



SUMMARY OF ENACTED TRANSPORTATION AND
GENERAL GOVERNMENT LEGISLATION

KEEPING TEXAS CONNECTED

87TH LEGISLATURE (2021)





Texas Department of Transportation



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TEXAS DEPARTMENT OF TRANSPORTATION



Marc D. Williams, P.E.
Executive Director

TxDOT



<https://www.txdot.gov/>

GOVERNMENT AFFAIRS



Jerry Haddican
Director
Government Affairs
Jerry.Haddican@txdot.gov
(512) 463-6086

**TxDOT
GOVERNMENT AFFAIRS**



<https://www.txdot.gov/government/legislative.html>

STATE LEGISLATIVE AFFAIRS



Trent W. Thomas
Director
State Legislative Affairs
Trent.Thomas@txdot.gov
(512) 463-6397



Cory Henrickson, J.D.
Assistant Director
State Legislative Affairs
Cory.Henrickson@txdot.gov
(512) 305-9582

**TxDOT
STATE LEGISLATIVE AFFAIRS**



<https://www.txdot.gov/government/legislative/state-affairs.html>

MESSAGE FROM TxDOT EXECUTIVE DIRECTOR

We are pleased to provide you with the Texas Department of Transportation's (TxDOT) 2021 legislative summary – Keeping Texas Connected. This publication provides an overview of key bills passed during the 87th Texas Legislative Session (2021) that impact the state transportation system as well as TxDOT's daily operations.

The adoption of the 2022-2023 biennial budget served as a major highlight of the 87th Legislative Session for TxDOT. The state budget included an estimated \$30.24 billion in funding for the biennium to support TxDOT's operations. Of note, the Legislature provided TxDOT approximately \$375 million for capital facilities, vehicles, and equipment and \$359 million for capital information technology and resources – all critical tools for TxDOT in carrying out its day-to-day operations to support our mission of Connecting You With Texas. The Legislature also approved an increase of 281 full-time equivalents (FTE) to TxDOT's overall FTE capacity. These additional FTEs will help TxDOT more efficiently and effectively use Texas taxpayers' dollars to accomplish transportation projects for the state.

Other highlights include legislation to:

- Provide authority to TxDOT district engineers to temporarily lower speed limits for short term maintenance activities (HB 3282);
- Require the addition of the “Move Over or Slow Down” law to driver education and driver safety courses taught in Texas (HB 3319);
- Allow new bond issuances from the Texas Mobility Fund to provide another funding tool to deliver highway projects and other public transportation projects (HB 2219); and
- Redirect 35 percent of the Texas Emissions Reduction Program (TERP) funds to TxDOT

for congestion mitigation and air quality improvement projects in nonattainment areas and affected counties (HB 4472).

TxDOT staff demonstrated dedication and teamwork to effectively monitor, review, and provide information on legislation and other issues before and during the legislative session. I appreciate TxDOT staff's hard work to ensure that the Legislature and the Governor's Office received timely and accurate information on the possible impact of proposed legislation on TxDOT policy and operations. Also, my sincere thanks to Governor Greg Abbott and his staff, the members of the Texas Legislature and their staff, the Texas Transportation Commission, transportation stakeholders, and the public for their work throughout the legislative session. This collaboration remains vital to TxDOT's ability to deliver mobility, enable economic opportunity, and enhance the quality of life for all Texans.

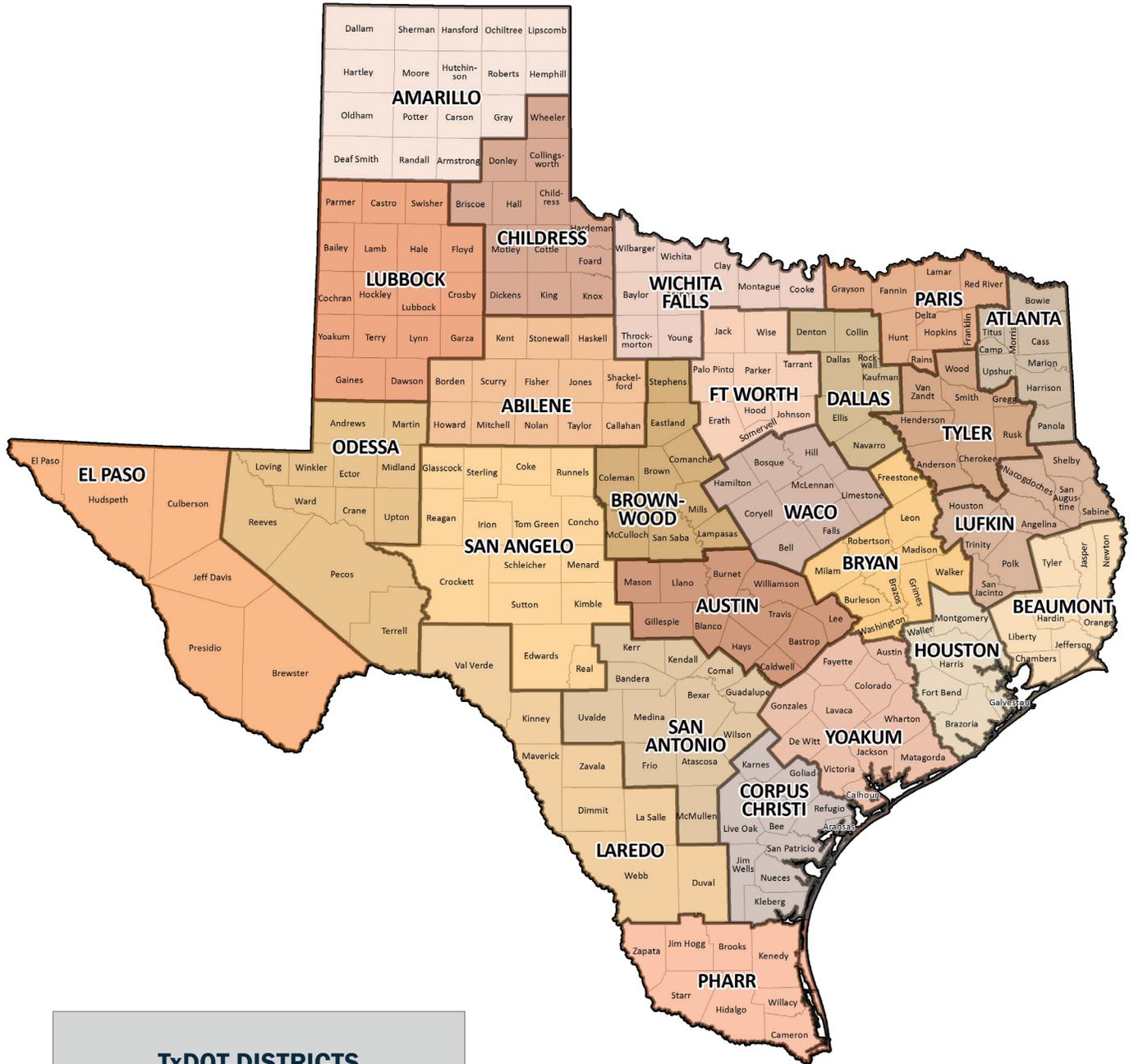
Thank you for doing your part to make our transportation system safer by obeying all traffic laws and operating your vehicle safely and responsibly. I look forward to TxDOT's successful implementation and execution of the legislation summarized in this publication. Please contact the State Legislative Affairs Section of TxDOT's Government Affairs Division if you would like more information on the content of this publication or any other transportation issues.

Respectfully,

Marc D. Williams, P.E.
Executive Director, TxDOT



TxDOT DISTRICTS MAP



TxDOT DISTRICTS



<https://www.txdot.gov/inside-txdot/district.html>

VALUES, VISION, MISSION AND GOALS



Values

PEOPLE

People are the Department's most important customer, asset, and resource. The well-being, safety, and quality of life for Texans and the traveling public are of the utmost concern to the Department. We focus on relationship building, customer service, and partnerships.

ACCOUNTABILITY

We accept responsibility for our actions and promote open communication and transparency at all times.

TRUST

We strive to earn and maintain confidence through reliable and ethical decision-making.

HONESTY

We conduct ourselves with the highest degree of integrity, respect, and truthfulness.

Vision

A forward-thinking leader delivering mobility, enabling economic opportunity, and enhancing quality of life for all Texans.

Mission

Connecting You With Texas.

Goals and Objectives

DELIVER THE RIGHT PROJECTS

Implement effective planning and forecasting processes that deliver the right projects on-time and on-budget.

- Use scenario-based forecasting, budgeting, and resource management practices to plan and program projects.
- Align plans and programs with strategic goals.
- Adhere to planned budgets and schedules.
- Provide post-delivery project and program analysis.

FOCUS ON THE CUSTOMER

People are at the center of everything we do.

- Be transparent, open, and forthright in agency communications.
- Strengthen our key partnerships and relationships with a customer service focus.
- Incorporate customer feedback and comments into agency practices, project development, and policies.
- Emphasize customer service in all TxDOT operations.

FOSTER STEWARDSHIP

VALUES, VISION, MISSION AND GOALS



<https://www.txdot.gov/inside-txdot/contact-us/mission.html>

VALUES, VISION, MISSION AND GOALS

Ensure efficient use of state resources.

- Use fiscal resources responsibly.
- Protect our natural resources.
- Operate efficiently and manage risk.

OPTIMIZE SYSTEM PERFORMANCE

Develop and operate an integrated transportation system that provides reliable and accessible mobility, and enables economic growth.

- Mitigate congestion.
- Enhance connectivity and mobility.
- Improve the reliability of our transportation system.
- Facilitate the movement of freight and international trade.
- Foster economic competitiveness through infrastructure investments.

PRESERVE OUR ASSETS

Deliver preventive maintenance for TxDOT's system and capital assets to protect our investments.

- Maintain and preserve system infrastructure to achieve a state of good repair and avoid asset deterioration.
- Procure, secure, and maintain equipment, technology, and buildings to achieve a state of good repair and prolong life cycle and utilization.

PROMOTE SAFETY

Champion a culture of safety.

- Reduce crashes and fatalities by continuously improving guidelines and innovations along with increased targeted awareness and education.
- Reduce employee incidents.

VALUE OUR EMPLOYEES

Respect and care for the well-being and development of our employees.

- Emphasize internal communications.
- Support and facilitate the development of a successful and skilled workforce through recruitment, training and mentoring programs, succession planning, trust, and empowerment.
- Encourage a healthy work environment through wellness programs and work-life balance.





APPROPRIATIONS AND TRANSPORTATION FUNDING



APPROPRIATIONS AND TRANSPORTATION FUNDING



SB 1

Author: Senator Janes Nelson (R-Flower Mound)
Sponsor: Representative Greg Bonnen (R-Friendswood)

General Appropriations Bill.

Summary

Senate Bill 1 (General Appropriations Act) provides the state budget for fiscal years (FY) 2022-2023. SB 1 appropriates \$248.6 billion from all funding sources in the state, a \$13.6 billion decrease from the FY 2020-2021 budgeted amount. The total state budget is approximately \$300 billion under the constitutional pay-as-you-go limit, which leaves some funding available for emergencies or unanticipated budgetary shortfalls.

Impact on TxDOT

Direct appropriations for TxDOT's FY 2022-2023 budget total \$30.24 billion (see Figure 1: Budget Sources and Figure 4: Budget Uses).

TxDOT's FY 2022-2023 total appropriations represent an approximately \$540 million decrease in appropriations compared to the 2020-2021 biennium. However, this biennium's lower appropriation amount can be attributed to funding sources made available for FY 2022-2023 but not reflected in SB 1, including but not limited to certain federal COVID-19 relief funds and unexpended balances. Federal funds experienced the most significant decrease in the biennial budget – which is a result of project delivery progress payments and associated federal reimbursements, rather than reduced federal participation.

SB 1 appropriates more than \$26.1 billion, or 86 percent, of TxDOT's total budget to project development and delivery as well as contracted and routine public roadway maintenance.

Summary of Key Funding Sources

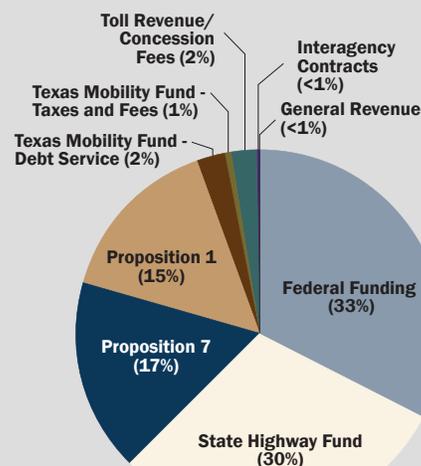
Of TxDOT's biennial budget of \$30.24 billion, SB 1 appropriates \$15.28 billion in FY 2022 and \$14.96 billion in FY 2023. The budget includes approximately \$9.84 billion in federal funds as a key funding source, accounting for 33 percent of TxDOT's budget estimate. State fees, taxes, and other revenues comprise the remaining funds. Figure 1 shows the amount of appropriations for each budget funding source.

Figure 1: Budget Sources for FY 2022-2023

BUDGET SOURCES

Federal Funding	\$9.84 B
State Highway Fund	\$9.13 B
Proposition 7	\$5.06 B
Proposition 1	\$4.53 B
Texas Mobility Fund - Debt Service	\$0.76 B
Texas Mobility Fund - Taxes & Fees	\$0.18 B
Toll Revenue/ Concession Fees	\$0.73 B
Interagency Contracts	\$0.01 B
General Revenue	\$0.00 B
*Total: \$30.24 B	

*Totals and percentages may not sum due to rounding.



