) State Highway 288 is frequented for scenic purposes by residents from every part of the state; and

(2) protecting the scenic characteristics of the highway is of concern to the entire state.

Revisor's Note

Section 4.13(e), V.A.C.S. Article 4477-9a, refers to a "regulation." The revised law substitutes "rule" for "regulation" 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.

Revisor's Note

(End of Subchapter)
recites the purpose of the power granted under Section 4.13. The revised law omits the recital of purpose as nonsubstantive and unnecessary. As omitted, Section 4.13(b) reads as follows:

(b) The power granted under this section is to encourage the scenic use of State Highway 288.

CHAPTER 392. HIGHWAY BEAUTIFICATION ON STATE HIGHWAY RIGHT-OF-WAY

SUBCHAPTER A. LANDSCAPE AND MAINTENANCE

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[Sections 392.003-392.030 reserved for expansion]

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CHAPTER 392. HIGHWAY BEAUTIFICATION ON STATE HIGHWAY RIGHT-OF-WAY

SUBCHAPTER A. LANDSCAPE AND MAINTENANCE

Revised Law

Sec. 392.001. PLANTING TREES ON RIGHTS-OF-WAY. (a) The department shall plant and care for a substantial number of pecan trees on United States and state highway rights-of-way throughout the state.

(b) In an area where the climate is unsuitable for pecan trees or where pecan trees present a safety hazard, the department shall plant other indigenous or adaptable trees that do not present a safety hazard.

(c) The cost of acquiring, planting, and caring for the
pecan trees shall be paid from the state highway fund. (V.A.C.S. Art. 6673e-3.)

Source Law

Art. 6673e-3
Sec. 1. The State Highway Department shall plant and care for a substantial number of pecan trees on United States and state highway rights-of-way throughout the state. In areas where the climate is unsuitable for the growth of pecan trees, or where pecan trees present a safety hazard, the State Highway Department shall plant other trees which are indigenous or adaptable to the (particular) area, and present no safety hazards.

Sec. 2. The cost of acquiring, planting, and caring for the pecan trees shall be borne by the state highway fund.

Revisor's Note

Section 1, V.A.C.S. Article 6673e-3, refers to the "State Highway Department." The name of the agency was changed in 1975 to the State Department of Highways and Public Transportation by amendment to Article 6663, Revised Statutes (Section 3, Chapter 678, Acts of the 64th Legislature, Regular Session), and again in 1991 (Section 1.01, Chapter 7, Acts of the 72nd Legislature, 1st Called Session) to the Texas Department of Transportation. The revised law is drafted accordingly by substituting the term "department," which Section 201.001 of this code defines as the Texas Department of Transportation.

Revised Law

Sec. 392.002. XERISCAPE REQUIREMENTS FOR ROADSIDE PARKS.
(a) The department shall use and require the use of xeriscape practices in:
   (1) the construction of roadside parks; and
   (2) the maintenance of roadside parks.
(b) In implementing this section, the department shall follow the guidelines adopted under Section 5.321, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil...
In this section:

(1) "Roadside park" includes a rest area, picnic area, welcome station, or other facility that is:

(A) provided for the convenience of the traveling public;

(B) within or adjacent to a highway right-of-way; and

(C) under the jurisdiction of the department.

(2) "Xeriscape" has the meaning assigned by Section 5.321, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).

(d) Subsection (a)(2) does not apply to a roadside park acquired, or on which construction began, before January 1, 1994, except that the department shall develop a five-year program ending on December 31, 1998, for phasing in the use of xeriscape practices in roadside parks acquired or on which construction has begun before January 1, 1994. This subsection expires January 1, 1999.

Source Law

Art. 6674i-4
Sec. 1. In this article:

(1) "Department" means the Texas Department of Transportation.

(2) "Roadside parks" includes rest areas, picnic areas, welcome stations, or other facilities that are provided for the convenience of the traveling public and that are within or adjacent to a highway right-of-way and are under the jurisdiction of the department.

(3) "Xeriscape" has the meaning assigned by Section 5.321, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), and its subsequent amendments.

Sec. 2. (a) The department shall use and require the use of xeriscape practices in the construction and maintenance of all roadside parks acquired or on which construction begins on or after January 1, 1994.

(b) The department shall develop a five-year program for phasing in the use of xeriscape practices, including the use of compost, in roadside parks acquired or on which construction has begun before January 1, 1994.

(c) In implementing this section, the department shall follow the guidelines adopted under Section 5.321, State Purchasing and General Services Act.

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(Article 601b, Vernon's Texas Civil Statutes), and its subsequent amendments.

Revisor's Note

(1) The revised law omits the definition of "department" in Section 1(1), V.A.C.S. Article 6674i-4, because Section 201.001 of this code provides a title-wide definition of that term that applies to this section.

(2) The revised law omits the references in Sections 1(3) and 2(c), V.A.C.S. Article 6674i-4, to "subsequent amendments" to Section 5.321, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), because under Section 311.027, Government Code, a reference to any portion of a statute applies to all reenactments, revisions, or amendments of the statute.

(3) The revised law omits the language "including the use of compost" in Section 2(b), V.A.C.S. Article 6674i-4, because the definition of "xeriscape" in Section 5.321, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), which applies to this section, includes the use of compost.

[Sections 392.003-392.030 reserved for expansion]

SUBCHAPTER B. SIGNS ON STATE HIGHWAY RIGHT-OF-WAY

Revised Law

Sec. 392.031. DEFINITIONS. In this subchapter:

(1) "Sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform.

(2) "State highway right-of-way" means the right-of-way of a highway designated as part of the state highway system. (V.A.C.S. Art. 6674v-7, Sec. (a); New.)
Art. 6674v-7. (a) In this article, "sign" means any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing that is designed, intended, or used to advertise or inform.

Revisor's Note

The definition of "state highway right-of-way" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law

Sec. 392.032. OFFENSE. (a) A person may not place or maintain a sign on a state highway right-of-way unless authorized by state law.

(b) A person commits an offense if the person violates this section.

(c) An offense under this section is a Class C misdemeanor.

(V.A.C.S. Art. 6674v-7, Sec. (b).)

Source Law

(b) A person may not erect, place, or maintain a sign on the right-of-way of a highway designated as part of the state highway system unless authorized by state law. A person who violates this subsection commits an offense. An offense under this subsection is a Class C misdemeanor.

Revisor's Note

Section (b), V.A.C.S. Article 6674v-7, uses the phrase "erect, place, or maintain." The term "erect" is omitted from the revised law because, in context, "erect" is included in the meaning of "place."

Revised Law

Sec. 392.033. REMOVAL AND DISPOSAL OF ILLEGAL SIGN. (a) Except as provided by Section 392.034, the department, without prior notice to the owner of the sign, may remove a sign that is placed or maintained in violation of this subchapter.
(b) If the owner's identity and mailing address are displayed on the sign or are otherwise reasonably ascertainable, the department shall notify the owner in writing that the sign:

1. has been removed; and
2. may be disposed of unless the owner claims the sign on or before the 10th day after the removal date.

(c) If the owner of the sign does not claim the sign on or before the 10th day after the removal date, the department may dispose of the sign. (V.A.C.S. Art. 6674v-7, Secs. (c) (part), (e).)

**Source Law**

(c) Except as provided by Subsection (d) of this article, the department may, without prior notice to the owner of a sign that is in violation of this article, remove the sign.

(e) The department may dispose of a sign removed under Subsection (c) of this article unless claimed by the owner not later than the 10th day after the date of removal. If the identity and mailing address of the owner are displayed on the sign or are otherwise reasonably ascertainable, the department shall give written notice to the owner of the sign that the sign has been removed and may be disposed of after the 10th day after the date of its removal unless claimed by the owner.

**Revised Law**

Sec. 392.034. ENCROACHMENT. (a) The department shall give written notice of encroachment to the owner of a sign that:

1. is on property other than a state highway right-of-way;
2. is maintained under a written permit or agreement; and
3. encroaches on the state highway right-of-way.

(b) If the owner of the sign does not correct the encroachment before the 31st day after the date of receipt of the notice, the department may remove the sign under Section 392.033. (V.A.C.S. Art. 6674v-7, Sec. (d).)

**Source Law**

(d) If a sign is on property other than the
right-of-way of a highway designated as part of the state highway system, is maintained under a written permit or agreement, and encroaches on the right-of-way of a highway designated as part of the state highway system, the department shall give the owner of the sign written notice of the encroachment. If the owner of the sign does not correct the encroachment before the 31st day after the date of receipt of the notice, the department may remove the sign under Subsection (c) of this article.

Revised Law

Sec. 392.035. REMOVAL COSTS. (a) The owner of a sign removed by the department under Section 392.033 is liable to the department for removal costs.

(b) Removal costs received by the department under this section shall be deposited to the credit of the state highway fund.

(V.A.C.S. Art. 6674v-7, Secs. (c) (part), (g).)

Source Law

(c) ... and the owner is liable to the department for the costs of removal.

(g) Removal costs received by the department under Subsection (c) of this article shall be deposited in the state treasury to the credit of the State Highway Fund.

Revisor's Note

Section (g), V.A.C.S. Article 6674v-7, refers to the deposit of certain costs "in the state treasury." The quoted language is omitted from the revised law because Section 404.094(a), Government Code, requires all money, including the referenced costs, received by a state agency to be deposited in the state treasury.

Revised Law

Sec. 392.036. DEFENSE. It is a defense to prosecution for a violation under Section 392.032 that at the time of the alleged violation:

(1) the defendant is a candidate for elective public office; and

(2) the sign is placed:
(A) by a person other than the defendant; 
(B) without the knowledge of the defendant; and 
(C) in connection with a campaign for an 
elective public office by the defendant. (V.A.C.S. Art. 6674v-7, 
Sec. (i).)