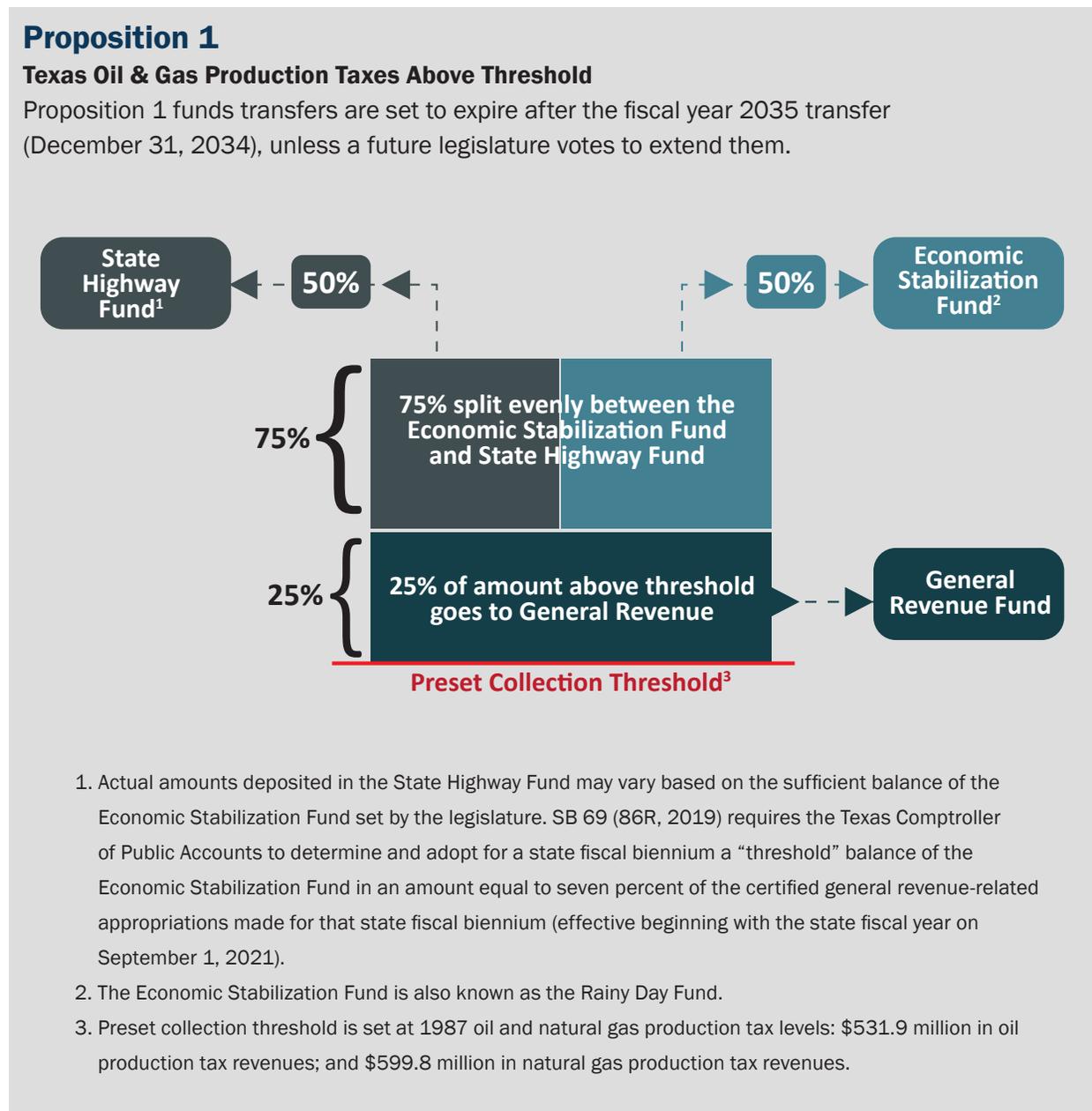
SB 1 APPROPRIATIONS AND TRANSPORTATION FUNDING

Proposition 1

Proposition 1 (2014) amended the Texas Constitution to dedicate a portion of oil and gas production taxes, known as severance taxes, to the State Highway Fund for “constructing, maintaining, and acquiring rights-of-way” for non-tolled, public roadways (see Figure 2: Proposition 1). Proposition 1 dollars appropriated for the FY 2022-2023 budget

include unexpended balances from FYs 2020-2021, as well as upcoming estimated deposits for the biennium. The Texas Comptroller of Public Accounts (comptroller) estimated Proposition 1 deposits will total \$1.26 billion in FY 2022 and \$1.67 billion in FY 2023 in the most recently revised Biennial Revenue Estimate (BRE, May 2021).

Figure 2: Proposition 1



SB 1 APPROPRIATIONS AND TRANSPORTATION FUNDING

Proposition 7

Proposition 7 (2015) amended the Texas Constitution to dedicate a portion of state funds from two revenue sources – a portion of sales and use taxes as well as a smaller portion of motor vehicle sales and rental taxes – to the State Highway Fund for the “construction, maintenance, and acquisition of rights-of-way for non-tolled, public roadways” and debt service payments on Proposition 12 (2007) General Obligation Highway Improvement Bonds.

Proposition 7 contains two components that provide additional funding to TxDOT (See Figure 3: Proposition 7):

Section 7-c, Article VIII, Texas Constitution, requires the comptroller to deposit \$2.5 billion of the net revenue from state sales and use tax exceeding the first \$28 billion of that revenue coming into the state treasury each fiscal year

to the State Highway Fund. The comptroller estimated the revenues will reach and exceed the \$28 billion threshold in the next biennium, and TxDOT expects to receive the full \$2.5 billion in state sales and use tax revenues in both FY 2022 and 2023.

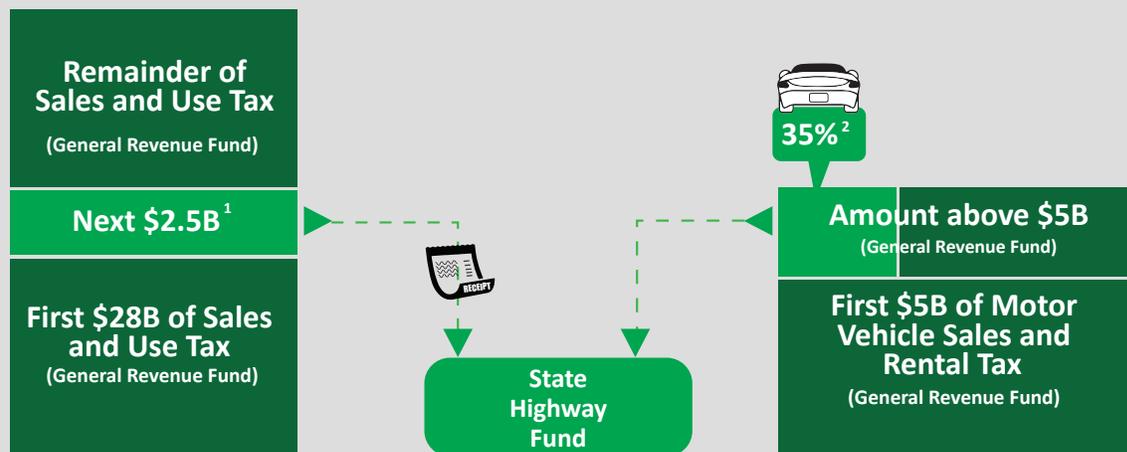
The second component of Proposition 7 takes effect when state motor vehicle sales and rental tax revenues exceed \$5 billion in a fiscal year. The comptroller would then deposit 35 percent of the amount exceeding that \$5 billion to the State Highway Fund. The comptroller estimated that the revenues will exceed the \$5 billion threshold for the first time in the upcoming biennium. According to the comptroller’s latest BRE revision (May 2021), TxDOT expects to receive \$13.3 million and \$55.1 million in state motor vehicle sales and rental tax revenues in FY 2022 and 2023, respectively.

Figure 3: Proposition 7

Proposition 7

Sales & Use Tax; Motor Vehicle Sales & Rental Tax

Proposition 7 funds (Sales & Use Tax) are set to expire August 31, 2032, and Proposition 7 funds (Motor Vehicle Sales & Rental Tax) are set to expire August 31, 2029, unless a future legislature votes to extend them.



1. This transfer of funds to the State Highway Fund took effect September 1, 2017 (FY 2018).
2. This transfer of funds to the State Highway Fund became eligible to take effect beginning with the state fiscal year starting on September 1, 2019 (FY 2020).

SB 1 APPROPRIATIONS AND TRANSPORTATION FUNDING



Of the more than \$5 billion in new Proposition 7 funds appropriated for the FY 2022-2023 biennium, SB 1 dedicates approximately \$546 million to pay debt service on Proposition 12 General Obligation Highway Improvement Bonds. TxDOT will distribute the remaining \$4.5 billion to the development, delivery, and maintenance of non-tolled public roadway projects.

Summary of Key Funding Uses

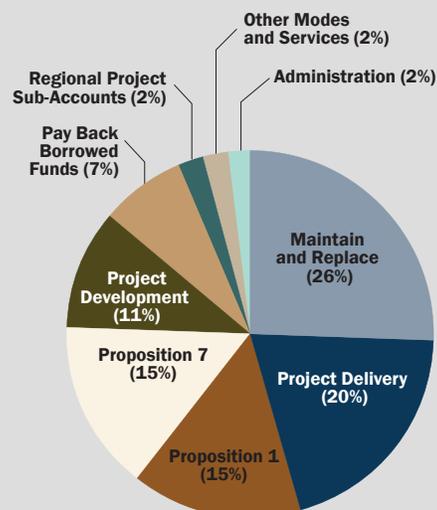
In any given biennium, a majority of TxDOT's budget is directed to public road development, delivery, and maintenance. Figure 4 shows the distribution of the various funding sources (as shown in Figure 1) across budget uses. Proposition 1 and 7 totals will be distributed among the various strategies for project development, project delivery, and maintenance. TxDOT has leveraged reduced borrowing rates and federal incentives to more quickly deliver large projects. TxDOT retains several obligation tools designed to pay back debt service. The strategy to "pay back borrowed funds" involves both state and federal funding, and TxDOT works diligently to create savings opportunities by periodically refunding the agency's debt when interest rates are favorable. Regional Project

Figure 4: Budget Uses for FY 2022-2023

BUDGET USES

Maintain & Replace	\$7.76 B
Project Delivery	\$6.07 B
Proposition 1	\$4.53 B
Proposition 7	\$4.51 B
Project Development	\$3.22 B
Pay Back Borrowed Funds	\$2.22 B
Regional Project Sub-Accounts	\$0.73 B
Other Modes & Services	\$0.63 B
Administration	\$0.57 B
*Total:	\$30.24 B

*Totals and percentages may not sum due to rounding.



SB 1 APPROPRIATIONS AND TRANSPORTATION FUNDING



Sub-Accounts reflect projects with funding for local projects from past concession agreements and toll revenue. TxDOT has limited authorized funding for transportation project services (not reserved for public roads), such as public transit, aviation, maritime, rail, and other projects.

Full-Time Equivalents

SB 1 provides an additional 281 full-time equivalents (FTE) to TxDOT's existing FTE capacity for the FY 2022-2023 biennium. TxDOT will leverage additional capacity to hire new employee positions for Maintenance Operations, Engineering Operations, and Support Services, such as Information Technology, Civil Rights, and Fleet Operations.

New Riders and Rider Revisions

SB 1 creates a new Rider 48 to TxDOT's bill pattern, the contingency rider for SB 763. SB 763 creates the new Urban Air Mobility Advisory Committee to assess current state law and any potential changes to state law that are needed to facilitate the development of urban air mobility operations and infrastructure in this state, funded through Rider 48 designated appropriations.

New Unexpended Balance Authority

As done in past legislative sessions, the legislature granted TxDOT additional unexpended balance (UB) authority for FY 2021 appropriations in the FY 2022-2023 biennium. The legislature provided this UB authority for Strategy C.4.1, Research; Proposition 1 funds (Rider 35(b)); improvements to the McKinney National Airport (Rider 46); and Construction of Intelligent Transportation Systems (Rider 47).

Deleted Rider

The legislature granted TxDOT's request to eliminate Rider 34: Voluntary Turnback Program, which was included in SB 1 for the current biennium. It requires TxDOT to report to the legislature on the transfer of roads from TxDOT to local governments in exchange for certain maintenance agreements. TxDOT requested the deletion of the rider because of nominal program participation from local governments.

Revised Reporting Requirements

SB 1 revises Rider 14(c): Reporting Requirements to distinguish between loans for tolled and non-tolled projects to prevent typical State Infrastructure Bank (SIB) loans from unnecessary delay. Rider 14(c) now also incorporates TxDOT's request to notify legislative members on proposed SIB loans 30 days prior to Texas Transportation Commission (commission) action.

SB 1 amended Rider 43: Comprehensive Development Agreements to include additional reporting requirements that prohibit TxDOT from expending funds to amend the terms, extend the scope, issue a change order, or alter the provisions of an executed Comprehensive Development Agreement (CDA) without providing a report on the modifications to the Legislative Budget Board (LBB) and receiving LBB approval.

SB 1 APPROPRIATIONS AND TRANSPORTATION FUNDING

Article IX Provisions

Significant Article IX: General Provisions amendments affecting TxDOT include the following:

- SB 1 adds Section 17.43, which requires TxDOT to expend \$15 million from TxDOT's budget out of Strategy C.5.1, Aviation Services, to expand the Ector County Airport runway.
- SB 1 adds Section 17.44, which requires TxDOT to expend \$5 million from TxDOT's budget out of Strategy C.5.1, Aviation Services, to expand an airport hangar used by the Texas Department of Public Safety and first responders at the South Texas International Airport in Edinburg.
- Section 17.16, Contact Tracing, prohibits the use of appropriated funds for any state agency to use towards COVID-19 contact tracing during the FY 2022-2023 biennium.
- SB 1 consolidates former Sections 13.02, Report of Additional Funding, and 13.03, Report of Expanded Operational Capacity, into one reporting section, Section 13.02, Report of Additional Funding. The consolidated provision clarifies its application to both institutions of higher education and state agencies. It changes one of the two threshold requirements for reporting to the LBB, providing that a report must be made if an existing federal program, which previously granted an agency at least \$10 million annually, at least doubles its grant. The reporting requirement threshold was previously set at a 1,000 percent grant increase.
- SB 1 modifies Section 14.03, Transfers - Capital Budget, to clarify that an agency may transfer appropriations for data center consolidation or services only with written permission from LBB, pursuant to Section 2054.386, Government Code.

Effective Date: September 1, 2021



APPROPRIATIONS AND TRANSPORTATION FUNDING

HB 2

Author: Representative Greg Bonnen (R–Friendswood)
Sponsor: Senator Jane Nelson (R–Flower Mound)



Relating to making supplemental appropriations and reductions in appropriations and giving direction and adjustment authority regarding appropriations.

Summary

House Bill 2 serves as the supplemental appropriations bill, which makes additional appropriations to supplement the funds appropriated during the previous legislative session (86th Regular Legislative Session, 2019). HB 2 also reduces certain appropriations from the prior legislative session to redistribute general revenue dollars and offset the decrease in state revenues resulting from the COVID-19 pandemic. HB 2 allocates State Highway Fund dollars to TxDOT's capital budget requests for the fiscal year (FY) 2022-2023 biennial budget.

Impact on TxDOT

In May 2020, shortly after the onset of the COVID-19 pandemic, Governor Greg Abbott, Lieutenant Governor Dan Patrick, and then-Speaker of the House Dennis Bonnen directed all state agencies, including TxDOT, to each submit a savings plan to reduce respective general revenue-related appropriations by five-percent for the FY 2020-2021 biennium. HB 2 incorporates these five-percent general revenue budget reductions identified by TxDOT for FY 2021, reducing TxDOT's General Revenue Fund appropriations by \$978,828 for the fiscal year ending August 31, 2021. Prior to the 87th Legislative Session (2021), TxDOT identified strategies and objectives to make the reductions and communicated these reductions to the Legislative Budget Board and the Office of the Governor.

TxDOT's five-percent general revenue cuts, totaling \$978,828 returned to the state, are reflected in the following programs:

1. \$200,000 returned for Rider 49, Human Trafficking Signage;
2. \$750,000 returned for Rider 48, McKinney National Airport; and
3. \$28,828 returned for South Orient Rail Line Inspection Facilities.

HB 2 authorizes the following information technology-related capital appropriations to TxDOT from State Highway Fund revenues:

1. \$16,480,410 to update and secure inefficient hardware and software systems (legacy modernization);
2. \$22,471,772 for the Enterprise Information Management Project;
3. \$49,606,226 for the Information and Systems Modernization Project;
4. \$10,642,247 Centralized Accounting and Payroll/Personnel System (CAPPS) upgrades and improvements;
5. \$48,950,000 for cybersecurity initiatives; and
6. \$48,200,000 for technology replacements and upgrades.

HB 2 also authorizes the following additional building-related capital appropriations to TxDOT from the State Highway Fund:

1. \$153,250,000 for new construction of buildings;

HB 2 APPROPRIATIONS AND TRANSPORTATION FUNDING

2. \$51,750,000 for deferred maintenance of state buildings; and
3. \$5,000,000 for land acquisition.

HB 2 appropriates these capital funds for building and information technology-related projects for the two-year period beginning June 18, 2021.

HB 2 includes a provision that explicitly excludes the appropriation of federal funds associated with the American Rescue Plan Act of 2021 or similar legislation passed after the adjournment of the 87th Legislature (Regular Session, 2021). Additionally, HB 2 appropriates \$531,070,462 from the Economic Stabilization Fund (ESF).

TxDOT anticipates a minimal operational impact from HB 2 beyond requiring TxDOT to dedicate staff time and resources to identifying general revenue cuts and adjusting TxDOT division budgets to accommodate the reductions and additions in expected funding. Additional funds appropriated to information technology and building-related programs and projects through HB 2 will enable TxDOT to expand operations and projects in those areas, requiring engagement and planning from appropriate TxDOT divisions.

Effective Date: June 18, 2021



APPROPRIATIONS AND TRANSPORTATION FUNDING

HB 2219

Author: Representative Terry Canales (D-Edinburg)
Sponsor: Senator Robert Nichols (R-Jacksonville)



Relating to the issuance of Texas Mobility Fund obligations.

Summary

In 2001, Texas voters authorized the creation of the Texas Mobility Fund (TMF) within the treasury of the State of Texas and its administration by the Texas Transportation Commission (commission). The Texas Mobility Fund provides a method of financing for the construction, reconstruction, acquisition, and expansion of state highways, including the costs of any necessary design and costs of acquisition of rights-of-way for highway projects. The Texas Mobility Fund may also be used to provide participation by TxDOT in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects in accordance with procedures, standards, and limitations established by general law.

TxDOT had been prohibited from issuing Texas Mobility Fund obligations after January 1, 2015, except for issuances to refund and remarket outstanding Texas Mobility Fund obligations. HB 2219 now prohibits the issuance of Texas Mobility Fund obligations on or after January 1, 2027, except for obligations issued to refund and remarket. This change allows TxDOT to issue new money Texas Mobility Fund obligations before January 1, 2027.

HB 2219 also adds the following two constraints and a sunset date to the reauthorized authority to issue new money Texas Mobility Fund obligations. First, HB 2219 eliminates the ability of TxDOT to issue Texas Mobility Fund obligations for the purpose of providing participation in the payment of part of the costs

of a publicly owned toll road. Second, HB 2219 prohibits the aggregate principal amount of Texas Mobility Fund obligations issued after May 31, 2021, and before January 1, 2027, other than refunding and remarketing obligations, to exceed an amount equal to 60 percent of the outstanding principal amount of Texas Mobility Fund obligations existing on May 1, 2021. As of May 1, 2021, the outstanding principal on Texas Mobility Fund bonds totaled \$5,943,200,000; therefore, under HB 2219, TxDOT may issue no more than \$3,565,920,000 in new Texas Mobility Fund bonds between May 31, 2021, and January 1, 2027.

Impact on TxDOT

While HB 2219 would cap the amount of new Texas Mobility Fund bonds that TxDOT may issue at approximately \$3.5 billion, as explained in the summary, based on current Texas Mobility Fund revenues and outstanding obligations, TxDOT estimates that new Texas Mobility Fund bond issuances could only generate as much as \$3 billion in bond proceeds. This amount remains sensitive to changes in the current revenue estimates, interest rates, and other market conditions. The decision to issue Texas Mobility Fund bonds remains at the commission's discretion and direction and is subject to review and approval by the Bond Review Board.

Effective Date: June 18, 2021



APPROPRIATIONS AND TRANSPORTATION FUNDING



HB 4472

Author: Representative Brooks Landgraf (R-Odessa)
Sponsor: Senator Brian Birdwell (R-Granbury)

Relating to the Texas emissions reduction plan.

Summary

House Bill 4472 makes various changes to the funding and the administration of the Texas Emissions Reduction Plan (TERP) by the Texas Commission on Environmental Quality (TCEQ). TERP offers financial incentives to eligible individuals, businesses, and local governments to reduce emissions from polluting vehicles and equipment.

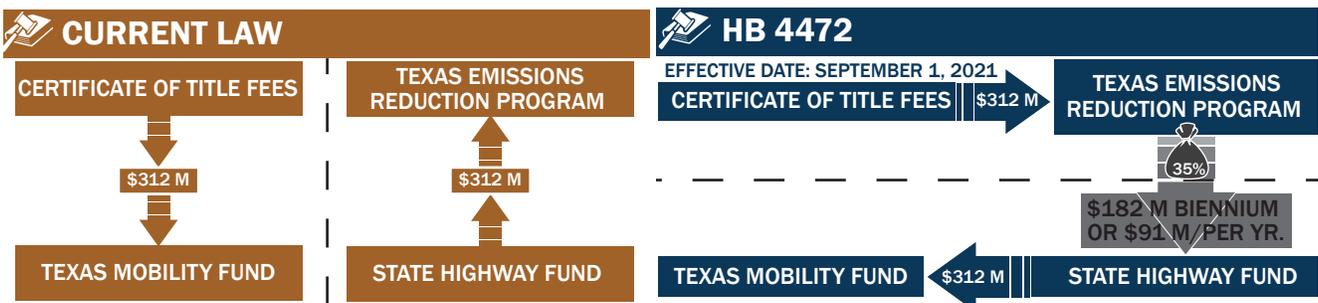
HB 4472 affects TxDOT in two key ways. First, HB 4472 alters the deposit of Certificate of Title fees by transferring title fees directly to the TERP Fund, rather than the Texas Mobility Fund. Second, HB 4472 directs a portion of TERP funds to the State Highway Fund for use by TxDOT for congestion mitigation and air quality improvement projects in nonattainment areas and affected counties. Nonattainment areas are defined by the U.S. Environmental Protection Agency (EPA) as areas where air quality is considered below the National Ambient Air Quality Standards. Affected counties are defined by Section 386.001, Texas Health and Safety Code.

First, HB 4472 amends Section 501.138, Transportation Code, to require the following:

1. The portion Certificate of Title fees collected that are currently deposited in the Texas Mobility Fund must be deposited to the credit of the TERP Fund instead.
2. The transfer of non-constitutionally dedicated funds from the State Highway Fund in an amount equal to the amount of Certificate of Title fees, currently deposited in the TERP Fund, to instead be deposited in the Texas Mobility Fund.

HB 4472 also requires both transfers to expire on the last day of the fiscal biennium of which the State of Texas reaches national ambient air quality attainment, as classified by the EPA. If the state reaches national ambient air quality attainment, HB 4472 requires the deposit of Certificate of Title fees into the Texas Mobility Fund on or after the last day of that fiscal biennium.

Second, HB 4472 amends Section 386.051(b), Health and Safety Code, to add requirements that the TCEQ transfer TERP money to the State Highway Fund for use by TxDOT on congestion mitigation and air quality improvement projects in nonattainment areas and affected counties.



NATIONAL AMBIENT AIR QUALITY ATTAINMENT STANDARDS



<https://www.epa.gov/criteria-air-pollutants/naaqs-table>

HB 4472 amends Section 386.252(a-1), Health and Safety Code, to require TCEQ to remit “not less than 35 percent” of the amount deposited to the credit of the TERP Fund to the State Highway Fund for use by TxDOT for congestion mitigation and air quality improvement projects in nonattainment areas and affected counties.

HB 4472 amends Section 386.057, Health and Safety Code, to include a report (no later than October 1 annually) by TxDOT to TCEQ on congestion mitigation and air quality projects in nonattainment areas and affected counties planned or funded with TERP dollars. The report must include:

1. Currently planned projects to mitigate congestion and improve air quality;
2. Completed projects to mitigate congestion and improve air quality;
3. Estimated emissions reductions for all planned and completed congestion mitigation projects; and
4. Estimated cost per ton analysis of reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds for each congestion mitigation project planned or completed.

Additionally, HB 4472 amends Section 386.250(c), Health and Safety Code, to require TCEQ to transfer the remaining unencumbered balance of the TERP Fund to the credit of the State Highway Fund for projects described by Section 386.051(b)(19), Health and Safety Code, no later than the 30th day after the last day of each state fiscal biennium.

Impact on TxDOT

HB 4472 is anticipated to have a positive fiscal impact on the State Highway Fund. HB 4472 requires TCEQ to remit “no less than 35 percent” of the amount of TERP revenues to the State Highway Fund for use on congestion mitigation and air quality improvement projects in nonattainment areas and affected counties. The funds must be spent on congestion mitigation and air quality improvement projects.

The Legislative Budget Board (LBB) and the Texas Comptroller of Public Accounts (comptroller) estimate an increase in State Highway Fund revenues listed below.

FY 2022 -- \$90,390,000

FY 2023 -- \$91,809,000

FY 2024 -- \$93,226,000

FY 2025 -- \$94,667,000

FY 2026 -- \$96,129,000

Total: \$466,221,000

HB 4472 is anticipated to be revenue neutral for the Texas Mobility Fund. Section 49-k, Article III, Texas Constitution, requires that while Texas Mobility Fund bonds are outstanding, these constitutionally dedicated revenues may not be reduced, rescinded, or repealed unless the legislature dedicates a substitute or different source projected by the comptroller to be of an equal or greater value. Therefore, the

HB 4472 APPROPRIATIONS AND TRANSPORTATION FUNDING

comptroller must agree that projected, non-constitutionally dedicated State Highway Funds will equal or exceed the value of the current Certificate of Title fee revenue as redirected by HB 4472. Based on the calculations above, TxDOT anticipates HB 4472 will be revenue neutral for the Texas Mobility Fund as the non-constitutionally dedicated State Highway Fund dollars will reimburse the Texas Mobility Fund in an equal amount to the revenue (Certificate of Title fees) redirected to the TERP Fund.

Currently, due to constitutional limitations, the current State Highway Fund transfers to the TERP Fund come from the non-constitutionally dedicated portion of the State Highway Fund.

HB 4472 instead requires these transfers be deposited in the Texas Mobility Fund. Non-constitutionally dedicated State Highway Funds are limited and provide a method of financing for non-highway related appropriations, such as public transportation, aviation, maritime, and other modes of transportation where constitutionally dedicated dollars are ineligible. While the bill remits some TERP revenue back to the State Highway Fund, those funds may not be used for non-constitutionally dedicated purposes and must be spent on congestion mitigation and air quality improvement projects.

Effective Date: September 1, 2021



APPROPRIATIONS AND TRANSPORTATION FUNDING

SB 181

Author: Senator Nathan Johnson (D-Dallas)
Sponsor: Representative James White (R-Hillister)



Relating to suspension of a driver's license for persons convicted of certain offenses and the educational program required for reinstatement of a license following certain convictions; authorizing a fine.

Summary

Section 159, Title 23, United States Code, or “the Solomon-Lautenberg amendment,” passed by the U.S. Congress in 1990, encourages states to make laws that provide an automatic six-month driver’s license suspension for any individual convicted of a drug offense. Under federal law, states that refuse to pass these laws may be penalized with a reduction in federal highway funding. The law, however, provided states with the opportunity to opt-out of the requirement and prevents the potential loss of federal highway dollars by passing explicit laws and offering public statements by elected officials in opposition to the federal law.

Senate Bill 181 eliminates the state’s automatic driver’s license suspension laws for any individual convicted of a drug offense if the appropriate state entities and elected officials complete several actions to comply with federal law. First, the Texas Legislature must pass a resolution stating opposition to the federal provisions of Section 159, Title 23, United States Code; this was done with the passage of Senate Concurrent Resolution 1 (87th Regular Session, 2021). Second, the governor must provide to the U.S. Secretary of Transportation a written statement of the governor’s opposition to the enforcement of these driver license revocation laws and certification of the legislature’s passage of the resolution described above.

If the legislature and governor complete both actions, the office of the Texas Attorney General (OAG) must provide an official finding

that these requirements have been satisfied. Ninety days after the notification filing of the Attorney General’s finding, the automatic drug suspension laws are considered revoked.

Pursuant to SB 181, in lieu of the automatic driver license suspension for any individual convicted of a drug offense, the prosecuting court may order a driver’s license suspension. If the court does not order the driver’s license suspension, then the court charges and collects a \$100 fine deposited into the Texas Mobility Fund. This new court fine is intended to replace the reinstatement fee of \$100 that a person must currently pay to the Texas Department of Public Safety (TxDPS) to reinstate a driver’s license after a drug suspension. The existing driver license fee of \$100 is also deposited into the Texas Mobility Fund.

Impact on TxDOT

TxDPS remains primarily responsible for the revocation and reinstatement of driver licenses related to criminal drug offenses. Because TxDOT does not enforce or prosecute drug offenses or driver license provisions, SB 181 will not result in an operational impact on TxDOT.

The new court fine created by SB 181 replaces the driver license reinstatement fee. Thus, TxDOT does not anticipate any loss of revenue to the Texas Mobility Fund based on changes to the driver license revocation law.

Effective Date: September 1, 2021, except as provided by actions of the legislature (resolution), the governor, and the Office of the Texas Attorney General



APPROPRIATIONS AND TRANSPORTATION FUNDING



SCR 1

Author: Senator Nathan Johnson (D-Dallas)
Sponsor: Representative James White (R-Hillister)

Expressing opposition to the enactment or enforcement in Texas of a law, under a federal mandate, that automatically suspends the driver's license of an individual who is convicted of certain offenses.

Summary

Section 159, Title 23, United States Code, requires states to enact and enforce a law requiring, in all circumstances, a six-month minimum revocation or suspension of a person's driver license if convicted of a drug offense. Failure to do so may result in a reduction in the amount of the state's federal highway funding.

Under Section 192.5(c), Title 23, Code of Federal Regulations, states may opt-out of enacting or enforcing such driver license revocation and suspension laws through two actions. The state's legislature must pass a resolution stating opposition to the federal provisions of Section 159, Title 23,

United States Code. Additionally, the state's governor must provide to the U.S. Secretary of Transportation a written statement of the governor's opposition to the enforcement of these driver license revocation laws and certification of the legislature's passage of the resolution described above.

In response to the original passage of the federal rules, Texas enacted Section 521.372, Transportation Code, to establish a six-month driver license suspension following a conviction of a drug offense. Senate Concurrent Resolution 1 begins the alternate opt-out provisions of Section 192.5(c), Title 23, Code of Federal Regulations, and expresses the Texas Legislature's opposition to federal law requiring states to revoke or suspend the driver's license of a person convicted of a drug offense.

SCR 1 also resolves that the Texas Secretary of State forward the Texas Legislature's resolution to the Office of the Governor, requesting the governor to submit the resolution to the U.S. Secretary of Transportation alongside the required written certification.

Senate Bill 181, also passed during the 87th Regular Legislative Session (2021), eliminates the state's automatic driver license suspension laws for any individual convicted of a drug offense if the appropriate state entities and elected officials complete the actions required in Section 192.5(c), Title 23, Code of Federal Regulations.