Source Law

(i) It is a defense to prosecution for a 
violation under this Act that: 
(1) the person charged with the violation 
is a candidate for an elective public office; and 
(2) the sign was placed: 
(A) by a person other than the 
person charged with the violation; 
(B) without the knowledge of the 
person charged; and 
(C) in connection with a campaign 
for an elective public office by the person charged.

Revised Law

Sec. 392.037. RULES. The commission may adopt rules to 
enforce this subchapter. (V.A.C.S. Art. 6674v-7, Sec. (f).)

Source Law

(f) The commission may adopt rules for the 
enforcement of this article.

Revised Law

Sec. 392.038. EFFECT OF OTHER LAW OR ORDINANCE. If this 
subchapter conflicts with another law or a local ordinance, the 
more restrictive provision applies. (V.A.C.S. Art. 6674v-7, Sec. 
(h).)

Source Law

(h) If this article conflicts with another law 
or a local ordinance, the more restrictive law or 
ordinance applies.

CHAPTER 393. OUTDOOR SIGNS ON PUBLIC RIGHTS-OF-WAY

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CHAPTER 393. OUTDOOR SIGNS ON PUBLIC RIGHTS-OF-WAY

Revised Law
Sec. 393.001. DEFINITION. In this chapter, "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform. (V.A.C.S. Art. 2372cc, Sec. 1.)

Source Law
Sec. 1. In this Act, "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing that is designed, intended, or used to advertise or inform.

Revised Law
Sec. 393.002. SIGN PLACEMENT PROHIBITED. A person may not place a sign on the right-of-way of a public road unless the placement is authorized by state law. (V.A.C.S. Art. 2372cc, Sec. 2.)

Source Law
Sec. 2. A person may not place a sign on a public road right-of-way unless the placement is authorized by state law.

Revisor's Note
Section 2, V.A.C.S. Article 2372cc, as originally enacted stated that the section applied only in "a county with a population of more than 1,700,000, according to the most recent federal census." Chapter 288, Acts of the 72nd Legislature, Regular Session, 1991, amended that section to apply to all counties and made other changes. Chapter 597, Acts of the 72nd Legislature, Regular Session, 1991, amended Section 2, without reference to the other amendment, by changing the population limitation from a county with a population of 1.7 million to a county with a population...
of 2.5 million. This latter amendment was part of a general bill designed to reflect population changes from the 1990 census. Section 112(b) of Chapter 597 provides that in the case of a conflict between that act and any other law enacted in the same session, the other law prevails. Therefore, the revised law omits the reference to counties with a specific population as that language was repealed by Chapter 288. The omitted law reads:

Sec. 2. In a county with a population of more than 2.5 million, according to the most recent federal census, a person may not place a sign on a public road right-of-way unless the placement is authorized by state law.

Revised Law

Sec. 393.003. CONFISCATION, NOTICE, AND PUBLIC AUCTION. (a) A sheriff or constable may confiscate a sign placed in violation of Section 393.002.

(b) If the owner of a confiscated sign is known, the sheriff or constable shall notify the owner of the confiscation by certified mail, return receipt requested, not later than the 10th day after the date of the confiscation. If the owner of the sign is not known, the sheriff or constable shall publish notice of the confiscation in a newspaper of general circulation in the county not later than the 10th day after the date of the confiscation.

(c) A notice under Subsection (b) must:

(1) include a description of the sign and the location from which the sign was confiscated;

(2) include a statement that the owner may reclaim the sign before the 21st day after the date the notice was mailed or published if all fines that are imposed under this chapter are paid; and

(3) state the date, time, and location of the public auction where the sign will be sold if the sign is not reclaimed.

(d) A notice by publication under Subsection (b) may contain
multiple listings of confiscated signs.

(e) The sheriff or constable may sell a sign at public auction if, before the 21st day after the date notice under Subsection (b) was mailed or published, the sign has not been reclaimed. The sheriff or constable shall sell the sign to the highest bidder at the auction.

(f) The sheriff or constable shall remit the proceeds of an auction under Subsection (e) to the county treasurer for deposit to the credit of a fund in the county treasury designated by the commissioners court. (V.A.C.S. Art. 2372cc, Sec. 4.)

Source Law

Sec. 4. (a) The county sheriff or constable may confiscate a sign that is placed in violation of Section 2 of this Act.

(b) If the owner of a confiscated sign is known, not later than the 10th day after confiscating the sign, the sheriff or constable shall by certified mail, return receipt requested, notify the owner of the confiscation. If the owner of the sign is not known, not later than the 10th day after confiscating the sign, the sheriff or constable shall publish notice of the confiscation in a newspaper of general circulation in the county. A notice under this subsection must include a description of the sign and the location from which the sign was confiscated and a statement that the owner may reclaim the sign before the 21st day after the date notice was sent or published on payment of all fines that may be imposed under this Act. The notice must state the date, time, and location of the public auction at which the sign will be sold if it is not reclaimed. Notice by publication may contain multiple listings of confiscated signs.

(c) If, on the 21st day after the date notice under Subsection (b) of this section is mailed or published, the sign has not been reclaimed, the sheriff or constable may sell the sign at public auction. At an auction under this section, the sheriff or constable shall sell the sign to the highest bidder.

(d) The sheriff or constable shall remit the proceeds of an auction held under Subsection (c) of this section to the county treasurer for deposit to the credit of any fund in the county treasury as designated by the commissioners court.

Revised Law

Sec. 393.004. EXEMPTION FROM NOTICE REQUIREMENTS. (a) The commissioners court of a county by order may:

(1) determine types of signs that are unlikely to be reclaimed if confiscated; and
(2) exempt those types of signs from the notice requirements of Section 393.003.

(b) In determining the types of signs that are unlikely to be reclaimed, the commissioners court may consider:

(1) the value of the materials in the signs; and

(2) the nature of the things advertised by the signs.

(c) If the commissioners court exempts certain types of signs under this section, the sheriff or constable shall store a confiscated sign that is exempted for 21 days after the date the sign is confiscated and shall make the sign available for reclamation by the owner. After that period, the sheriff or constable may discard the sign. (V.A.C.S. Art. 2372cc, Sec. 5.)

Source Law
Sec. 5. (a) The commissioners court of a county may by order determine types of signs that are unlikely to be reclaimed if confiscated and exempt those types of signs from the notice requirements in Section 4 of this Act.

(b) In determining the types of signs that are unlikely to be reclaimed, the commissioners court may consider the value of the materials in the signs and the nature of the things advertised by the signs.

(c) If the commissioners court exempts certain types of signs under this section, the sheriff or constable shall store a confiscated sign that is exempted for 21 days after the date the sign is confiscated and shall make the sign available for reclamation by the owner. If, after the 21st day after the date the sign was confiscated, the sign has not been reclaimed, the sheriff or constable may discard the sign.

Revised Law
Sec. 393.005. PLACEMENT OF UNAUTHORIZED SIGN; PENALTY. (a) A person commits an offense if the person places a sign in violation of Section 393.002.

(b) An offense under this section is a Class C misdemeanor.

Source Law
Sec. 3. A person commits an offense if the person places a sign in violation of Section 2 of this Act. An offense under this section is a Class C misdemeanor.
Sec. 393.006. DEFENSE. It is a defense to prosecution under Section 393.005 that:

(1) the defendant was a candidate for an elective public office; and

(2) the sign is placed:
(A) by a person other than the defendant;
(B) without the knowledge of the defendant; and
(C) in connection with a campaign for an elective public office by the defendant. (V.A.C.S. Art. 2372cc, Sec. 6.)

Sec. 6. It is a defense to prosecution for a violation under this Act that:
(1) the person charged with the violation is a candidate for an elective public office; and
(2) the sign was placed:
(A) by a person other than the person charged with the violation;
(B) without the knowledge of the person charged; and
(C) in connection with a campaign for an elective public office by the person charged.
[Sections 394.027-394.040 reserved for expansion]

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CHAPTER 394. REGULATION OF OUTDOOR SIGNS ON RURAL ROADS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "On-premise sign" means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

(2) "Off-premise sign" means a sign displaying advertising that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

(3) "Person" means an individual, association, or corporation.

(4) "Portable sign" means a sign designed to be mounted on a trailer, bench, wheeled carrier, or other nonmotorized mobile structure.

(5) "Sign" means a structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform. (V.A.C.S. Art. 6674v-3, Secs. 2(3) (part), (4), (5), (6), (7).)

Source Law

Sec. 2. In this article:

(3) "Sign" means ... structure, sign, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform ...

(4) "On-premise sign" means a freestanding sign identifying or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

(5) "Off-premise sign" means a sign displaying advertising copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

(6) "Person" means an individual,
association, or corporation.

(7) "Portable sign" means a sign designed to be mounted on a trailer, bench, wheeled carrier, or other nonmotorized mobile structure.

Revisor's Note

Section 2(1), V.A.C.S. Article 6674v-3, defines "commission." The revised law omits this definition because Section 201.001 of this code defines "commission" to mean the Texas Transportation Commission (the successor to the State Highway Commission). That definition applies to this chapter.

The omitted definition reads:

(1) "Commission" means the State Highway and Public Transportation Commission.

Revised Law

Sec. 394.002. APPLICATION OF CHAPTER. (a) This chapter applies only to a sign that is:

(1) outdoors; and

(2) visible from the main-traveled way of a rural road.