SCR 1 APPROPRIATIONS AND TRANSPORTATION FUNDING

Impact on TxDOT

TxDOT does not anticipate a fiscal or operational impact from SCR 1. SCR 1 and SB 181 only meet part of the conditions under which a state may opt-out of the federal driver license revocation and suspension requirements. A statement and certification from the governor is still needed to satisfy the requirements of Section 192.5(c), Title 23, Code of Federal Regulations. If steps to opt-out are completed, an exception to the federal law will eliminate the risk of a reduction in federal highway funding, thus ensuring a continuing stable and predictable federal funding source for TxDOT. If all steps required by Section 192.5(c), Title 23,

Code of Federal Regulations, are not completed, SB 181 will not take effect and therefore will not pose a risk of lost federal highway funds to the state.

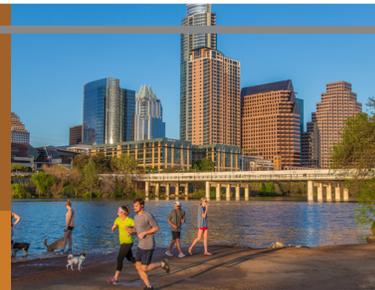
Further, the Texas Department of Public Safety (TxDPS) remains primarily responsible for the revocation and reinstatement of driver licenses related to criminal drug offenses. Because TxDOT does not enforce or prosecute drug offenses or driver license provisions, SCR 1 will not result in an operational impact to TxDOT.

Effective Date: May 28, 2021





BICYCLE AND PEDESTRIAN



BICYCLE AND PEDESTRIAN

HB 3665

Author: Representative Claudia Ordaz Perez (D-El Paso)
Sponsor: Senator Cesar Blanco (D-El Paso)



Relating to expanding the definition of bicycle to include devices with more than two wheels, including to accommodate modifications necessary for adaptive riding by persons with disabilities.

Summary

House Bill 3665 amends Section 541.201(2), Transportation Code, by expanding the definition of “bicycle” to mean a device, excluding a moped, capable of being ridden solely using human power and having either:

1. Two tandem wheels at least one of which is more than 14 inches in diameter;
2. Three wheels, two of which are in parallel, and at least one of the three wheels is more than 14 inches in diameter; or
3. Any number of wheels and adaptive technology that allows the device to be ridden by a person with a disability.

According to the author’s statement of intent, HB 3665 aims to address concerns from advocates and the cycling community that the definition of a bicycle in state law is too narrow and does not contemplate bicycle modifications designed for riders with disabilities.

Impact on TxDOT

TxDOT does not anticipate a direct impact from HB 3665. HB 3665 expands the definition of bicycle to include devices that most people recognize as bicycles, but that may use more than two wheels, like recumbent or cargo bikes. HB 3665 aligns Texas’ statutory definition with many other states’ “bicycle” definition, which typically includes devices outside of the two-tandem wheel category.

Further, Subtitle C, Title 7, Transportation Code, which governs the rules of the road, grants the authority to oversee and police the use of bicycles, vehicles, and other modes of transportation on Texas roads to the Texas Department of Public Safety (TxDPS), local law enforcement, and local governments. Therefore, any enforcement related to the amended Section 541.201(2), Transportation Code, falls outside of TxDOT’s purview.

Effective Date: September 1, 2021



BICYCLE AND PEDESTRIAN

SB 1055

Author: Senator Joan Huffman (R-Houston)
Sponsor: Representative Ron Reynolds (D-Missouri City)



Relating to motor vehicle accidents involving a vulnerable road user within the area of a crosswalk and to requiring the operator of a vehicle to yield the right-of-way to a pedestrian; creating a criminal offense.

Summary

An analysis in 2020 from the Governors Highway Safety Association – a nonprofit organization focused on nationwide strategies to address behavioral highway safety issues – reported that pedestrian deaths have steadily increased in recent years, reaching the highest number in more than three decades, while motorist fatalities remain steady.



Senate Bill 1055 amends Chapter 545, Transportation Code, by adding Section 545.428, which creates an offense for motorists to operate a vehicle with “criminal negligence” in a crosswalk and cause bodily injury to a pedestrian or other vulnerable road user. Criminal negligence (as defined by Section 6.03(d), Penal Code) refers to behavior in which a person disregards a known or obvious risk or another person’s life and safety. SB 1055

defines “vulnerable road users” as persons operating a bicycle, motor-assisted scooter, electronic personal assistive mobility device, neighborhood electric vehicle, or golf cart.

A person who violates Section 545.428, Transportation Code, may be subject to a Class A misdemeanor, which entails a fine not to exceed \$4,000; a jail sentence of at most one year; or both the fine and jail time. However, if a person involved in the accident suffered serious bodily injury, violators are subject to a state jail felony, which entails a fine not to exceed \$10,000; a jail sentence of at least 180 days but no more than two years; or both the fine and jail time. If at the time of the offense, the pedestrian or other road user was violating a provision relating to walking, movement, or operation in a crosswalk or on a roadway, the offense must be considered an affirmative defense to the prosecution. If conduct that constitutes an offense also constitutes an offense under any other law, the actor may be prosecuted under this law, the other law, or both.

SB 1055 amends Section 544.007(b) and (c), Transportation Code, to require the operator of a motor vehicle to yield the right of way to other vehicles lawfully in the intersection and yield the right of way to pedestrians lawfully in the intersection or an adjacent crosswalk when approaching or at a green traffic signal.

SB 1055 amends Section 552.003(a) and (b), Transportation Code, to add that an operator of a vehicle must stop in addition to yielding the



SB 1055 BICYCLE AND PEDESTRIAN

right of way to a pedestrian crossing a roadway if no traffic signal is present or in operation. The amendment also prohibits a pedestrian from suddenly leaving the curb or other place of safety and proceeding into a crosswalk, if another vehicle appears close enough that it is impossible for the driver to reasonably stop or yield to the oncoming vehicle.

SB 1055 amends Section 552.002(b), Transportation Code, to add that a motorist must stop in addition to yielding the right of way to a pedestrian approaching or at a “walk” signal, if they are crossing the roadway in the direction of the signal.

SB 1055 amends Section 552.006(c), Transportation Code, to require motorists emerging from or entering an alley, building, or private roadway or driveway to stop in addition to yielding the right of way to a pedestrian approaching on a sidewalk extending across the alley, building entrance or exit, road, or driveway.

Impact on TxDOT

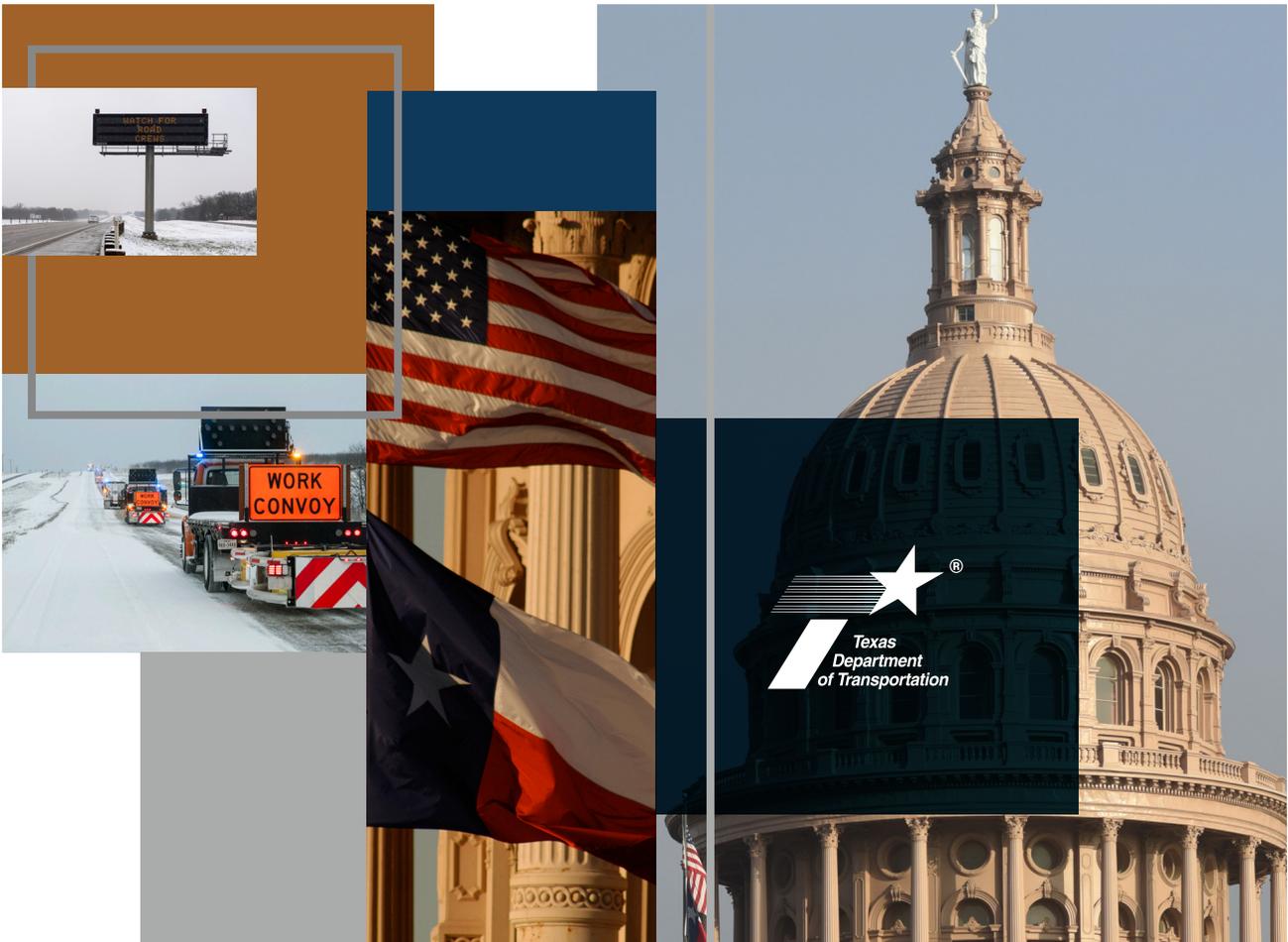
SB 1055 aligns with recent laws passed in other states that either establish or increase:

1. Protections for vulnerable road users; and
2. Penalties for persons operating motor vehicles negligently resulting in crashes that cause bodily injury to vulnerable road users.

SB 1055 also aligns with and supports statewide efforts to reduce bicyclist and pedestrian fatalities in conjunction with TxDOT’s goal to reduce traffic fatalities to zero by 2050. As an entity seeking to end roadway deaths, including TxDOT’s #EndTheStreakTX campaign, TxDOT anticipates that SB 1055 would bolster TxDOT’s efforts and improve safety statewide.

Effective Date: September 1, 2021





EMERGENCY OPERATIONS



EMERGENCY OPERATIONS

SB 3

Author: Senator Charles Schwertner (R-Georgetown)
Sponsor: Representative Chris Paddie (R-Marshall)



Relating to preparing for, preventing, and responding to weather emergencies and power outages; increasing the amount of administrative and civil penalties.

Summary

In February 2021, Winter Storm Uri hit Texas, overloading the state's electric generation capacity and triggering power outages for millions statewide. In the wake of the winter storm event, Texas legislators heard testimony from numerous industry experts and energy regulators about the state power grid's failure. These stakeholders repeatedly pointed to problems that led to statewide outages, including lack of energy system weatherization, lack of regulatory oversight, communication gaps between energy stakeholders and the public, and coordination failures within and between state regulatory agencies.

Senate Bill 3 makes broad changes to the state's approach to preparing for, preventing, and responding to extreme weather emergencies and extended power outages.

Though most of SB 3 does not pertain to TxDOT, the legislation requires TxDOT to participate in a Power Outage Alert system, like other statewide alert systems that use TxDOT's dynamic messaging signs (DMS). SB 3 also establishes the Texas Energy Reliability Council (council), which the Texas Transportation Commission Chair or their designee must serve on.

SB 3 adds Subchapter K-1, Chapter 411, Government Code, which requires the Texas Department of Public Safety (TxDPS), in cooperation with TxDOT, the Texas Division of Emergency Management (TDEM), the Office of the Governor, and the Public Utility Commission of Texas (PUC), to develop and implement an

alert that indicates when the state's power supply may inadequately meet statewide demand.

SB 3 requires the PUC to adopt rules and criteria for the alert's content, activation, and termination. The criteria must also specify when an alert will be regional or statewide. SB 3 names the director of TxDPS as the statewide coordinator for the power outage alert, and requires TxDPS to adopt and administer rules in alignment with those adopted by the PUC. SB 3 requires TxDPS to recruit public and commercial television and radio broadcasters, private commercial entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the power outage alert system.

SB 3 also requires TxDOT to assist and coordinate with TxDPS in developing and implementing the alert system. TxDOT must establish a plan for providing relevant information to the public through existing dynamic messaging signs throughout the state. TxDOT may use existing resources, such as email notifications, internal and external webpages (DriveTexas.org), Travel Information Centers, and web-based communications to implement these requirements. SB 3 provides that TxDOT is not required to use its existing DMS systems if it receives notice from the Federal Highway Administration that using these signs jeopardizes federal highway funding or may result in other punitive actions against the state due to non-compliance with federal laws, regulations, or policies.



SB 3 EMERGENCY OPERATIONS

SB 3 creates the council, a 25-member group established to ensure Texas energy and electric industries meet high-priority human needs and address critical infrastructure concerns. The council is also tasked with enhancing coordination and communication within the energy and electric industries statewide. The council is composed of several state commission chairs, officers, and executives, including the chair of the Texas Transportation Commission (or their designee), the chief executive of the Office of Public Utility Counsel (OPUC), and the presiding officer of the PUC, among others. SB 3 authorizes the chair of the Texas Transportation Commission to designate a person from TxDOT to serve on the council as their designee.

SB 3 requires the council to meet at least twice annually – and any other time the council deems necessary – at a time and location determined by the council’s chair. No later than November 1 of each even-numbered year, the council must submit to the legislature a report on the state’s electric supply chain reliability and stability. SB 3 sets forth specific requirements of the report.

Impact on TxDOT

The Power Outage Alert system created by SB 3 is like other statutorily required alert programs that use TxDOT’s dynamic message signs to rapidly notify the public of specific public safety messages or other public service announcements along state highway rights of way. Alerts can be issued statewide or within any Texas geographical area. Each alert program contains criteria designed to ensure network integrity and prevent public desensitization.

SB 3 adds a Power Outage Alert to the existing statutorily required alerts that authorities may ask TxDOT to activate to notify the public. Adding another program will have a minimal



direct impact on TxDOT operations and its current alert programs and notifications. The requirements of SB 3 that impact TxDOT place the same requirements on TxDOT as other alert programs. TxDOT will develop procedures for dynamic messaging sign use in the case of a Power Outage Alert, as done for other statewide advisories, and share those procedures with TxDPS.

The use of and content displayed on TxDOT’s dynamic message signs remains subject to federal laws and regulations, which set parameters on allowable displayed content. Non-compliance with federal laws and regulations may result in the withholding of federal highway funds. Because the Power Outage Alert system is not specifically allowed under current federal law or regulations and



SB 3 EMERGENCY OPERATIONS

federal policies can change at any time, SB 3 includes new Section 411.308, Government Code, which expressly exempts TxDOT from using dynamic message signs to display such alerts if doing so jeopardizes federal highway funding or may result in other punitive action. Because SB 3 includes limitation language for the use of dynamic message signs in compliance with federal laws, regulations, or policies, TxDOT does not anticipate a fiscal impact.