(b) In this section, "rural road" means a road, street, way, or bridge:

(1) that is located in an unincorporated area;

(2) that is not privately owned or controlled;

(3) any part of which is open to the public for vehicular traffic; and

(4) that is under the jurisdiction of this state or a political subdivision of this state. (V.A.C.S. Art. 6674v-3, Secs. 2(2), (3) (part).)

Source Law

(2) "Rural road" means a road, street, way, thoroughfare, or bridge that is located in an unincorporated area and is not privately owned or controlled, any part of which is open to the public for vehicular traffic, and over which the state or any of its political subdivisions have jurisdiction.

(3) "Sign" means an outdoor . . . sign . . . that is visible from the main-traveled way of a
rural road.

Revisor's Note

Section 2(2), V.A.C.S. Article 6674v-3, refers to "road," "street," "way," and "thoroughfare." The reference to "thoroughfare" is omitted from the revised law because "thoroughfare" is included within the meaning of "road," "street," or "way."

Revised Law

Sec. 394.003. EXEMPTIONS. (a) This chapter does not apply to:

(1) a sign that is allowed to be erected and maintained under the highway beautification provisions contained in Chapter 391;

(2) a sign in existence before September 1, 1985;

(3) a sign that has as its purpose the protection of life or property;

(4) a directional or other official sign authorized by law, including a sign that pertains to a natural wonder or a scenic or historic attraction;

(5) a sign that gives information about the location of an underground electric transmission line or a telegraph or telephone property or facility, a pipeline, a public sewer, or a waterline;

(6) a sign erected by an agency or political subdivision of the state; or

(7) a sign erected solely for and relating to a public election if the sign:

(A) is on private property;

(B) is erected not earlier than the 60th day before the date of the election and is removed not later than the 10th day after the election date;

(C) is constructed of lightweight material; and

(D) has a surface area not larger than 50 square
feet.

(b) Subsection (a)(2) does not exempt a sign from Section 394.048 to the extent that section applies. (V.A.C.S. Art. 6674v-3, Secs. 12(a), (c.).

Source Law

Sec. 12. (a) The following are exempt from this article:

(1) a sign the erection and maintenance of which is allowed under the highway beautification provisions contained in Article IV, Section 1, Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon’s Texas Civil Statutes);

(2) a sign in existence before the effective date of this article;

(3) a sign that has as its purpose the protection of life and property;

(4) a directional or other official sign authorized by law, including a sign pertaining to natural wonders or scenic or historic attractions;

(5) a sign or marker giving information about the location of underground electric transmission lines, telegraph or telephone properties and facilities, pipelines, public sewers, or waterlines;

(6) a sign erected by an agency of the state or a political subdivision of the state; and

(7) a sign erected solely for and relating to a public election, but only if:

(A) the sign is on private property;

(B) the sign is erected no sooner than the 60th day before the election and is removed no later than the 10th day after the election;

(C) the sign is constructed of lightweight material; and

(D) the surface area of the sign is not larger than 50 square feet.

(c) The exemption provided by Subsection (a)(2) of this section does not exempt a sign from Section 13 of this article to the extent that section applies.

Revisor’s Note

(1) The revised law substitutes "September 1, 1985" for the reference in Section 12(a)(2), V.A.C.S. Article 6674v-3, to "the effective date of this article" because that date is the article's effective date.

(2) Section 12(c), V.A.C.S. Article 6674v-3, refers to "Section 13 of this article." That section is codified in this code as Section 394.048, and the revised law is drafted accordingly.
(3) Section 12(a)(5), V.A.C.S. Article 6674v-3, refers to "a sign or marker." The reference to "marker" is omitted from the revised law because "marker" is included within the meaning of "sign."

(4) Section 12(a)(1), V.A.C.S. Article 6674v-3, refers to "highway beautification provisions contained in Article IV, Section 1, Chapter 741, Acts of the 67th Legislature, Regular Session, 1981 (Article 4477-9a, Vernon's Texas Civil Statutes)." Those provisions are codified in this code as Chapter 391, and the revised law is drafted accordingly.

Revised Law
Sec. 394.004. DUTIES OF COMMISSION. The commission shall:
(1) administer and enforce this chapter;
(2) adopt rules to regulate the erection or maintenance of a sign to which this chapter applies; and
(3) adopt rules under this chapter that specify the:
(A) time for and manner of applying for a permit; and
(B) form of and information that must be included in a permit application. (V.A.C.S. Art. 6674v-3, Sec. 9(a).)

Source Law
Sec. 9. (a) The commission shall administer and enforce this article and shall adopt rules to regulate the erection or maintenance of signs covered under this article. The commission shall adopt rules specifying the time for and manner of applying for a permit, the form of the permit application, and the information that must be included in a permit application.

Revised Law
Sec. 394.005. DISPOSITION OF FEES. A registration fee collected under Section 394.048 by the commission shall be deposited to the credit of the state highway fund. (V.A.C.S. Art. 6674v-3, Sec. 15.)
Source Law

Sec. 15. Except as provided by Section 10 of this article, permit or registration fees collected by the commission under this article shall be deposited in the state treasury to the credit of the state highway fund.

Revisor's Note

Section 15, V.A.C.S. Article 6674v-3, refers to "permit or registration fees." The reference to permit fees is omitted from the revised law because the disposition of the permit fees is determined under other law.

[Sections 394.006-394.020 reserved for expansion]

SUBCHAPTER B. PERMIT FOR OFF-PREMISE SIGN

Revised Law

Sec. 394.021. PERMIT. (a) A person may not erect an off-premise sign unless the person first obtains a permit under this subchapter from the commission.

(b) Except as otherwise authorized by this chapter, the commission may not issue a permit for an off-premise sign unless the sign is to be located:

(1) within 800 feet of one or more recognized commercial or industrial business activities; and

(2) on the same side of the road as the business activities. (V.A.C.S. Art. 6674v-3, Sec. 10 (part).)

Source Law

Sec. 10. A person may not erect an off-premise sign that is visible from the main-traveled way of a rural road without having first obtained a permit from the commission. . . . Except as authorized pursuant to this Act, no permit may be issued for an off-premise sign unless such sign is to be located within 800 feet of one or more than one recognized commercial or industrial business activities and located on the same side of the roadway as such business. . . .

Revisor's Note

(1) Section 10, V.A.C.S. Article 6674v-3, refers
to an off-premise sign "that is visible from the main-travelled way of a rural road." The revised law omits the quoted language as unnecessary because Section 394.002 of this code provides that this chapter applies only to a sign that is visible from the main-traveled way of a rural road.

(2) Section 10, V.A.C.S. Article 6674v-3, prohibits a person from erecting an off-premise sign without a permit. The prohibition is stated broadly and, as a result, applies to all off-premise signs regardless of the time at which the signs were constructed. Consequently, the part of Section 10, V.A.C.S. Article 6674v-3, making a similar statement of application is omitted as unnecessary. The omitted provision reads:

The provisions of this section shall apply to all off-premise signs now in existence and those hereinafter constructed.

Revised Law

Sec. 394.022. ISSUANCE OF PERMIT. The commission shall issue a permit to a person whose application complies with commission rule and whose sign, if erected, would comply with the requirements of this chapter. (V.A.C.S. Art. 6674v-3, Sec. 9(e).)

Source Law

(e) The commission shall issue a permit to a person whose application complies with the commission's rules and whose sign, if erected, would comply with the requirements of this article.

Revised Law

Sec. 394.023. TIME OF PERMIT. A permit is valid for one year. (V.A.C.S. Art. 6674v-3, Sec. 10 (part).)

Source Law

Sec. 10. . . . A permit issued under this section is valid for one year. . . .
Sec. 394.024. BOND. (a) The commission by rule may require an applicant for a permit to file with the commission a surety bond or other security in a reasonable amount.

(b) The bond or other security must be payable to the commission to reimburse the commission for the cost of removing a sign unlawfully erected or maintained by a permit holder.

(c) A rule adopted under Subsection (a) must exempt an applicant from filing a bond or other security if the applicant has:

(1) held at least five permits under this chapter for at least one year; and

(2) not violated this chapter or a rule adopted under this chapter during the preceding 12 months. (V.A.C.S. Art. 6674v-3, Sec. 9(b) (part).)

(b) The commission by rule may require every applicant for a permit to file with the commission a surety bond or other security in a reasonable amount and payable to the commission to reimburse it for the cost of removing a sign unlawfully erected or maintained by a permittee. A rule adopted under this section must provide for exemption from the requirement of furnishing a bond or security for an applicant who has held five or more permits under this article for at least one year and has not violated this article or a rule adopted under this article during the preceding 12-month period.

Sec. 394.025. FEE. (a) The commission by rule shall prescribe a fee to issue a permit in an amount the commission determines is sufficient to enable the commission to recover the costs of enforcing this chapter.

(b) A political subdivision of this state or its designated agent is exempt from a fee required under this section for a sign containing a noncommercial message or advertisement. (V.A.C.S. Art. 6674v-3, Sec. 10 (part).)
Sec. 10. . . . The commission by rule shall prescribe fees for the issuance of permits in amounts determined by the commission to be sufficient to enable the commission to recover the costs of enforcement of this article. . . . In addition, political subdivisions of this state or their designated agents shall be exempt from the fees authorized pursuant to this section for noncommercial messages or advertisements.

Revisor's Note

A portion of Section 10, V.A.C.S. Article 6674v-3, purports to govern the disposition of the permit fees. That portion of Section 10 is made unnecessary in part and is impliedly repealed in part by Sections 403.094(h) and 404.094, Government Code. Sections 403.094(h) and 404.094 have the effect of placing the permit fees in the state treasury in the general revenue fund to be used for general purposes of the state. Consequently, part of Section 10, V.A.C.S. Article 6674v-3, is omitted from the revised law. The omitted provision reads:

Sec. 10. . . . Fees collected under this section shall be deposited in the state treasury and may be used only for the enforcement of this article. . . .

Revised Law

Sec. 394.026. REVOCATION OF PERMIT; APPEAL. (a) The commission may revoke a permit if the permit holder violates this chapter or a rule adopted under this chapter.

(b) A person whose permit is revoked may appeal the revocation not later than the 15th day after the date of the revocation. (V.A.C.S. Art. 6674v-3, Secs. 9(c), (d) (part).)

(c) The commission may revoke a permit issued under this article if the permittee:

(1) violates any provision or requirement of this article; or

(2) violates a commission rule adopted under this article.

(d) A person whose permit is revoked may appeal the revocation . . . . The appeal must be taken not
later than the 15th day after the date of the
commission's action.

Revisor's Note

The revised law omits as unnecessary that part of
Section 9(d), V.A.C.S. Article 6674v-3, that provides
that a person whose permit is revoked may appeal the
revocation to a district court in Travis County. This
type of revocation proceeding is subject to Chapter
Section 2001.176(b)(1), Government Code, provides that
a person must file a petition in this type of
proceeding in a Travis County district court. Because
the provision in Section 9(d), V.A.C.S. Article
6674v-3, duplicates Section 2001.176(b)(1), Government
Code, the pertinent part of Section 9(d) is omitted
from the revised law. The omitted provision reads:

[(d) A person whose permit is
revoked may appeal the revocation] to a
district court in Travis County.

[Sections 394.027-394.040 reserved for expansion]

SUBCHAPTER C. OTHER GENERAL REGULATIONS

Revised Law

Sec. 394.041. HEIGHT RESTRICTIONS. (a) An on-premise or
off-premise sign may not be higher than 42-1/2 feet, excluding a
cutout that extends above the rectangular border, measured from the
highest point on the sign to the grade level of the road from which
the sign is viewed.

(b) No part of a roof sign that has a tight or solid surface
may be higher than 24 feet above the roof level.

(c) An open roof sign in which the uniform open area is 40
percent or more of the total gross area may not be higher than 40
feet above the roof level.

(d) The lowest point on a projecting sign may not be lower
than 14 feet above grade. (V.A.C.S. Art. 6674v-3, Sec. 4.)
Sec. 4. An on-premise or off-premise sign may not be erected that exceeds an overall height of 42 1/2 feet, excluding cutouts extending above the rectangular border, measured from the highest point on the sign to the grade level of the roadway from which the sign is to be viewed. A roof sign having a tight or solid surface may not at any point exceed 24 feet above the roof level. Open roof signs in which the uniform open area is not less than 40 percent of total gross area may be erected to a height of 40 feet above the roof level. The lowest point on a projecting sign must be at least 14 feet above grade.

Sec. 394.042. FACE RESTRICTIONS. (a) The face area of an on-premise sign may not be larger than 400 square feet, including a cutout but excluding an upright, trim, or apron.

(b) The face area of an off-premise sign may not be larger than 672 square feet, excluding a cutout, upright, trim, or apron.

(c) The cutout area of an off-premise or on-premise sign may not be larger than 20 percent of the sign's surface copy area.

(d) This section does not apply to:

(1) a sign that advertises the sale or lease of property on which the sign is located; or

(2) an on-premise wall sign. (V.A.C.S. Art. 6674v-3, Secs. 5, 12(b).)

Sec. 5. An on-premise sign, other than an on-premise wall sign, may not be erected that has a face area exceeding 400 square feet, including cutouts but excluding uprights, trim, and apron. An off-premise sign may not be erected that has a face area exceeding 672 square feet, excluding cutouts, uprights, trim, and apron. Neither an on-premise nor an off-premise sign may have a cutout with an area larger than 20 percent of the sign's surface copy area.

(b) The following are exempt from the requirements of Section 5 of this article:

(1) signs advertising the sale or lease of property on which they are located; and

(2) on-premise wall signs.

Sec. 394.043. WIND LOAD PRESSURE RESTRICTIONS. (a) An
on-premise or off-premise sign must be designed to resist wind loads as follows:

<table>
<thead>
<tr>
<th>Height in feet above ground</th>
<th>Wind load pressure in pounds for each square foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5</td>
<td>0</td>
</tr>
<tr>
<td>6-30</td>
<td>20</td>
</tr>
<tr>
<td>31-50</td>
<td>25</td>
</tr>
<tr>
<td>51-99</td>
<td>35</td>
</tr>
<tr>
<td>100-199</td>
<td>45</td>
</tr>
<tr>
<td>200-299</td>
<td>50</td>
</tr>
<tr>
<td>300-399</td>
<td>55</td>
</tr>
<tr>
<td>400-500</td>
<td>60</td>
</tr>
<tr>
<td>501-800</td>
<td>70</td>
</tr>
<tr>
<td>Over 800</td>
<td>77</td>
</tr>
</tbody>
</table>

(b) Under this section, the height of a sign is measured above the average level of the ground adjacent to the structure.

(V.A.C.S. Art. 6674v-3, Sec. 7(a).)

Source Law

Sec. 7. (a) Each on-premise or off-premise sign erected or sited must be designed to resist wind loads as follows:

WIND LOAD PRESSURES IN POUNDS PER SQUARE FOOT FOR ALL SIGNS

<table>
<thead>
<tr>
<th>Height, in feet above ground, as measured above the average level of the ground adjacent to the structure</th>
<th>Pressure, pounds per square foot</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5</td>
<td>0</td>
</tr>
<tr>
<td>6-30</td>
<td>20</td>
</tr>
<tr>
<td>31-50</td>
<td>25</td>
</tr>
<tr>
<td>51-99</td>
<td>35</td>
</tr>
<tr>
<td>100-199</td>
<td>45</td>
</tr>
<tr>
<td>200-299</td>
<td>50</td>
</tr>
<tr>
<td>300-399</td>
<td>55</td>
</tr>
<tr>
<td>400-500</td>
<td>60</td>
</tr>
<tr>
<td>501-800</td>
<td>70</td>
</tr>
<tr>
<td>Over 800</td>
<td>77</td>
</tr>
</tbody>
</table>
Sec. 394.044. REPLACEMENT OR REPAIR. (a) A sign or a substantial part of a sign that is blown down, destroyed, taken down, or removed for any purpose other than for maintenance or for changing a letter, symbol, or other matter on the sign may not be reerected, reconstructed, or rebuilt unless the sign conforms with this chapter.

(b) For purposes of this section, a sign or substantial part of a sign is considered destroyed only if the cost of repairing the sign is more than 50 percent of the cost of erecting a new sign of the same type at the same location. (V.A.C.S. Art. 6674v-3, Sec. 11.)

Sec. 11. (a) When any sign, or a substantial part of it, is blown down or otherwise destroyed or taken down or removed for any purpose other than maintenance operations or for changing the letters, symbols, or other matter on the sign, it may not be reerected, reconstructed, or rebuilt except in full conformance with the provisions and requirements of this article.

(b) For purposes of Subsection (a) of this section, a sign or substantial part of it is considered to have been destroyed only if the cost of repairing the sign is more than 50 percent of the cost of erecting a new sign of the same type at the same location.

Sec. 394.045. SPACE BETWEEN SIGNS. (a) An off-premise sign that has a face area of 301 square feet or more may not be erected within 1,500 feet of another off-premise sign on the same side of the road.

(b) An off-premise sign that has a face area of 100 or more but less than 301 square feet may not be erected within 500 feet of another off-premise sign on the same side of the road.

(c) An off-premise sign that has a face area of less than 100 square feet may not be erected within 150 feet of another off-premise sign on the same side of the road.

(d) A sign located at the same intersection where one or
more other signs are located does not violate this section because
of its proximity to another sign if each of the signs is located so
that the sign's message is directed toward the traffic flowing in a
direction different from the traffic toward which any other sign's
message is directed.

(e) In this section, for purposes of measuring distance
between signs, each double-faced, back-to-back, or V-type sign is a
single sign. (V.A.C.S. Art. 6674v-3, Sec. 3.)

Source Law
Sec. 3.  (a) An off-premise sign having a face
area of 301 square feet or more may not be erected
within 1,500 feet of another off-premise sign on the
same side of the roadway.
(b) An off-premise sign having a face area of at
least 100 but less than 301 square feet may not be
erected within 500 feet of another off-premise sign on
the same side of the roadway.
(c) An off-premise sign having a face area of
less than 100 square feet may not be erected within 150
feet of another off-premise sign on the same side of
the roadway.
(d) For purposes of this section, each
double-faced, back-to-back, or V-type sign is treated
as a single sign.
(e) Signs located at the same intersection are
not in violation of this section because of their
nearness to one another if they are located so that
their messages are directed toward traffic flowing in
different directions.

Revised Law
Sec. 394.046. COMPUTING FACE AREA OF CERTAIN SIGNS. Each
face area of a double-faced, back-to-back, or V-type sign is
considered to be a separate sign for the purpose of computing the
face area under Section 394.042 or 394.045. (V.A.C.S.
Art. 6674v-3, Sec. 6.)

Source Law
Sec. 6.  For signs of a double-faced,
back-to-back, or V-type nature, each face is considered
a separate sign in computing the face area.

Revised Law
Sec. 394.047. NUMBER OF SIGNS. A business may not maintain
more than five on-premise signs for each frontage on a single road
at a single business location. (V.A.C.S. Art. 6674v-3, Sec. 8.)

Source Law

Sec. 8. A business may not maintain more than five on-premise signs per each frontage on a single rural road at a single business location.