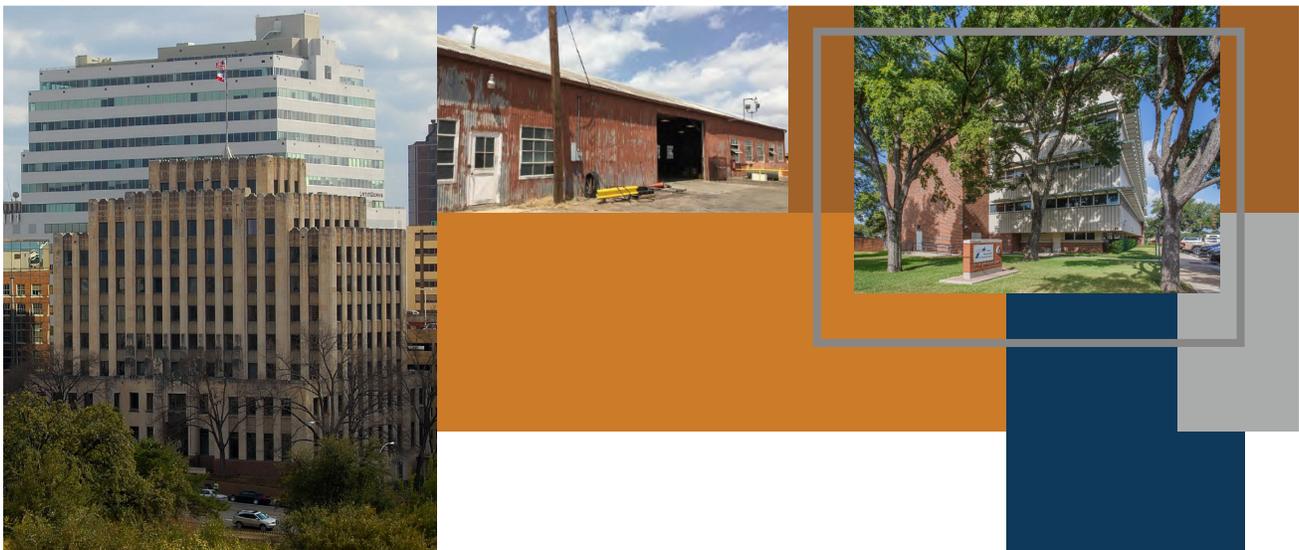
The requirement that Texas Transportation Commission's Chair or their designee must sit on the Texas Energy Reliability Council will require minimal TxDOT staff time and resources to support the Chair's or their designee's participation.

Effective Date: June 8, 2021





FACILITIES AND STATE PROPERTY



FACILITIES AND STATE PROPERTY

HB 29

Author: Representative Valoree Swanson (R-Spring)
Sponsor: Senator Bryan Hughes (R-Mineola)



Relating to authorizing the provision of temporary secure storage for weapons at certain public buildings; authorizing fees.

Summary

House Bill 29 amends Chapter 2165, Government Code, by adding Subchapter J (Temporary Secure Weapon Storage for Certain Public Buildings), to authorize a state agency – other than a school or penal institution – to provide temporary, secure weapon storage for all or a portion of a state agency or public building where a firearm or other weapon is prohibited. HB 29 authorizes, but does not require, a state agency to provide self-service weapon lockers, or other temporary secure weapon storage operated at all times by a designated state agency employee, that allow a user to temporarily and securely store a weapon otherwise prohibited in the building.

For each self-service locker, the agency must provide a physical key or electronic means for reopening the locker, such as through a fingerprint scan or numeric code. HB 29 authorizes a state agency to require a person to submit their name, driver license number or other form of identification, and telephone number before accessing a self-service weapon locker.

If the agency provides storage operated by a designated employee, the employee storing the weapon must securely affix a claim tag to the weapon, and provide a claim receipt and record the person's name upon reclaiming the weapon. HB 29 allows a person to reclaim the person's weapon by showing the designated employee the claim receipt, the person's driver's license, or another form of identification. HB 29 requires

the storage to be monitored by a designated employee and that a person storing or retrieving the weapon must not be required to wait longer than five minutes.

HB 29 authorizes state agencies to collect a fee of \$5 at most for secure weapon storage. HB 29 also permits an agency to remove any weapons not retrieved by the end of a given business day from the locker or storage facility and place them in another secure location. If practical, a state agency must notify the person who placed the weapon in a self-service weapon locker or other temporary, secure storage that the weapon remains in the state agency's custody and subject to forfeiture if not reclaimed within 30 days. The state agency must attempt contact by telephone if a person provided a number upon storage.

HB 29 also requires a state agency to post information describing the process for reclaiming a weapon left longer than one business day. The state agency may require an individual to show identification or other evidence of ownership before returning the unclaimed weapon and may charge a fee of at most \$10 per day (not to exceed \$150 total). A weapon is forfeited if the weapon is not reclaimed before the 30th day after the storage date. If a forfeited weapon is prohibited in this state, the state agency must turn the weapon over to local law enforcement as evidence or for destruction. If a person may legally possess the weapon in Texas, the weapon may be sold at a public sale by an auctioneer licensed under



HB 29 FACILITIES AND STATE PROPERTY

Chapter 1802, Occupations Code, to a licensed firearms dealer with proceeds from the sale transferred to the state's General Revenue Fund.

HB 29 establishes provisions for the retrieval of a stored weapon by an alternate person designated by the weapon owner.

Impact on TxDOT

Because HB 29 is permissive rather than compulsory, the legislation may or may not impact TxDOT depending on whether TxDOT intends to offer temporary weapon storage at its facilities.

Should TxDOT offer the weapon storage, TxDOT must develop a process requiring all weapon owners to remove all ammunition (if applicable), place a provided gun lock on the weapon, and retain the key. TxDOT would need to secure the ammunition and weapon separately, which would entail purchasing weapon cases to secure and store the weapon and the ammunition in a vault. TxDOT must require the weapon owner to

submit a driver license or other identification to TxDOT security personnel to record the name and driver license number and issue a receipt identifying the storage case number.

When retrieving a weapon from a TxDOT storage facility, the owner must present the original receipt and driver's license to security personnel, who may then verify the individual's identity and retrieve the storage case. The owner would accept the weapon, remove the gun lock, and return the lock to security. The owner may only rearm the weapon after leaving the facility.

Should TxDOT adopt a weapon storage program as permitted by HB 29, TxDOT anticipates new startup as well as ongoing costs to develop the program, purchase storage equipment and lockers for TxDOT's various facilities, pay any additional security personnel needed, and properly monitor compliance with weapon retrieval and forfeiture protocol.

Effective Date: September 1, 2021



FACILITIES AND STATE PROPERTY

HB 1927

Author: Representative Matt Schaefer (R-Tyler)
Sponsor: Senator Charles Schwertner (R-Georgetown)



Relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.

Summary

House Bill 1927, “the Firearm Carry Act of 2021,” amends the Code of Criminal Procedure, the Penal Code, Government Code, and other state codes, to make changes relating to offenses concerning the possession of a firearm or other weapon on certain premises. HB 1927 authorizes a person at least 21 years old (and not otherwise prohibited from possessing the firearm) to carry a handgun on premises other than the person’s own property or while inside of or directly en-route to a motor vehicle or watercraft owned or controlled by the person. HB 1927 allows individuals at least 21 years old to do so without obtaining a handgun license (“permitless carry”), while making optional existing provisions around obtaining a “license to carry.”

Under HB 1927, a person commits an offense by carrying and intentionally displaying a handgun in plain view in public, except when the handgun is partially or wholly visible and carried in a holster. HB 1927 would remove the current requirement that a person must carry a handgun in a shoulder or belt holster. HB 1927 also removes the condition that a license holder’s handgun must remain concealed for the defense to prosecution for unlawfully carrying a prohibited weapon in a secured area of an airport.

Only Sections 17 and 23 of HB 1927 will directly impact TxDOT.

Section 17 authorizes a person to provide notice that firearms are prohibited on a property by conspicuously posting a visible, public sign at each entrance to the property that includes the following statement phrased exactly or similarly in both



English and Spanish: “Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm.” The sign’s text must appear in contrasting colors with block letters at least one inch in height.

A person commits an offense under Section 17 by entering the property, land, or building where such signs are posted with a firearm or other weapon. Those in violation may be subject to a Class C misdemeanor, punishable by a fine not to exceed \$200. The offense may be considered a Class A misdemeanor if after entering the property, the weapon owner failed to depart after additional written, oral, or other personal notice. HB 1927 also sets forth the defenses to prosecution under the bill.



Section 23 amends Section 46.03, Penal Code, to provide that a person commits an offense by intentionally, knowingly, or recklessly possessing or bringing a firearm, location-restricted knife, club, or certain prohibited weapons into certain locations. This includes bringing these weapons in the room of a governmental entity’s open meeting (subject to Chapter 551, Government Code) if the entity provided the notice required by that chapter.

Impact on TxDOT

Under Sections 17 and 23 of the bill, TxDOT would need to fabricate and appropriately erect new signs to display at Texas Transportation Commission meetings informing attendees that carrying firearms is prohibited at an open meeting held by a governmental entity (Government Code, Chapter 551). TxDOT anticipates the staff time and resources required to do so will be minimal.

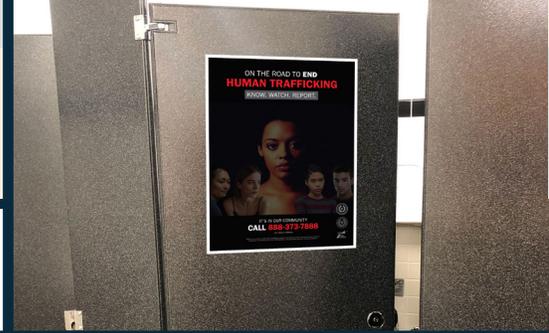
Effective Date: September 1, 2021



FACILITIES AND STATE PROPERTY

HB 3721

Author: Representative Jake Ellzey (R-Midlothian)
Sponsor: Senator Lois Kolkhorst (R-Brenham)



Relating to the inclusion of information for reporting suspicious activity to the Department of Public Safety on certain human trafficking signs or notices.

Summary

Under Section 402.0351, Government Code, signs regarding services and assistance for victims of human trafficking must be displayed at transportation hubs, including TxDOT rest areas, throughout Texas in both English and Spanish. In addition, these required signs and notices must display the National Human Trafficking Resource Center's hotline number and website, as well as information on key indicators of human trafficking to create public awareness and assist human trafficking victims.

House Bill 3721 requires that, besides the hotline, website, and other human trafficking information, mandatory human trafficking signage must include the contact information for reporting suspected trafficking activity to the Texas Department of Public Safety (TxDPS). The Office of the Attorney General (OAG) must prescribe by rule the design, content, and display for the required human trafficking signage.

Impact on TxDOT

TxDOT must update all human trafficking signs and notices, many of which are placed at TxDOT rest areas as required by law, in coordination with the OAG upon their prescribed changes to the Human Trafficking sign requirements pursuant to Section 402.0351, Government Code. TxDOT anticipates an undetermined cost associated with updating and replacing these signs.

Effective Date: September 1, 2021



FACILITIES AND STATE PROPERTY

SB 199

Author: Senator Jane Nelson (R-Flower Mound)
Sponsor: Representative Four Price (R-Amarillo)



Relating to automated external defibrillators.

Summary

Automated external defibrillators (AED) have become increasingly easier to use following years of technological improvements. Today, when cardiac events occur in public, bystanders can often readily access and easily operate AED devices to assist an individual demonstrating symptoms of cardiac arrest. Though these “good samaritans” often act in good faith, liabilities may apply to operators and entities that own or lease AEDs, should the device fail or malfunction.

SB 199 amends Section 779.003, Health and Safety Code, to require that a person or entity that owns or leases an AED conduct monthly inspections of the device. Previously, the law only required an owner to maintain and test the AED according to the manufacturer’s guidelines. SB 199 adds that a monthly inspection must verify the AED:

1. Is placed at its designated location;
2. Appears to be ready for use; and
3. Does not show damages that may prevent or alter its operation.

Additionally, Senate Bill 199 amends Section 779.006, Health and Safety Code, to exempt a physician who prescribes the acquisition of AEDs or an entity that owns, occupies, manages, or provides training on the use of an AED, from liability for civil damages, unless the use of or failure to use an AED is blatantly or intentionally negligent. SB 199 also states that the liability

exemption provided in Section 779.006, Health and Safety Code, applies regardless of whether the person who uses, attempts to use, or fails to use the AED received training on its operation.

Impact on TxDOT

TxDOT currently maintains a policy regarding the procurement, placement, use, and maintenance of AEDs that complies and aligns with SB 199. TxDOT currently has an AED Program, which requires AED maintenance and inspection to be performed monthly by an individual approved by the local AED Program Coordinator, trained on the preventive maintenance and usage of the AED device.

Effective Date: September 1, 2021



FACILITIES AND STATE PROPERTY

SB 1831

Author: Senator Larry Taylor (R-Friendswood)
Sponsor: Representative Senfronia Thompson (D-Houston)



Relating to the punishment for trafficking of persons, online solicitation of a minor, and prostitution and to the dissemination of certain information, including the required posting of certain signs, regarding human trafficking; increasing criminal penalties; providing a civil penalty.

Summary

Senate Bill 1831 amends several sections of the Education Code, Government Code, and Penal Code, to address the punishment for human trafficking and prostitution, and creates new provisions for disseminating information about human trafficking. SB 1831 expands the requirements in Section 402.0351, Government Code, related to posting human trafficking signs at various locations, including TxDOT owned rest stops. In addition, SB 1831 adds a civil penalty for failure to comply with sign posting requirements, which entails an initial warning and a \$200 penalty for each subsequent violation.

Impact on TxDOT

Section 402.0351, Government Code, requires TxDOT to post human trafficking signs at rest stops. Depending on the new rules and design adopted by the Office of the Attorney General (OAG) under the amended Section 402.0351, in this bill and HB 3721 (87th Regular Session, 2021), TxDOT will likely need to replace and update existing signs based on these provisions and post signs at additional locations within rest areas, adding some additional costs and staff time to produce and post signage. Should TxDOT fail to comply with program rules for any reason, an initial warning followed by a civil \$200 penalty per subsequent violation may occur.

SB 1831 requires the OAG to consult with the Human Trafficking Prevention Coordinating Council, instead of TxDOT, on the implementing provisions of Section 402.0351, Government Code.

Effective Date: September 1, 2021



GENERAL GOVERNMENT



HB 2025

Author: Representative Todd Hunter (R-Corpus Christi)
Sponsor: Senator Joan Huffman (R-Houston)

Relating to certain statutes and governmental actions that relate to the federal census.

Summary

In prior legislative sessions that followed a decennial census count by the U.S. Census Bureau, the Texas Legislature passed bills to update statutory population brackets that limit the applicability of certain statutes to political subdivisions of specified sizes. Due to the U.S. Census Bureau's delayed release of 2020 census count data and the subsequent lack of up-to-date population statistics, the Texas Legislature did not pass a similar bill during the 87th Regular Legislative Session (2021).