Revisor's Note

Section 8, V.A.C.S. Article 6674v-3, refers to the location of on-premise signs on a "rural road." The reference to "rural" is omitted as unnecessary because Section 394.002 of the revised law provides that this chapter applies only to a sign that is visible from the main-traveled way of a rural road. In this context, a "road" is understood to mean a rural road.

Revised Law

Sec. 394.048. REGISTRATION OF CERTAIN OFF-PREMISE SIGNS.

(a) The owner of an off-premise sign erected before September 1, 1985, and registered with the commission before December 31, 1985, may renew the registration of the sign for an annual fee of $10.

(b) The commission by rule may provide for a longer renewal period not to exceed five years. (V.A.C.S. Art. 6674v-3, Sec. 13 (part).)

Source Law

Sec. 13. Not later than the 120th day after the effective date of this article each owner of an off-premise sign erected before the effective date of this article that is visible from the main-traveled way of a rural road shall either remove the sign or register the sign with the commission. . . . This registration is valid for one year, but is renewable for an annual fee of $10 a sign, provided however, the commission may by regulation provide for a longer renewal period not to exceed five years.

Revisor's Note

(1) The revised law substitutes "September 1, 1985," for the reference in Section 13, V.A.C.S. Article 6674v-3, to "the effective date of this
article" because that is the article's effective date.

(2) The revised law substitutes "before December 31, 1985," for the reference in Section 13, V.A.C.S. Article 6674v-3, to "[n]ot later than the 120th day after the effective date of this article" because December 30, 1985, is 120 days after September 1, 1985.

(3) Section 13, V.A.C.S. Article 6674v-3, refers to a sign "that is visible from the main-travelled way of a rural road." The quoted language is omitted as unnecessary because Section 394.002 of this chapter provides that this chapter applies only to a sign that is visible from the main-traveled way of a rural road.

(4) Section 13, V.A.C.S. Article 6674v-3, refers to "regulation." The revised law substitutes "rule" for "regulation" because the terms are synonymous and the former is more commonly used.

(5) Section 13, V.A.C.S. Article 6674v-3, requires an owner of an off-premise sign erected before the effective date of the article (September 1, 1985) to either remove the sign or register the sign for a $25 fee not later than the 120th day after the effective date of the article (December 30, 1985). The revised law omits this reference because that provision is executed. The omitted provision reads:

The owner must pay a fee of $25 for each sign that is registered.

Revised Law

Sec. 394.049. PORTABLE SIGNS. A person may not place a portable sign on the property of another person without first obtaining written permission from the owner of the property or the owner's authorized agent. (V.A.C.S. Art. 6674v-3, Sec. 7(b).)

Source Law

(b) A person may not place a portable sign on property of another without first obtaining written permission from the owner or the owner's authorized
Sec. 394.050. BOARD OF VARIANCE. The commission shall provide for a board of variance that, in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter. (V.A.C.S. Art. 6674v-3, Sec. 9(f).)

Sec. 394.051. BOND FOR CERTAIN BUSINESSES. (a) A person who is engaged primarily in the business of erecting signs that advertise companies located or products sold on the premises on which the signs are erected must file with the commission a surety bond in the amount of $100,000 or more payable to the commission to reimburse the commission for the cost of removing a sign unlawfully erected or maintained by the person. (b) The commission may not exempt a person from the requirements of Subsection (a). (V.A.C.S. Art. 6674v-3, Sec. 9(b) (part).)

(b) . . . Any person engaged primarily in the business of erecting signs that advertise companies located or products sold on the premises on which the signs are erected must file with the commission a surety bond in the amount of at least $100,000 and payable to the commission to reimburse it for the cost of removing a sign unlawfully erected or maintained by the person; a person may not be exempted from this requirement.

[Sections 394.052-394.060 reserved for expansion]
SUBCHAPTER D. REGULATION OF SIGNS IN POPULOUS COUNTIES

Revised Law
Sec. 394.061. OFF-PREMISE PORTABLE SIGNS. (a) In a county with a population of 2.4 million or more, the commissioners court of the county may:

(1) prohibit off-premise portable signs in the unincorporated area of the county; or

(2) regulate the location, height, size, and anchoring of, or any other matter relating to the use of, off-premise portable signs in the unincorporated area.

(b) A regulation imposed by or adopted under this chapter does not apply to an off-premise portable sign in the unincorporated area of a county with a population of 2.4 million or more. (V.A.C.S. Art. 6674v-3, Sec. 16(a).)

Source Law
Sec. 16. (a) The regulations imposed by or adopted under the other sections of this article do not apply to off-premise portable signs in the unincorporated area of a county with a population of 2.4 million or more, according to the most recent federal census. In such a county, the commissioners court may prohibit off-premise portable signs in the unincorporated area of the county and may regulate the following matters in that area:

(1) the location, height, size, and anchoring of off-premise portable signs; and

(2) other matters relating to the use of off-premise portable signs.

Revisor's Note
Section 16(a), V.A.C.S. Article 6674v-3, refers to a population number that is to be determined "according to the most recent federal census." The revised law omits the reference to the federal census because it is unnecessary. Section 311.005(3), Government Code (Code Construction Act), defines "population" as population according to the most recent federal decennial census. That definition applies to the revised law.
Sec. 394.062. CONFLICT WITH OTHER LAWS. (a) A county prohibition or regulation adopted under Section 394.061 prevails over a state law or rule if there is a conflict.

(b) A municipal sign ordinance that has been extended to territory in the municipality's extraterritorial jurisdiction under Section 216.902, Local Government Code, prevails in that territory over a county prohibition or regulation adopted under Section 394.061 if there is a conflict. (V.A.C.S. Art. 6674v-3, Sec. 16(b).)

Sec. 394.063. ON-PREMISE SIGNS. (a) The commissioners court of a county with a population of more than 2.4 million or of a county that borders a county with that population may regulate, in the unincorporated area of the county, the location, height, size, and anchoring of on-premise signs.

(b) A county regulation adopted under this section may not permit an on-premise sign to be erected if the sign could not have been erected under a previous municipal regulation that applied to the place where the sign is to be erected.
(c) A regulation of an on-premise sign imposed by this chapter, adopted by the commission under this chapter, or adopted by a municipality does not apply in the unincorporated area of a county that adopts a regulation of an on-premise sign under this section.

(d) In lieu of exercising a regulatory power under this section, the commissioners court of the county, by order, may allow the commission to regulate on-premise signs in the unincorporated area of the county in accordance with a municipal or county regulation regarding on-premise signs in the unincorporated area. On adoption of the order, municipal authority to regulate on-premise signs in the unincorporated area is withdrawn.

(e) A regulation adopted under this section applies only to an on-premise sign erected on or after August 31, 1987. (V.A.C.S. Art. 6674v-3, Secs. 17(a), (b), (c), (d), (h).)
Revisor's Note

(1) The revised law substitutes "August 31, 1987" for the reference in Section 17(h), V.A.C.S. Article 6674v-3, to "the effective date of the Act enacting this section" because that date is the date Section 17 took effect.

(2) Section 17(a), V.A.C.S. Article 6674v-3, refers to a population number that is to be determined "according to the most recent federal census." The revised law omits the reference to the federal census for the reason stated in the reviser's note to Section 394.061 of this code.

(3) Section 17(d), V.A.C.S. Article 6674v-3, refers to the "Texas Transportation Commission." The revised law refers only to "the commission" for the reason stated in the reviser's note to Section 394.001 of this code.

[Sections 394.064-394.080 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT

Revised Law

Sec. 394.081. CIVIL PENALTY. (a) A person who intentionally violates this chapter or a rule adopted by the commission under this chapter is liable to the state for a civil penalty of not less than $150 or more than $1,000 for each violation, depending on the seriousness of the violation. Each day a violation continues is a separate violation.

(b) The attorney general or a district or county attorney may sue to collect the civil penalty.

(c) A civil penalty collected under this section shall be deposited to the credit of the state highway fund. (V.A.C.S. Art. 6674v-3, Secs. 14(a), (b), (e) (part).)

Source Law

Sec. 14. (a) A person who intentionally
violates this article or a rule adopted by the
commission under this article is liable to the state
for a civil penalty. The attorney general or a county
or district attorney may sue to collect the penalty.

(b) The amount of the civil penalty is not less
than $150 nor more than $1,000 for each violation,
depending on the seriousness of the violation. A
separate civil penalty may be collected for each day on
which a continuing violation occurs.

(e) Civil . . . penalties collected under this
article shall be deposited in the state treasury to the
credit of the state highway fund.

Revised Law

Sec. 394.082. ADMINISTRATIVE PENALTY. (a) In lieu of a
suit to collect a civil penalty, the commission, after notice and
an opportunity for a hearing before the commission, may impose an
administrative penalty against a person who intentionally violates
this chapter or a rule adopted by the commission under this
chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed
the maximum amount of a civil penalty under Section 394.081.

(c) A proceeding under this section is a contested case

(d) Judicial review of an appeal of an administrative
penalty imposed under this section is by trial de novo.

(e) An administrative penalty collected under this section
shall be deposited to the credit of the state highway fund.

(V.A.C.S. Art. 6674v-3, Secs. 14(c), (e) (part).)

Source Law

(c) In lieu of a suit to collect a civil
penalty, the commission may, after notice and an
opportunity for hearing before the commission, assess
an administrative penalty against a person who
intentionally violates this article or a rule adopted
by the commission under this article. The amount of an
administrative penalty may not exceed the maximum
amount of a civil penalty under this section. A
continuing violation is subject to separate
administrative penalties in the same manner as it is
subject to separate civil penalties. A proceeding on
the assessment of an administrative penalty under this
subsection is a contested case for purposes of the
Administrative Procedure and Texas Register Act
(Article 6252-13a, Vernon's Texas Civil Statutes). On
appeal of the assessment of an administrative penalty
under this subsection, the manner of review is by trial
de novo.
(e) . . . administrative penalties collected under this article shall be deposited in the state treasury to the credit of the state highway fund.