House Bill 2025 amends Section 2058.001(b), Government Code, to require governmental entities to recognize and act on a report or count of federal decennial census data published by the U.S. Census Bureau's director on September 1 of the year following the census year or the first day of the calendar month following the 150th day after the report's publication date, whichever falls later.

HB 2025 amends Section 2058.002, Government Code, to allow the legislature to act on published census reports and counts on the 2020 census, regardless of the date published.

HB 2025 adds Section 2058.0021, Government Code, to provide that a statute that applies to a political subdivision with a certain population according to the most recent federal census data continues to apply to the same political subdivisions as under the 2010 federal census, regardless of whether the 2020 federal census data reflects the same population numbers from 2010 for the respective political subdivisions.

The temporary provision does not apply to political subdivisions not included in such a statute under the 2010 federal census data, regardless of whether the political subdivision's population matches that prescribed by the statute under the 2020 federal census. This section expires September 1, 2023.

Impact on TxDOT

HB 2025 provides TxDOT additional time to recognize and incorporate the 2020 census results in certain administrative operations and funding distributions for various grant programs and formula-based transportation programs, such as public transportation and certain funding categories in TxDOT's Unified Transportation Program (UTP).

TxDOT anticipates changes to the funding amounts allocated to a political subdivision based on census populations or a political subdivision's eligibility for a particular program based on population. Funding amounts for programs – which are generally a fixed amount and allocated based on population, eligibility, and previous amounts received by that entity – may change depending on the new census data.

Effective Date: June 15, 2021



Relating to information regarding state agency vehicle fleets.

Summary

State agencies are required to report data on their vehicle fleets via the Texas fleet management system, administered by the Texas Comptroller's Office of Vehicle Fleet Management. The Office of Vehicle Fleet Management uses agencies' data to calculate service charges – which totals \$5.25 per vehicle for agencies with at least five vehicles – associated with managing the system and to log mileage traveled in the office's annual report. However, state agencies manage varying fleet sizes and, due to the large volume of information required, the reporting process can prove burdensome for those agencies with larger fleets. Further, agencies with larger fleets must pay relatively higher service charges each year.

House Bill 3388 amends Section 2171.101, Government Code, to exempt agencies with a fleet of more than 2,500 vehicles from reporting to the Texas fleet management system, and requires these agencies to establish and maintain their own vehicle reporting systems for vehicle fleet management. The agency's system must be established by October 1, 2021. HB 3388 also waives the \$5.25 per vehicle charge for agencies above the 2,500-vehicle threshold.

HB 3388 requires that the exempted agencies submit requested information on the agency's fleet to the Office of Vehicle Fleet Management for the preceding state fiscal year no later than October 15 annually. The legislation allows the agency to provide the information in the format used by the agency's reporting system.



Additionally, HB 3388 adds provisions that broaden allowable circumstances under which TxDOT, as the administrator and custodian of the state-owned aircraft fleet, may provide aircraft transportation. HB 3388 amends Section 2205.036, Government Code, by adding two new qualifying circumstances for state aircraft use:

1. When the time required to use a commercial carrier interferes with the eligible passenger's obligations; or
2. A Texas Department of Public Safety (TxDPS) representative finds that security concerns warrant the passenger's use of a state aircraft.



HB 3388 GENERAL GOVERNMENT

Impact on TxDOT

Currently, TxDOT already uses the M5 by AssetWorks system, known as “FNAV,” for fleet reporting purposes, in compliance with the new requirement for agencies with a fleet over 2,500 vehicles. Under HB 3388, TxDOT will no longer need to report the required vehicle information into the Texas Fleet Management System (and instead would submit the data to the Office of Vehicle Fleet Management by October 15 annually in the format exported from FNAV). HB 3388 also exempts TxDOT from paying the fleet management system’s annual fees, currently set at \$5.25 per vehicle reported. TxDOT anticipates both exemptions provided by HB 3388 to lighten administrative and cost burdens associated with vehicle fleet reporting.

TxDOT anticipates a total savings of approximately \$42,000 per fiscal year and 16 less full-time equivalent (FTE) hours per month spent on batching data files into the system.

TxDOT’s Flight Services maintains and operates the state-owned aircraft fleet that provides aviation services to state officials, employees, or sponsored contractors traveling on official state business, as outlined in Section 2205.036, Government Code. By broadening conditions under which individuals may use state aircraft, HB 3388 will likely increase the number of requests for passenger use of TxDOT Flight Services. HB 3388 should not increase costs incurred by TxDOT as statute (Section 2205.040, Government Code) requires TXDOT to operate Flight Services on a cost-neutral basis by charging fees sufficient to recover costs of service. Any increase or decrease in operational costs should be reflected in rates for aircraft services to cover costs.

Effective Date: June 18, 2021



GENERAL GOVERNMENT

HB 1322

Author: Representative Matt Shaheen (R-Plano)
Sponsor: Senator Judith Zaffirini (D-Laredo)



Relating to a summary of a rule proposed by a state agency.

Summary

House Bill 1322 amends Section 2001.023, Government Code, to require a state agency to publish a summary of a proposed rule in plain language understandable to a layperson in both English and Spanish on the respective agency's website at the time the agency files notice of a proposed rule with the Secretary of State for publication in the Texas Register. HB 1322 provides that a summary is written in "plain language" must use language the public and individuals with limited English proficiency can readily understand. HB 1322 has a delayed effective date of September 1, 2023.

As stated in the bill authors' intent statement, HB 1322 attempts to ensure the general public's ability to easily comprehend and digest legislative and regulatory language associated with agency rulemaking. Despite the impact that such rules may have on the public, the complicated or terminology-heavy nature of such regulatory language may pose barriers to understanding the meaning and effects of agency rules, especially for individuals with limited English-language proficiency.

Impact on TxDOT

To comply with HB 1322, TxDOT must ensure that the preamble of each proposed rule includes a concise, well-organized "plain-language" explanation in both English and Spanish. TxDOT will need to determine and dedicate a space on TxDOT's website for the required summary of the proposed rule.

HB 1322 will require TxDOT to provide public notice and an explanation of a proposed rule in clear, understandable language on its website. TxDOT must also publish information on any associated legislation that provides authority to implement such a rule.

Effective Date: September 1, 2023



GENERAL GOVERNMENT

SB 15

Author: Senator Robert Nichols (R-Jacksonville)
Sponsor: Representative Phil King (R-Weatherford)



Relating to the Texas Consumer Privacy Act Phase I; creating criminal offenses; increasing the punishment for an existing criminal offense.

Summary

Under the federal Driver's Privacy Protection Act, all states must set privacy protections for motor vehicle records. In Texas, the Motor Vehicle Records Disclosure Act prohibits the disclosure and use of personal information contained in motor vehicle records – including names, addresses, and driver's license numbers – by state agencies and political subdivisions, except under certain conditions. Senate Bill 15 further restricts governmental entities from selling or releasing this personal information to private entities and businesses.

SB 15 limits the purposes for which a requestor may obtain motor vehicle records and pay the associated fees, also known as Driver Record Information Fees. SB 15 also removes exceptions in existing statutes and rules adopted by the Texas Transportation Commission (commission) that would have allowed the disclosure and sale of information gathered for "Texas Highways" magazine subscriptions and through purchases of promotional items.

Impact on TxDOT

Under Section 521.058, Transportation Code, the Comptroller of Public Accounts (comptroller) must deposit fees paid for motor vehicle records into the Texas Mobility Fund (TMF). In fiscal year (FY) 2020, TxDOT received \$60,379,139 in Driver Record Information Fees. Because SB 15 would limit the ability of some persons and entities to pay for and obtain motor vehicle records, TxDOT anticipates SB 15 may reduce revenues generated and deposited in the Texas

DRIVER'S PRIVACY PROTECTION ACT



<https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title18-section2721&num=0&&edition=prelim>

MOTOR VEHICLE RECORDS DISCLOSURE ACT



<https://statutes.capitol.texas.gov/Docs/TN/htm/TN.730.htm>

Mobility Fund from the sale of such records by the Texas Department of Public Safety (TxDPS). However, there was no reported fiscal note by the Legislative Budget Board on the finally passed version of SB 15.

Section 49-k(f), Article III, Texas Constitution requires that when the state experiences losses



SB 15 GENERAL GOVERNMENT

to the Texas Mobility Fund – such as those that may result from decreased revenue from SB 15 – the legislature must identify a revenue source to match and replace lost revenue from Texas Mobility Fund (as certified by the comptroller). SB 15 does not designate a substitute source of revenue.

Pursuant to Section 204.011(a), Transportation Code, the commission has adopted rules to allow for the disclosure and sale of information gathered for “Texas Highways” magazine subscriptions and through purchases of promotional items. SB 15 prohibits this going forward. In FY 2020, the revenue earned and

deposited into the State Highway Fund from the sale of information gathered from “Texas Highways” magazine was \$36,867. This revenue defrays the cost of the magazine’s production and promotes new readership and subscribership. Because SB 15 precludes TxDOT from selling and sharing “Texas Highways” subscribers’ information, TxDOT may need to increase direct marketing efforts to boost or retain current subscribership, or risk losing subscribers – resulting in added costs or lost “Texas Highways” revenue for the agency, respectively.

Effective Date: June 18, 2021



GENERAL GOVERNMENT

SB 800

Author: Senator Jane Nelson (R-Flower Mound)
Sponsor: Representative Chris Paddie (R-Marshall)



Relating to certain required reports or information received or prepared by state agencies and other governmental entities.

Summary

In recent years, the Texas State Library and Archives Commission studied the ongoing need of many existing statutory reports. Based on this review, the Texas State Library and Archives Commission produced a report recommending to the legislature the repeal or consolidation of statutory reporting requirements deemed unnecessary or ineffective. Senate Bill 800 accounts for these recommendations and continues the legislature's efforts to update statutes relating to information received or prepared by state agencies and other governmental entities.

While SB 800 consolidates or removes reporting requirements across many state statutes, resulting in broad impacts to numerous state agencies, the following summary reflects only those changes impacting TxDOT.

SB 800 amends Sections 403.0147(c), Government Code, to require that state agencies report to the Texas Comptroller of Public Accounts on state programs not funded by appropriations each even-numbered years, rather than annually as currently required.

SB 800 amends Section 2054.077(b), Government Code, to change the due date from October 15 to June 1 of each even-numbered year for state agency information security officer vulnerability reports. Under Section 2054.077, Government Code, these reports must assess the extent to which an agency or its contractors' computer systems, including mobile devices, software, or data processing, demonstrate

vulnerability to unauthorized access or harm, including alteration, damage, erasure, or inappropriate use.

SB 800 amends Section 2054.515, Government Code, to add a new potential due date for state agency reports on their information security assessments. Current statute requires the assessment by December 1 of the year in which the agency conducts the assessment. The new provision adds "or the 60th day after the date the agency completes the assessment, whichever occurs first."



SB 800 amends Section 2054.516(a), Government Code, to move the due date from October 15 to June 1 of each even-numbered year for state agency data security plans for online and mobile applications.

SB 800 amends Section 2054.5192(e), Government Code, to provide the due date of August 31 of each year for state agency reports on the completion of a cybersecurity training program by contractors who may access a state computer system or database.

SB 800 repeals the following provisions impacting TxDOT:

1. Section 447.010(j), Government Code, which required an annual report required on a state agency's efforts and progress on fuel-saving;
2. Chapter 2061, Government Code, which required a quarterly report on flood research, planning, and mitigation;
3. Section 223.042(f), Transportation Code, which required an annual report on the privatization of maintenance contracts; and
4. Section 228.012(c), Transportation Code, which required a biennial report on cash balances in and expenditures from the subaccounts of funds from comprehensive development agreements (CDA) payments and surplus revenue of a toll project or system.

Impact on TxDOT

TxDOT will update its reporting schedules and procedures to reflect the reporting requirement changes from SB 800. This should require only minimal staff time and resources; however, it may require some additional internal oversight in the initial year(s) of implementation to ensure new deadlines are met.

Effective Date: September 1, 2021



GENERAL GOVERNMENT

SB 1225

Author: Senator Joan Huffman (R-Houston)
Sponsor: Representative Chris Paddie (R-Marshall)



Relating to the authority of a governmental body impacted by a catastrophe to temporarily suspend the requirements of the public information law.

Summary

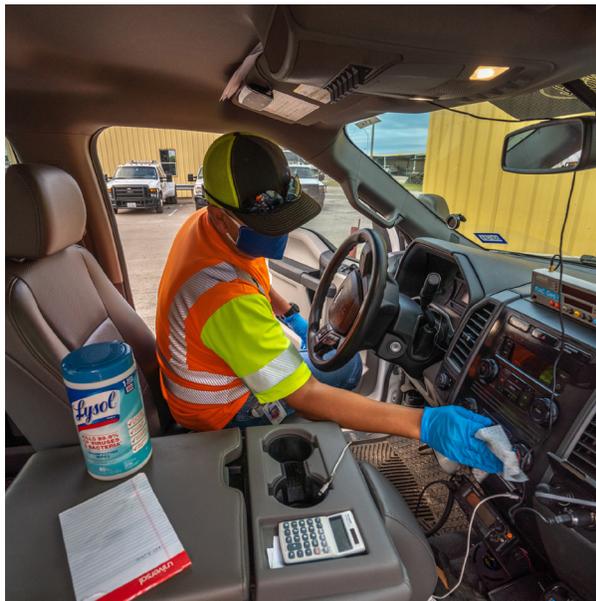
During catastrophic events, including hurricanes and tornados, impacted governmental bodies may struggle to provide timely responses to public information requests due to disrupted operations and workflow. Currently, the Texas Public Information Act (Chapter 552, Texas Government Code) allows governmental bodies impacted by a catastrophe to suspend statutory public information requirements until the entity may reasonably respond to public information requests.

public information exists in electronic format. Additionally, the bill authors' statement of intent, suggest that certain governmental bodies may abuse the authority to renew or reissue suspensions of public information requirements which may extend periods that the public cannot obtain information, which they are otherwise entitled.

Senate Bill 1225 amends Section 552.233, Government Code, to address these issues by qualifying that a "catastrophe" must "directly" interfere with the ability of a governmental body to respond to information requests. The legislation also clarifies that a period when a physical office of the governmental entity is closed, and staff must work remotely but can access information electronically to respond to a request does not qualify as a "catastrophe."

SB 1225 also prevents a governmental body from suspending the applicability of the catastrophe requirements more than once for each catastrophe and prohibits that suspension period from exceeding seven consecutive days following the initial suspension period. SB 1225 prohibits an entity's combined suspension period – including the initial and single extension periods – from exceeding a total of 14 consecutive calendar days for a given catastrophe. Upon conclusion of any suspension, the governmental entity must immediately resume compliance with all Public Information Act requirements.

SB 1225 redefines the "suspension period" by clarifying that the entity "is currently significantly



According to the bill authors' statement of intent, some governmental bodies attempted to use this authority during the COVID-19 pandemic, although agencies remained fully staffed. Many agencies' transition to remote work during the pandemic only marginally impacted the accessibility of requested information, as most



SB 1225 GENERAL GOVERNMENT

impacted by a catastrophe such that the catastrophe directly causes the inability of a governmental body to comply with the requirements of this chapter.”