Revisor's Note

(1) Section 14(c), V.A.C.S. Article 6674v-3, refers to "a civil penalty under this section." The pertinent part of that section is codified in this code as Section 394.081, and the revised law is drafted accordingly.

(2) Section 14(c), V.A.C.S. Article 6674v-3, refers to the "Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)." The pertinent part of that Act was codified in 1993 as Chapter 2001, Government Code. The revised law is drafted accordingly.

(3) Section 14(c), V.A.C.S. Article 6674v-3, refers to a continuing violation of an administrative penalty being "subject to separate administrative penalties in the same manner as it is subject to separate civil penalties." The relevant portion of Section 14(b), V.A.C.S. Article 6674v-3, codified in this code as Section 394.081(a), states that "[a] separate civil penalty may be collected for each day on which a continuing violation occurs." The revised law conforms the language in this section to the relevant language in Section 394.081(a).

Revised Law

Sec. 394.083. REVOCATION OF PERMIT IN ADDITION TO OTHER PENALTY. (a) A court shall order the revocation of the permit issued under Section 394.022 that a person holds for a location at which a violation under this chapter occurs if it is shown at the trial of the person for the collection of a civil penalty under Section 394.081 or at an appeal of an administrative penalty under Section 394.082 that a judgment for a civil penalty, a judgment for
an administrative penalty, or a final order for an administrative penalty that was not timely appealed was previously imposed under this chapter against the person.

(b) The revocation of a permit under this section is in addition to any other penalty that may be imposed under this chapter. (V.A.C.S. Art. 6674v-3, Sec. 14(d).)

Source Law

(d) If it is shown at the trial for collection of a civil penalty under this section or on appeal of an administrative penalty under this section that a judgment for a civil penalty, or a final order, not timely appealed, or a judgment for an administrative penalty, was previously assessed against the person, in addition to any penalty that may be assessed for the subsequent violation the court shall order the revocation of any permit held by the person for the location at which the subsequent violation occurred.

Revisor's Note

(1) Section 14(d), V.A.C.S. Article 6674v-3, refers to "a civil penalty under this section." The pertinent part of that section is codified in this code as Section 394.081, and the revised law is drafted accordingly.

(2) Section 14(d), V.A.C.S. Article 6674v-3, refers to "an administrative penalty under this section." The pertinent part of that section is codified in this code as Section 394.082, and the revised law is drafted accordingly.

Revised Law

Sec. 394.084. VIOLATIONS OF REGULATIONS OR PROHIBITIONS IMPOSED BY POPULOUS COUNTIES ON OFF-PREMISE PORTABLE SIGNS. (a) If a county adopts a prohibition or regulation under Section 394.061, the attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of the prohibition or regulation.

(b) The commissioners court of a county that adopts a prohibition or regulation under Section 394.061 by order may define
an offense for the violation of the prohibition or regulation.

(c) An offense defined by a commissioners court under Subsection (b) is a Class C misdemeanor. (V.A.C.S. Art. 6674v-3, Secs. 16(c), (d).)

Source Law

(c) The appropriate attorney representing the county in the district court may seek injunctive relief to prevent the violation or threatened violation of a prohibition or regulation adopted under this section.

(d) The commissioners court may define an offense for the violation of a prohibition or regulation adopted under this section. If the commissioners court defines an offense, the offense is a Class C misdemeanor. The offense is prosecuted in the same manner as an offense defined by state law.

Revisor's Note

Section 16(d), V.A.C.S. Article 6674v-3, requires an offense under that section to be "prosecuted in the same manner as an offense defined by state law." The revised law omits the quoted language as unnecessary because the prosecution will occur in that manner under other general law.

Revised Law

Sec. 394.085. VIOLATIONS OF REGULATIONS OR PROHIBITIONS IMPOSED BY POPULOUS COUNTIES ON ON-PREMISE SIGNS. (a) If a county adopts a prohibition or regulation under Section 394.063, the attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of the prohibition or regulation.

(b) A violation of a prohibition or regulation adopted under Section 394.063 is a Class C misdemeanor. (V.A.C.S. Art. 6674v-3, Secs. 17(e), (f).)

Source Law

(e) The appropriate attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of a prohibition or regulation adopted under this section.

(f) A violation of a prohibition or regulation adopted by the commissioners court under this section is a Class C misdemeanor.
Sec. 394.086. ADMINISTRATIVE PENALTY FOR VIOLATION OF ON-PREMISE SIGN REGULATIONS IN POPULOUS COUNTIES. (a) The commissioners court of a county with a population of more than 2.4 million or of a county that borders a county with that population may authorize a county employee to issue a civil citation to enforce a regulation of the commissioners court adopted under Section 394.063. The commissioners court may designate the county employee as a county inspector.

(b) If a citation is issued under this section, the commissioners court may assess an administrative penalty against the person cited.

(c) The commissioners court may assess the administrative penalty in an amount not to exceed $100 for each day the violation exists. In determining the amount of the penalty, the commissioners court shall consider the seriousness of the violation.

(d) If, after examination of a possible violation and the facts relating to that possible violation, the commissioners court determines that a violation has occurred, the commissioners court shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the commissioners court issues the preliminary report, the commissioners court shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the report is sent, the person charged either may make a written request to the county judge or the judge's representative for a hearing or may remit the amount of the administrative penalty to the commissioners court. Failure either to request a hearing or to remit the amount of the administrative penalty within the time...
1 provided by this subsection results in a waiver of a right to a
2 hearing under this section. If the person charged requests a
3 hearing, the county judge or the judge's representative shall
4 conduct the hearing in the manner provided for a contested case
5 hearing under Chapter 2001, Government Code, as if the
6 commissioners court were a state agency under that law. If it is
7 determined after hearing that the person has committed the alleged
8 violation, the county judge or the judge's representative shall
9 give written notice to the person of the findings established by
10 the hearing and the amount of the penalty, and the commissioners
11 court shall enter an order requiring the person to pay the penalty.
12 Not later than the 30th day after the date on which the notice is
13 received, the person charged shall pay the administrative penalty
14 in full.
15
16 (f) The person charged is entitled to an appeal by trial de
17 novo in district court on the issue of the amount of the penalty or
18 the fact of the violation. If, after judicial review, it is
19 determined that no violation occurred or that the amount of the
20 penalty should be reduced, the commissioners court shall remit any
21 appropriate amount to the person charged with the violation not
22 later than the 30th day after the date on which the judicial
23 determination becomes final.
24
25 (g) An administrative penalty recovered under this section
26 shall be deposited in the county treasury to the credit of the
27 general fund. (V.A.C.S. Art. 6674v-3, Secs. 18(a), (b), (c), (d),
28 (e), (f) (part), (h).)

Source Law

Sec. 18. (a) The commissioners court of a
1 county with a population of more than 2.4 million,
2 according to the most recent federal census, or the
3 commissioners court of a county that borders a county
4 with that population may authorize a county employee to
5 issue a civil citation to enforce a regulation of the
6 commissioners court adopted under Section 17 of this
7 Act. The commissioners court may designate the county
8 employee as a county inspector.
9
10 (b) If a citation is issued under this section,
11 the commissioners court may assess an administrative
12 penalty against the person cited as provided by this
13 section.
(c) The commissioners court may assess the administrative penalty in an amount not to exceed $100 for each day the violation exists. In determining the amount of the penalty, the commissioners court shall consider the seriousness of the violation.

(d) If, after examination of a possible violation and the facts relating to that possible violation, the commissioners court determines that a violation has occurred, the commissioners court shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the commissioners court issues the preliminary report, the commissioners court shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the report is sent, the person charged either may make a written request to the county judge or the judge's representative for a hearing or may remit the amount of the administrative penalty to the commissioners court. Failure either to request a hearing or to remit the amount of the administrative penalty within the time provided by this subsection results in a waiver of a right to a hearing under this article. If the person charged requests a hearing, the county judge or the judge's representative shall conduct the hearing in the manner provided for a contested case hearing under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments as if the commissioners court were a state agency under that Act. If it is determined after hearing that the person has committed the alleged violation, the county judge or the judge's representative shall give written notice to the person of the findings established by the hearing and the amount of the penalty, and the commissioners court shall enter an order requiring the person to pay the penalty.

(f) Not later than the 30th day after the date on which the notice is received, the person charged shall pay the administrative penalty in full, . . . . The person charged is entitled to an appeal by trial de novo in district court on the issue of the amount of the penalty or the fact of the violation. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the commissioners court shall remit the appropriate amount to the person charged with the violation not later than the 30th day after the date on which the judicial determination becomes final.

(h) An administrative penalty recovered under this section shall be deposited in the county treasury to the credit of the general fund.

Revisor's Note

(1) Section 18(a), V.A.C.S. Article 6674v-3, refers to "Section 17 of this Act." The pertinent
parts of that section are codified in this code as
Section 394.063, and the revised law is drafted accordingly.

(2) Section 18(e), V.A.C.S. Article 6674v-3,
refers to the "Administrative Procedure and Texas
Register Act (Article 6252-13a, Vernon's Texas Civil
Statutes)." The pertinent part of that statute was
codified in 1993 as Chapter 2001, Government Code. The
revised law is drafted accordingly.

(3) Section 18(a), V.A.C.S. Article 6674v-3,
refers to a population number that is to be determined
"according to the most recent federal census." The
revised law omits the reference to the federal census
for the reason stated in the revisor's note to Section
394.061 of this code.