SB 1225 adds Section 552.2211, Government Code, which requires a governmental body that closes its physical offices but requires staff to work, including remotely, to make a good faith effort to continue responding to applications for public information to the extent staff have access to the requested public information while its offices are closed.

SB 1225 provides that failure to respond to requests may constitute a refusal to request an attorney general’s decision or a refusal to supply public information or information that the attorney general has determined is public information that is not excepted from disclosure.

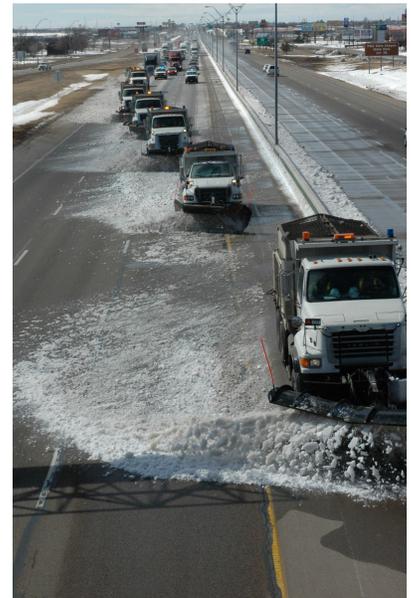
Impact on TxDOT

SB 1225 may impact TxDOT in the future. However, TxDOT has not used the catastrophe notice since its enactment due to its duration limitations and procedural requirements, which may prove burdensome during a true catastrophe.

TxDOT likely will not experience an operational impact, as the agency already makes a good faith effort to fulfill open records requests in a timely manner. The attorney general’s current interpretation of “business day” allows flexibility in meeting open records deadlines, as exercised during the COVID-19 pandemic and the ransomware incident when records were inaccessible. If the attorney general’s interpretation of a business day remains the same, TxDOT may continue counting “business days” as only those when records are accessible. TxDOT currently does not consider days during a catastrophe when TxDOT offices are closed as business days that count towards fulfilling a public information request.



Effective Date: September 1, 2021

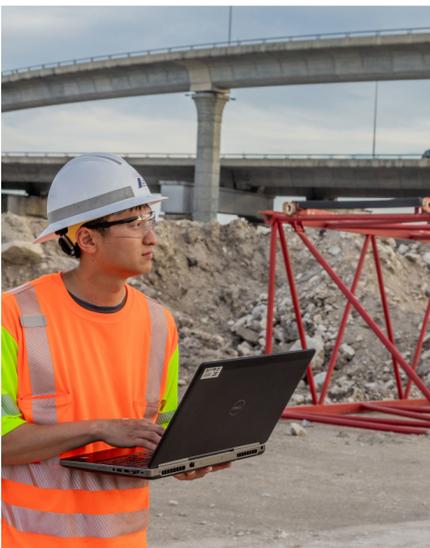




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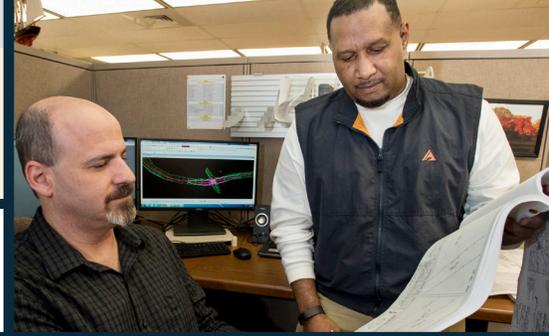
HIGHWAY CONSTRUCTION CONTRACTING AND DELIVERY



HIGHWAY CONSTRUCTION CONTRACTING AND DELIVERY

HB 2116

Author: Representative Matt Krause (R-Fort Worth)
Sponsor: Senator Beverly Powell (D-Burleson)



Relating to certain agreements by architects and engineers in or in connection with certain construction contracts.

Summary

In contracts for engineering and architectural services, a contractual “duty to defend” refers to an obligation whereby one party – for instance, the engineer or architect that prepares the project design – agrees to defend another party, typically the project developer, against a covered third-party claim related to the project. This could include third party claims of the owner’s alleged liability. In turn, the engineer, architect or other defending entity becomes responsible for covering attorney’s fees and costs associated with providing a defense. Duty to defend contract provisions may require an engineer or architect to pay the owner’s legal bills before any determination of liability and, in some cases, even after a finding of no liability.

According to the author’s statement of intent, House Bill 2116 addresses issues of unfairness by prohibiting design contracts for engineering and architectural services from including “unreasonable, uninsurable, or risk-shifting duty to defend provisions in a contract.” HB 2116 also aims to protect project owners’ rights by allowing for the recovery of attorney’s and other fees from project designers once a final liability is determined.

HB 2116 amends Section 130.002, Civil Practice and Remedies Code, to provide that, except as provided in that section, a covenant or promise, in connection with, or collateral to a construction contract for engineering or architectural services related to an improvement to real property is void and unenforceable to the extent that the covenant or promise provides

that a licensed engineer or registered architect must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the owner, the owner’s agent, the owner’s employee, or another entity over which the owner exercises control. Such an agreement may provide for the reimbursement of an owner’s reasonable attorney’s fees in proportion to the engineer’s or architect’s liability.

The agreement may require that the engineer or architect name the owner as an additional insured under any of the engineer’s or architect’s insurance coverage to the extent additional insureds are allowed under the policy and provide any defense to the owner provided by the policy to a named insured.

HB 2116 provides that these requirements do not apply to a contract with an entity to provide both design and construction services (a design-build contract), or to a covenant to defend a party, including a third party, for a claim of negligent hiring of the architect or engineer.

Under HB 2116, contracts for design services must also include “a reasonable and insurable standard of care for professional services.” HB 2116 adds Section 130.0021, Civil Practice and Remedies Code, to provide that a construction contract for architectural or engineering services, or a contract related to the construction or repair of an improvement to real property that contains architectural or engineering services as a component part, must require that the architectural or engineering



services be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license. If such a contract includes a provision establishing a different standard of care, the provision is void and unenforceable and the required standard of care applies to the performance of the architectural or engineering services.

HB 2116 amends Section 130.004, Civil Practices and Remedies Code, to provide that except as provided by Section 130.002(b) or (c) or Section 130.0021, Chapter 130 does not apply to an owner of an interest in real property or persons employed solely by that owner. HB 2116 provides that, except as provided by Section 130.002(b) or (c) or Section 130.0021, Chapter 130 does not prohibit or make void or unenforceable a covenant or promise to:

1. Indemnify or hold harmless an owner of an interest in real property and persons employed solely by that owner, or
2. Allocate, release, liquidate, limit, or exclude liability in connection with a construction contract between an owner or other person for whom a construction contract is being performed and a registered architect or licensed engineer.

Impact on TxDOT

TxDOT anticipates only minor impacts, if any, from HB 2116. TxDOT does not hold contractors responsible for latent design errors and, following the 86th Regular Legislative Session (2019), modified its contracts to clarify that TxDOT will not hold contractors liable for patent design errors. TxDOT's standard engineering and architecture contracts do not require the engineer or architect to defend TxDOT. Rather, TxDOT requires indemnity and reimbursement of attorney's fees. Thus, the provisions of HB 2116 will not apply.

Currently, TxDOT contracts already employ an "ordinarily prudent" standard of care, therefore, TxDOT will not need to change contract standards. The limitation in liability in amended Section 130.002 does not apply to design-build contracts. The standard of care required in new Section 130.0021 is essentially the same as that required in Section 473.004, Transportation Code, which applies to TxDOT's highway construction contracts. TxDOT will need to review the existing TxDOT contract template language and potentially make minor modifications to ensure compliance.

Effective Date: September 1, 2021



HIGHWAY CONSTRUCTION CONTRACTING AND DELIVERY

SB 1270

Author: Senator Kel Seliger (R-Amarillo)
Sponsor: Representative Ed Thompson (R-Pearland)



Relating to the procurement of certain goods and services related to highways by the Texas Department of Transportation.

Summary

When purchasing road, traffic control, and safety materials, Section 223.001, Transportation Code, requires TxDOT to procure the materials under a qualified low-bid process, which generally requires six to nine weeks. When procuring services for maintenance projects, state law also requires TxDOT to procure the services under the same qualified low-bid process unless the contract is for \$25,000 or less. For a contract of \$25,000 or less, TxDOT is authorized to purchase services under the purchasing act through a formal solicitation process which can be much quicker. When TxDOT needs to complete smaller maintenance projects or acquire materials in smaller quantities to promptly make road repairs, the qualified low-bid process can be burdensome and lengthy, potentially delaying project delivery.

Senate Bill 1270 amends Section 223.001, Transportation Code, to allow TxDOT to purchase road materials and traffic control and safety devices as a “purchase of goods” under Subtitle D, Title 10, Government Code (State Purchasing and General Services Act), if TxDOT determines that the competitive-bid procedures of Chapter 223, Transportation Code, are impractical or may delay projects. SB 1270 allows TxDOT to use this competitive contracting process under the State Purchasing and General Services Act up for a contract up to an amount delegated to TxDOT by statute or the Texas Comptroller of Public Accounts (comptroller), currently \$50,000.

SB 1270 requires TxDOT to award a contract for road materials under the State Purchasing and General Services Act, to the lowest responsive bidder. SB 1270 requires TxDOT, after the contract award, to post the bid tabulation for that contract on TxDOT’s website.

SB 1270 also amends Section 223.042, Transportation Code, to allow TxDOT to procure maintenance projects as a “purchase of services” under the State Purchasing and General Services Act for a contract up to an amount delegated to TxDOT by statute or comptroller, currently \$100,000. SB 1270 requires TxDOT, after the award of a contract, to post on its website the bid tabulation for that contract.

Impact on TxDOT

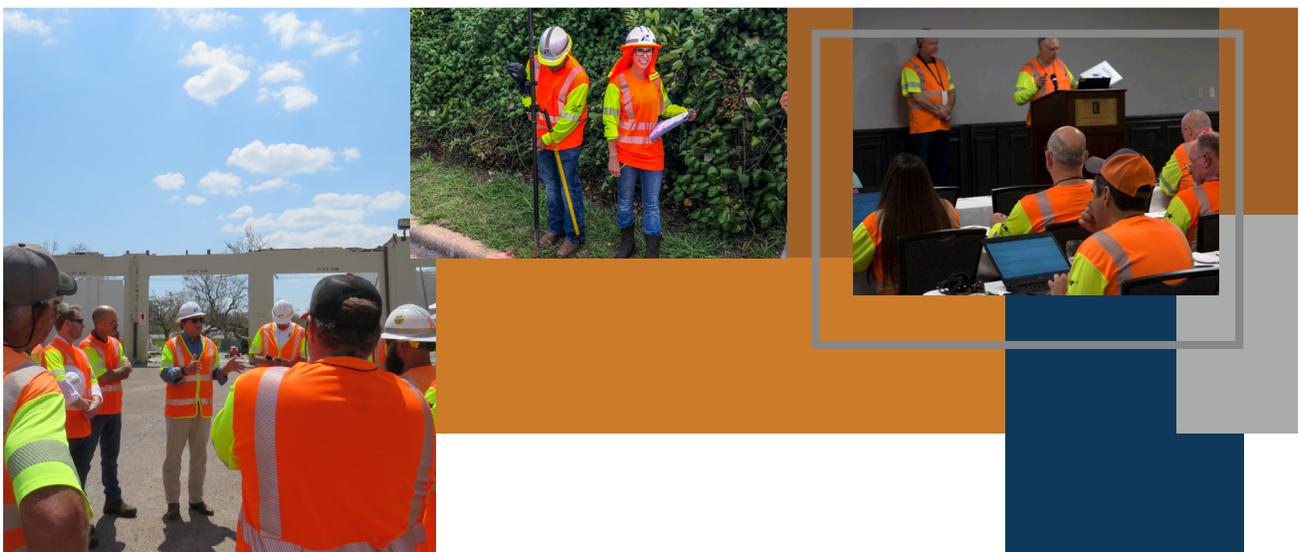
SB 1270 expands the number of contracts TxDOT may award under the State Purchasing and General Services Act and allows flexibility for TxDOT when contracting for lower value road materials and traffic control and safety devices and maintenance projects. TxDOT anticipates that SB 1270 will result in a positive though undetermined fiscal impact. Allowing TxDOT to use the Purchasing Act, as specified by SB 1270, for lower dollar value purchases will enable TxDOT to more expediently purchase materials and services for roadway repairs, ultimately resulting in a shortened procurement process, quicker project timeline, and reduced costs in terms of staff time and procurement costs.

Effective Date: June 7, 2021





HUMAN RESOURCES



HUMAN RESOURCES

HB 1589

Author: Representative Yvonne Davis (D-Dallas)
Sponsor: Senator José Menéndez (D-San Antonio)



Relating to paid leave for public officers and employees engaged in certain military service.

Summary

Section 437.202, Government Code, allows public officers and employees 15 workdays per fiscal year to complete authorized training or duty for the state's military forces, a reserve branch of the U.S. Armed Forces, or a state- or federally-authorized urban search and rescue team, if applicable.

House Bill 1589 addresses a common issue presented when an officer or employee of the state or a political subdivision of the state – who is also a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team – receives a call to active duty to assist in disaster response. These scenarios can leave an employee with little to no paid leave days to apply toward completing authorized training or other required duties.

HB 1589 amends Section 437.202, Government Code, by adding the provision of up to seven workdays of paid leave in a fiscal year to those state employees who are also military, reserve branch, or government-authorized search and rescue team members and called to state active duty by the governor or another appropriate authority in response to a disaster, as defined by Section 418.004, Government Code. HB 1589 allows this leave – in addition to the fifteen workdays allowed under current law – each fiscal year to accommodate authorized training or duty.

Impact on TxDOT

TxDOT's current military leave policy entitles employees to paid military leave for up to fifteen workdays per fiscal year to attend authorized military training or duty, according to Section 437.202, Government Code.

To align with new provisions under Section 437.202, TxDOT will expand its policy to include up to seven workdays in a fiscal year for those called to state active duty by the governor or another appropriate authority for disaster response. TxDOT anticipates a minimal cost to cover administrative requirements associated with the internal implementation of HB 1589, including creating new time reporting mechanisms and human resources processes.

Effective Date: September 1, 2021





Relating to the establishment of a state employee family leave pool.

Summary

House Bill 2063 amends Chapter 661, Government Code, by adding Subchapter A-1, which creates the “state employee family leave program.” According to the author’s statement of intent, HB 2036 addresses gaps in existing state sick leave pools and the federal Family and Medical Leave Act of 1993, which currently prevents state employees from using leave time under the following categories for necessary family care.

This program adds flexibility by allowing state employees to use leave time to:

1. Bond with and care for children during a child’s first year after birth, adoption, or foster placement; and
2. Care for a seriously ill family member, or the employee, including pandemic-related illnesses or complications.

FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993



<https://www.dol.gov/agencies/whd/laws-and-regulations/laws/fmla>

By establishing the family leave pool program, HB 2063 requires the governing body of a state agency to allow an employee to voluntarily

transfer earned sick or vacation leave hours to the family leave pool. HB 2063 requires:

1. The executive head of the state agency or a designee to administer the family leave pool; and
2. The governing body of the state agency to adopt rules and prescribe procedures for operating the agency’s family leave pool.