(4) Section 18(e), V.A.C.S. Article 6674v-3,
refers to "subsequent amendments" to the Administrative
Procedure and Texas Register Act (Article 6252-13a,
Vernon's Texas Civil Statutes), the pertinent part of
which was codified in 1993 as Chapter 2001, Government
Code. The revised law omits the reference to
"subsequent amendments" because under Section 311.027,
Government Code, a reference to any portion of a
statute applies to all reenactments, revisions, or
amendments of the statute.

(5) Sections 18(f) and (g), V.A.C.S. Article
6674v-3, require a person to pay an assessed
administrative penalty before the person may appeal the
assessment to a court. The revised law omits as
unconstitutional the provisions establishing that
requirement. The Texas Supreme Court held in Texas
Association of Business v. Texas Air Control Board and
Texas Water Commission, 852 S.W.2d 440 (1993), that a
requirement of that nature violates the open courts
provision established by Section 13, Article I, Texas Constitution. The omitted provisions read:

(f) . . . or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the assessed amount to the commissioners court for deposit in an escrow account.

(g) Failure to remit the amount of the administrative penalty to the commissioners court within the time provided by Subsection (e) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

Revisor's Note
(End of Chapter)

Section 1, V.A.C.S. Article 6674v-3, stating the intent of the source law, is omitted as nonsubstantive and unnecessary. Section 1 reads:

Sec. 1. It is the intent of the legislature to promote and control the reasonable, orderly, and effective display of outdoor advertising on all highways and roads located outside the corporate limits of cities, towns, and villages in Texas to promote the recreational value of public travel, and to preserve natural beauty.

CHAPTER 395. OUTDOOR SIGNS AND MOTORIST INFORMATION PANELS ON TOLL ROADS IN CERTAIN COUNTIES

SUBCHAPTER A. REGULATION OF OUTDOOR SIGNS BY TOLL ROAD AUTHORITY

Sec. 395.001. APPLICATION OF SUBCHAPTER

Sec. 395.002. DEFINITIONS

Sec. 395.003. REGULATION OF SIGNS

Sec. 395.004. MUNICIPAL ORDINANCES

Sec. 395.005. COMPENSATION FOR SIGNS

Sec. 395.006. TAX ABATEMENT

Sec. 395.007. SIGN ABATEMENT AND BEAUTIFICATION FUND

Sec. 395.008. SIGN ABATEMENT REVENUE BONDS

Sec. 395.009. CASH

Sec. 395.010. PENALTY

[Sections 395.011-395.050 reserved for expansion]

SUBCHAPTER B. TOLL ROAD INFORMATIONAL SIGNS

Sec. 395.051. APPLICATION OF SUBCHAPTER
CHAPTER 395. OUTDOOR SIGNS AND MOTORIST INFORMATION PANELS ON TOLL ROADS IN CERTAIN COUNTIES

SUBCHAPTER A. REGULATION OF OUTDOOR SIGNS BY TOLL ROAD AUTHORITY

Revised Law

Sec. 395.001. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to:

(1) the governing body of a toll road authority in which a county with a population of 2.4 million or more is located; and

(2) an outdoor sign.

(b) Chapter 393 does not apply to the placement of a sign to which this subchapter applies. (V.A.C.S. Art. 6674v-4, Secs. 1 (part), 2(a) (part), (d).)

Source Law

Art. 6674v-4
Sec. 1. "sign" means an outdoor sign.
Sec. 2. (a) The governing body of a toll road authority in which a county with a population of 2.4 million or more, according to the most recent federal decennial census, is located.

(d) Chapter 834, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372cc, Vernon's Texas Civil Statutes), does not apply to the placement of signs to which this Act applies.

Revisor's Note

(1) Section 2(a), V.A.C.S. Article 6674v-4, describes a population number that is to be determined according to the most recent federal census.
revised law omits the reference to the federal census because the reference is unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

(2) Section 2(d), V.A.C.S. Article 6674v-4, refers to Chapter 834, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372cc, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 393, and the revised law is drafted accordingly.

Revised Law
Sec. 395.002. DEFINITIONS. In this subchapter:

(1) "Governing body" includes only the governing body of a toll road authority.

(2) "Sign" means a display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed or used to advertise or inform. (V.A.C.S. Art. 6674v-4, Sec. 1 (part); New.)

Source Law
Art. 6674v-4
Sec. 1. In this Act, "sign" means . . . display, light, device, figure, painting, drawing, message, plaque, poster, or other thing that is designed, intended, or used to advertise or inform.

Revisor's Note
The definition of "governing body" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

Revised Law
Sec. 395.003. REGULATION OF SIGNS. The governing body of a
toll road authority may adopt rules to license, regulate, or
prohibit the placement of a sign visible from the main-traveled way
of a toll road in the authority and erected for the purpose of
having the message seen from the main-traveled way if the authority
determines the rules are necessary to restore, preserve, or enhance
the scenic beauty of the property within view of the road.

(V.A.C.S. Art. 6674v-4, Sec. 2(a) (part).)

Source Law

Sec. 2. (a) The governing body of a toll road
authority . . . may adopt rules that provide for the
licensing, regulation, control, or prohibition of the
placement of signs that are visible from the
main-traveled way of a toll road in the authority and
are erected for the purpose of having the message seen
from the main-traveled way of the toll road, if the
authority determines the rules are necessary to
restore, preserve, or enhance the scenic beauty of the
property within view of the road.

Revisor's Note

Section 2(a), V.A.C.S. Article 6674v-4, refers to
"licensing, regulation, control, or prohibition." The
revised law omits the term "control" because "control"
is included within the meaning of "regulation."

Revised Law

Sec. 395.004. MUNICIPAL ORDINANCES. (a) If the governing
body adopts a rule under this subchapter that applies to a sign on
property located in the territory of a municipality that has
adopted an ordinance regulating the placement of a sign on the
property, the rule must be at least as stringent as the ordinance.

(b) This subchapter does not affect the authority of a
municipality to adopt an ordinance regulating the placement of a
sign within the view of a toll road located in the territory of the
municipality. (V.A.C.S. Art. 6674v-4, Secs. 2(b), (c).)

Source Law

(b) If the governing body of a toll road
authority adopts rules under this section that apply to
signs on property located inside the limits of a
municipality that has adopted an ordinance regulating
the placement of signs on that property, the rules of
the authority must be at least as stringent as the ordinance of the municipality.

(c) This section does not affect the authority of a municipality to adopt ordinances regulating the placement of signs within view of a toll road located inside the limits of the municipality.

Revised Law

Sec. 395.005. COMPENSATION FOR SIGNS. (a) If the governing body requires the removal of a sign:

(1) the owner of the sign is entitled to compensation for the cash value for the tangible physical property constituting the sign structure; and

(2) the owner of the real property on which the sign is located is entitled to compensation for the decrease in the value of the real property.

(b) Compensation under this section is determined under the standards and procedures applicable to a proceeding under Chapter 21, Property Code.

(c) The governing body may use only a method or a combination of methods described by this subchapter to pay compensation. (V.A.C.S. Art. 6674v-4, Secs. 4, 5(a).)

Source Law

Sec. 4. (a) If a sign is required to be removed, the owner of the sign is entitled to be compensated for the cash value of the tangible, physical property constituting the sign structure, determined in accordance with standards and procedures applicable to a proceeding under Chapter 21, Property Code.

(b) If a sign is required to be removed, the owner of the real property on which the sign was located is entitled to be compensated for the decrease in the value of the real property. The compensation shall be determined in accordance with standards and procedures applicable to a proceeding under Chapter 21, Property Code.

Sec. 5. (a) To pay the compensation required by Section 4 of this Act, the governing body of a toll road authority may use only a method or a combination of methods described by this section.

Revised Law

Sec. 395.006. TAX ABATEMENT. (a) The governing body, with the approval of the commissioners court and in accordance with
Chapter 312, Tax Code, may abate county property taxes owed by the
owner of a sign to be removed.

(b) The governing body may declare an area to be a reinvestment zone for the purpose of abating property taxes under this section if the area encompasses a sign to be removed.

(c) The governing body may abate taxes on any real or personal property in the county that is owned by the owner of the sign, except residential property.

(d) The holder of a right of tax abatement may assign the right. An assignee may use the right of tax abatement on any nonresidential property in the county.

(e) In a county in which tax abatement is used to pay compensation under this subchapter, the compensation must include reasonable interest.

(f) A tax abatement period may not exceed five years.

(V.A.C.S. Art. 6674v-4, Sec. 5(b).)

Source Law

(b) The governing body of a toll road authority, with the approval of the commissioners court and in accordance with the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code), may abate county property taxes that otherwise would be owed by the owner of a sign to be removed. The governing body may declare an area to be a reinvestment zone for purposes of abating property taxes under this subsection if the area encompasses signs designated by the governing body for removal. The abated taxes may be on any real or personal property in the county, other than residential property, owned by the owner of the sign. The right to the abatement of taxes is assignable by the holder, and the assignee may use the right of abatement with respect to taxes on any nonresidential property in the same county. In a county in which tax abatement is used in order to pay compensation, the compensation shall include reasonable interest and the abatement period may not exceed five years.

Revised Law

Sec. 395.007. SIGN ABATEMENT AND BEAUTIFICATION FUND. (a) The governing body may deposit all or part of the county property tax paid on a sign, on the real property on which a sign is located, or on other real or personal property owned by the owner of a sign to the credit of a sign abatement and community fund.
beautification fund in the county treasury.

(b) The governing body may use money in the fund to compensate the owner of a sign required to be removed under this subchapter. (V.A.C.S. Art. 6674v-4, Sec. 5(c.).)

Source Law

(c) The governing body of a toll road authority may allocate all or any part of the county property tax paid on a sign, on the real property on which a sign is located, or on other real or personal property owned by the owner of a sign to a special fund in the county treasury to be known as the sign abatement and community beautification fund, and make payments from that fund to pay compensation to owners of signs required to be removed.

Revisor's Note

The revised law deletes the designation of the fund as being special because that designation is unnecessary. The designation of a fund as a special fund has no legal effect.

Revised Law

Sec. 395.008. SIGN ABATEMENT REVENUE BONDS. (a) The governing body may issue sign abatement revenue bonds.

(b) The governing body may use the proceeds from the bonds only to compensate the owner of a sign required to be removed under this subchapter. (V.A.C.S. Art. 6674v-4, Sec. 5(d.).)

Source Law

(d) The governing body of a toll road authority may provide for the issuance of sign abatement revenue bonds and use the proceeds to pay compensation to the owners of signs required to be removed. The governing body may only use the proceeds from those bonds for the removal of signs that are visible from the main-traveled way of the toll road.

Revisor's Note

The last sentence of Section 5(d), V.A.C.S. Article 6674v-4, provides for the use of bond proceeds for the removal of signs that are visible from the main-traveled way of the toll road. The revised law
provides for the use of bond proceeds for "a sign required to be removed under this subchapter" because under Section 395.003 this subchapter authorizes only the removal of signs that are visible from the main-traveled way of a toll road.

Revised Law
Sec. 395.009. CASH. The governing body may pay compensation in cash. (V.A.C.S. Art. 6674v-4, Sec. 5(e).)

Source Law
(e) The governing body of a toll road authority may pay compensation in cash.

Revised Law
Sec. 395.010. PENALTY. (a) A person commits an offense if the person violates a rule adopted under this subchapter that defines an offense.
(b) An offense under this section is a Class C misdemeanor. (V.A.C.S. Art. 6674v-4, Sec. 3.)

Source Law
Sec. 3. If a rule adopted under this Act defines an offense, the offense is a Class C misdemeanor. The offense is prosecuted in the same manner as an offense defined by state law.

Revisor's Note
Section 3, V.A.C.S. Article 6674v-4, provides that "[t]he offense is prosecuted in the same manner as an offense defined by state law." The revised law omits this provision as unnecessary. Section 3 of the source law creates an offense defined by state law.

[Sections 395.011-395.050 reserved for expansion]

SUBCHAPTER B. TOLL ROAD INFORMATIONAL SIGNS

Revised Law
Sec. 395.051. APPLICATION OF SUBCHAPTER. (a) This

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subchapter applies only to a county with a population of more than two million.

(b) Chapter 393 does not apply to the placement of a panel or sign to which this subchapter applies. (V.A.C.S. Art. 6674v-5, Secs. 2(a) (part), 3(a) (part), 4(a) (part), (d)).

Source Law

Sec. 2. (a) . . . a county in which the population exceeds two million according to the most recent federal census . . . .

Sec. 3. (a) . . . a county in which the population exceeds two million according to the most recent federal census . . . .

Sec. 4. (a) . . . a county in which the population exceeds two million according to the most recent federal census . . . .

(d) Chapter 834, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372cc, Vernon's Texas Civil Statutes), does not apply to the placement of panels or signs to which this Act applies.

Revisor's Note

(1) Sections 2(a), 3(a), and 4(a), V.A.C.S. Article 6674v-5, describe a population number that is to be determined according to the most recent federal census. The revised law omits the reference to the federal census because the reference is unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

(2) Section 4(d), V.A.C.S. Article 6674v-5, refers to Chapter 834, Acts of the 68th Legislature, Regular Session, 1983 (Article 2372cc, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 393, and the revised law is drafted accordingly.
Sec. 395.052. DEFINITIONS. In this subchapter:

(1) "Business sign" means a sign that contains the brand, trademark, name, or logo of a qualified business.

(2) "Motorist information panel" means a rectangular panel placed on a highway that contains at least one business sign advertising a business available within a certain distance of that interchange.

(3) "Qualified business" means a business that meets the requirements of rules adopted by the commissioners court of a county under this subchapter.

Art. 6674v-5
Sec. 1. In this Act:

(1) "Business sign" means a sign that contains the brand, trademark, name, or logo of a qualified business.

(2) "Motorist information panel" means a rectangular panel placed on a highway that contains at least one business sign advertising a business available within a certain distance of that interchange.

(3) "Qualified business" means a business that meets the requirements of rules adopted by the commissioners court under this Act.

Sec. 395.053. ERECTION OF MOTORIST INFORMATION PANELS. (a) Except as provided by Subsection (b), the commissioners court of a county by order may erect and maintain motorist information panels in a right-of-way along a toll road in the county.

(b) The commissioners court may not erect a motorist information panel in an area that does not have a qualified business.

(c) The county must erect each panel on and below the exit identification sign preceding the exit direction sign at an interchange.

(d) The county may erect more than one panel for each interchange.
Sec. 2. (a) The commissioners court of a county by order may provide for the erection and maintenance of motorist information panels in rights-of-way along toll roads within the county. The commissioners court may not provide for the erection of a motorist information panel in an area that does not have a qualified business.

(b) The county shall erect each panel on and below the exit identification sign preceding the exit direction sign at an interchange. The county may erect more than one panel for each interchange.

Sec. 3. (a) The commissioners court in a county shall adopt orders that provide spacing requirements between signs, height and face restrictions for total panel area, and size and face restrictions for each business sign on a motorist information panel. (V.A.C.S. Art. 6674v-5, Secs. 3(a) (part), (b).)

Sec. 3. (a) The commissioners court in a county shall adopt orders that provide spacing requirements between signs, height and face restrictions for total panel area, and size and face restrictions for each business sign on the motorist information panel.

(b) The commissioners court may adopt other orders for administration of this Act.

The commissioners court by order shall specify:

(a) the time and manner of applying for a business sign on a motorist information panel;

(b) the form of and required information for an
application; and

(3) a reasonable annual fee for each business sign on

the panel.

(b) To advertise on a motorist information panel, a person

must apply to the commissioners court. The person shall comply

with each order adopted by the commissioners court regarding

business signs. (V.A.C.S. Art. 6674v-5, Secs. 4(a) (part), (b).)

Source Law

Sec. 4. (a) The commissioners court in a county
shall adopt orders specifying:

(1) the time for and manner of applying
for a sign on the panel, and the form of the
application; and

(2) the information that must be in an
application; and

(3) a reasonable annual fee for each
business sign on the panel.

(b) Any person who desires to advertise on a
motorist information panel established by the
commissioners court shall apply to the commissioners
court and shall comply with the orders adopted by the
commissioners court regarding business signs.

Revised Law

Sec. 395.056. ACCOUNT. (a) The commissioners court shall
deposit money received under this subchapter to the credit of an
account in the county general fund.

(b) The commissioners court may use money in the account
only to erect, maintain, or regulate motorist information panels.

(V.A.C.S. Art. 6674v-5, Sec. 4(c).)

Source Law

(c) Funds received by the commissioners court
under this Act shall be deposited in a special account
in the county general fund to be used solely for the
erection, maintenance, and regulation of motorist
information panels by the commissioners court and the
administration of the system of panels.

Revisor's Note

(1) The revised law deletes the designation of
the account as being special because that designation
is unnecessary. The designation of an account as a
special account has no legal effect.
Section 4(c), V.A.C.S. Article 6674v-5, refers to the "regulation of motorist information panels . . . and the administration of the system of panels." The revised law omits the reference to the "administration of the system of panels" as redundant.

Revised Law

Sec. 395.057. REGULATION BY TOLL ROAD AUTHORITY. A toll road authority may not regulate a motorist information panel or business sign erected, maintained, or regulated under this subchapter. (V.A.C.S. Art. 6674v-5, Sec. 4(e).)

Source Law

(e) Motorist information panels and business signs erected, maintained, and regulated under this Act are not subject to regulation by a toll road authority.

Revised Law

Sec. 395.058. CONFLICT WITH MUNICIPAL ORDINANCE. (a) This subchapter does not authorize a commissioners court to issue an order or regulation that conflicts with a municipal ordinance pertaining to billboards or outdoor advertising.

(b) An order or regulation issued under this subchapter that conflicts with a municipal ordinance is void. (V.A.C.S. Art. 6674v-5, Sec. 4(f).)

Source Law

(f) Nothing in this Act shall be construed to authorize a commissioners court to issue any order or regulation in conflict with a city ordinance or state agency rule or state or federal law or regulation pertaining to the regulation of billboards or outdoor advertising. An order or regulation issued in conflict with a city ordinance or state agency rule or regulation or state or federal law shall be null and void.
Revisor's Note

(1) Section 4(f), V.A.C.S. Article 6674v-5, refers to a "city." The revised law substitutes the term "municipality" because the terms are synonymous and "municipality" is the term used in the Local Government Code to refer to a city.

(2) Section 4(f), V.A.C.S. Article 6674v-5, provides that the act does not authorize the commissioners court to issue an order or regulation in conflict with a city ordinance or a state agency rule or state or federal law or regulation and that the conflicting order or regulation is void. The revised law omits the reference to a state agency rule or state or federal law or regulation because a state or federal law constitutionally preempts a conflicting order of a commissioners court.

(3) Section 4(f), V.A.C.S. Article 6674v-5, refers to an order or regulation being "null and void." The revised law omits the term "null" because "null" is included within the meaning of "void."

CHAPTER 396. AUTOMOBILE WRECKING AND SALVAGE YARDS

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