HB 2063 describes how state employees may contribute to the family leave pool, authorizing one or more days of the employee’s accrued sick or vacation leave to be directed into the pool. HB 2063 requires the pool administrator to credit the family leave pool with the amount of time contributed by a state employee and deduct a corresponding amount of time from the employee’s earned sick or vacation leave, as if used for personal reasons. HB 2063 also authorizes a retiring employee to specify the number of accrued sick or vacation hours towards retirement credit, as well as the number of accrued sick or vacation leave hours donated to the sick or family leave pool upon retirement.

Under HB 2063, an employee is eligible to use time from their respective agency’s family leave pool if they already exhausted eligible compensatory, discretionary, sick, and vacation leave for:

1. The birth, fostering, or adoption of a child;
2. Serious illness of an immediate family member or the employee;



3. Extenuating circumstances related to a pandemic; or
4. A previous donation to the pool.

Employees who apply for the leave to care for another person must submit and list that person's identifying information.

To withdraw time from the family leave pool, HB 2063 states that employees must apply for permission, providing appropriate documentation for their respective reason for leave. Employees seeking permission to withdraw time for a serious illness, including a pandemic-related illness, of an immediate family member or the employee, who do not qualify for or already exhausted time available in the sick leave pool, must submit a written statement from the licensed practitioner, who is treating the employee or the immediate family member, to the pool administrator.

HB 2063 requires an employee to provide any applicable documentation if the employee is seeking permission to withdraw time because of pandemic-related extenuating circumstances, including providing essential care to a family member. The respective pool administrator will approve and credit the time to the state employee, if eligible.

HB 2063 prohibits a state employee from withdrawing leave of longer than 90 days or one-third of the total time in the pool – whichever is less.

HB 2063 also authorizes a state employee absent while using time withdrawn from the family leave pool, to use the time as sick leave earned.

HB 2063 provides that the estate of a deceased state employee may not receive payment for unused time withdrawn by the employee from the family leave pool.

Impact on TxDOT

TxDOT must ensure agency-wide administration of policies, procedures, and rules for the new family leave pool.

TxDOT expects an undeterminable fiscal impact from HB 2063 as the number of employees who may apply for leave from this pool remains unknown. Currently, TxDOT and the state provide employees several options for needed leave, including the sick leave pool and extended sick leave. However, the extent to which people will require and request leave under the specific criteria of the new family leave pool remains unclear.

TxDOT will need to modify its current timekeeping system to add two time codes to reflect "Family Leave Pool Time Taken" and "Family Leave Pool Time Donation," requiring minimal TxDOT staff time and resources.

Effective Date: September 1, 2021





Relating to leave for state employees who are volunteers of certain disaster relief organizations.

Summary

Senate Bill 44 amends Chapter 661, Government Code, by adding Section 661.9075, which authorizes a state employee who volunteers with a member organization of the Texas Voluntary Organizations Active in Disaster to take paid leave from work to participate in disaster relief services. SB 44 ensures taking such leave would not result in a salary deduction or loss of vacation time, sick leave, earned overtime credit, or state compensatory time so long as:

1. The leave is taken with supervisor authorization;
2. The services in which the employee participates are provided for a state of disaster declared by the governor; and
3. The employing state agency's executive director approves the leave.

Leave granted to a state employee under the new section may not exceed 10 days each fiscal year.

SB 44 also repeals Section 661.907 (Red Cross Disaster Service Volunteer), Government Code, which extended similar leave allowances for state employees. The repeal of Section 661.907 and the addition of Section 661.9075, Government Code:

1. Expands the allowable volunteer organizations applicable to state employee leave, as long as the organization is a member of Voluntary Organizations Active in Disaster;

2. Removes the requirement that a state employee be a certified disaster service volunteer or is in training to become such a volunteer to participate in specialized disaster relief services for the American Red Cross;
3. Removes limits on the number of volunteers allowed leave during a fiscal year;
4. Removes the requirement that the Texas Division of Emergency Management (TDEM) establish and maintain a list of eligible employees; and
5. Removes the reporting requirement of the American Red Cross to the Legislative Budget Board (LBB).

Impact on TxDOT

SB 44 will require TxDOT to modify existing leave-related policies and procedures. TxDOT may need to modify its existing timekeeping system to substitute the current Red Cross Disaster Service leave code for a new Texas Voluntary Organizations Active in Disaster leave code to properly track and administer such employee leave. Additionally, SB 44 will require TxDOT to pay staff leave while volunteering during a declared disaster, with executive director approval.

Effective Date: September 1, 2021



HUMAN RESOURCES

SB 45

Author: Senator Judith Zaffirini (D-Laredo)
Sponsor: Representative Erin Zwiener (D-Driftwood)



Relating to the prohibition against sexual harassment in the workplace.

Summary

State law dealing with employment discrimination and unlawful employment practices (Chapter 21, Labor Code) does not expressly address sexual harassment in the workplace. Senate Bill 45 attempts to remedy this issue and define sexual harassment as an unlawful employment practice.

SB 45 expressly defines “employer” as a person who employs one or more employees or acts directly in the interests of an employer concerning an employee. SB 45 defines “sexual harassment” as an unwelcome sexual advance, a request for a sexual favor, or any other verbal or physical conduct of a sexual nature if:

1. Submission to the advance, request, or conduct is made a term or condition of an individual’s employment, either explicitly or implicitly;
2. Submission to or rejection of the advance, request, or conduct by an individual is used as the decision affecting the individual’s employment;
3. The advance, request, or conduct has the purpose of unreasonably interfering with an individual’s work performance; or
4. The advance, request, or conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.

SB 45 adds that an employer commits an unlawful employment practice if sexual

harassment of an employee occurs and the employer knows or should have known of the occurrence(s) but fails to take immediate, appropriate corrective action.

Impact on TxDOT

TxDOT already maintains and practices a Discrimination and Harassment Policy that prohibits:

1. Discrimination in any employment practice;
2. Offensive references to race, religion, age, sex, sexual orientation, disability, or other protected class;
3. Exhibition of offensive pictures, diagrams, and cartoons; or
4. Subjecting another employee to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature.

Because TxDOT’s policy aligns with this legislation, no internal human resources or workplace policy changes must be made.

Effective Date: September 1, 2021

HUMAN RESOURCES

SB 1323

Author: Senator Juan “Chuy” Hinojosa (D–McAllen)
Sponsor: Representative Terry Canales (D–Edinburg)



Relating to pre-employment physical examinations for employment with the Texas Department of Transportation.

Summary

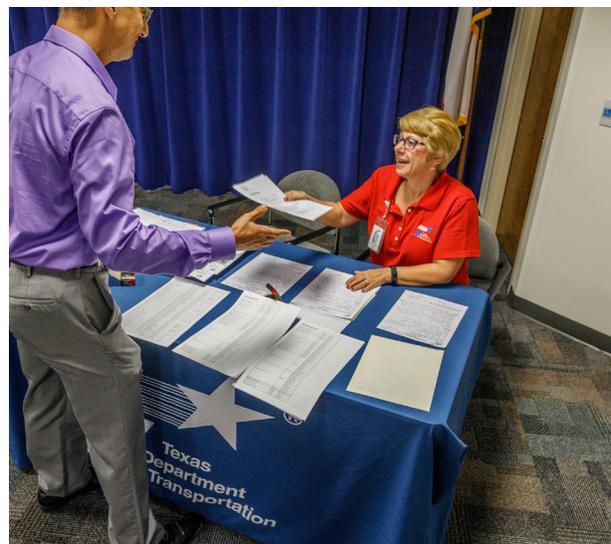
Currently, under Section 505.054, Labor Code, TxDOT must require that all potential new hires complete a post-offer, pre-employment physical exam as a standard condition of employment. Section 505.054, Labor Code, requires the examining physician to certify the potential employee’s physical fitness to perform the assigned duties and services of the respective position. Further, TxDOT must designate a certain number of licensed physicians to conduct pre-employment physical exams and file all exam results with TxDOT.

Traditionally, TxDOT field positions, including maintenance and construction, comprised much of TxDOT’s workforce – necessitating a pre-employment process to ensure candidates could perform their essential, often physical job functions. While TxDOT still maintains many positions with physical duties, TxDOT’s current workforce now reflects a broader range of skills and job functions – including a great proportion of administrative jobs requiring minimal physical duties and safety concerns.

SB 1323 amends Section 505.054(a), Labor Code, such that the pre-employment physical exam and accompanying physician’s certification of physical fitness to complete job functions are no longer mandatory and instead may be required at TxDOT’s discretion when appropriate. SB 1323 also makes Section 505.054(c) permissive rather than compulsory, allowing – rather than mandating – TxDOT to designate a convenient number of licensed practicing physicians to conduct the exams.

Impact on TxDOT

Should TxDOT opt to eliminate the pre-employment physical requirement for non-physically demanding positions, both a step in the hiring process for those positions and expenses associated with those physicals would be eliminated, resulting in time and cost savings. The changes made by SB 1323 will result in both cost and administrative efficiencies in TxDOT’s hiring process by providing TxDOT the discretion to require a pre-employment physical as a condition of employment. TxDOT will need review existing positions to determine which jobs do and do not call for a pre-employment physical exam. By providing TxDOT the opportunity to streamline hiring practices and target pre-physical exams on new hires undertaking physically demanding duties, SB 1323 will eliminate such hiring practices when irrelevant or unnecessary and likely reduce the number of pre-employment physicals administered annually.

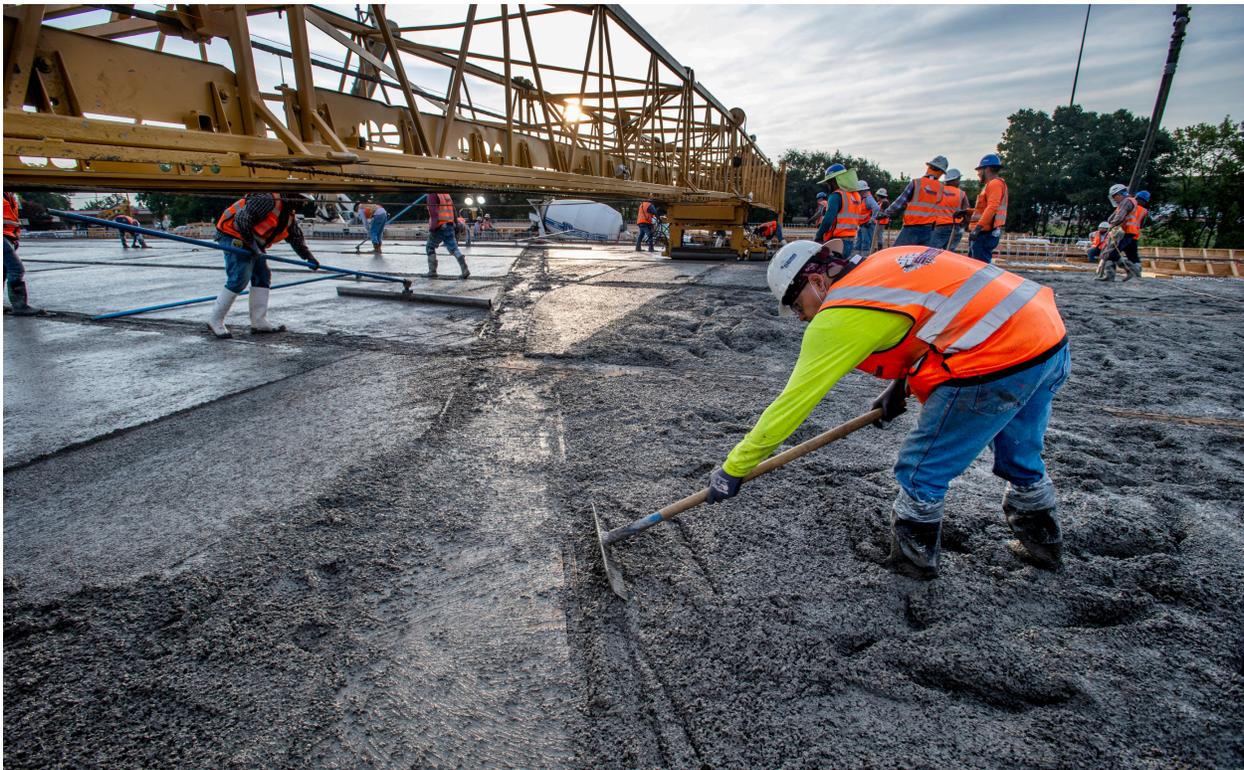


SB 1323 HUMAN RESOURCES

Additionally, the Selection and Onboarding section in the Hiring chapter of the TxDOT's Human Resources Policy Manual – along with any corresponding procedures, forms, documents, and training materials – must be updated to reflect changes made by SB 1323. Those who facilitate or are otherwise involved in TxDOT's hiring process will need to be informed of and adhere to the changes. Further, if a pre-employment physical requirement is maintained

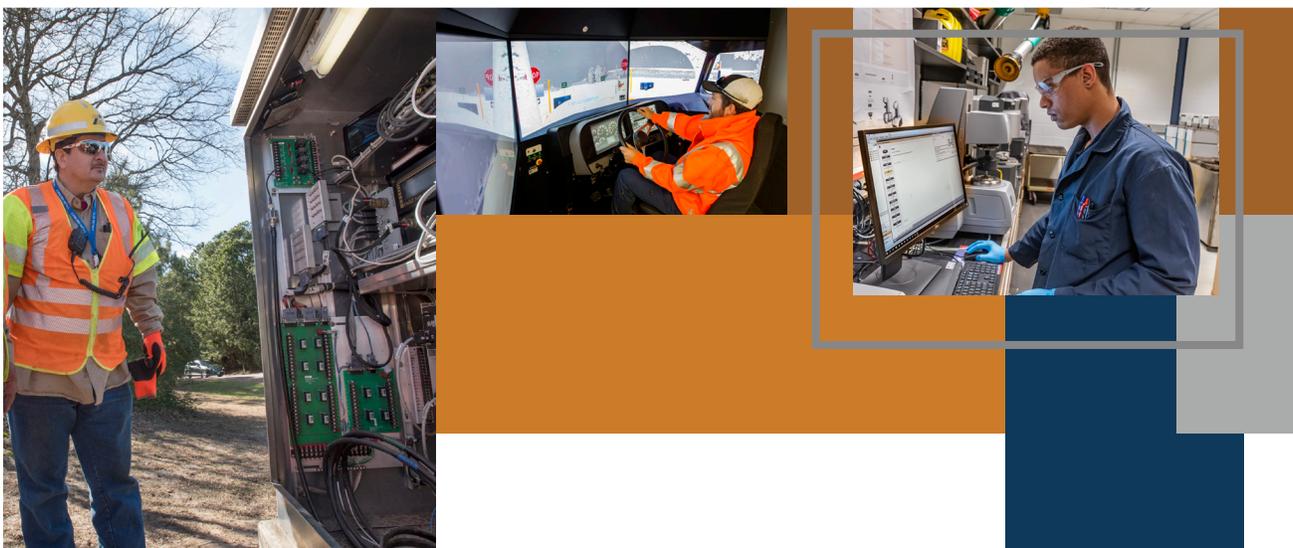
for physically demanding positions, TxDOT will need to implement an internal tracking system or verification process for those who transfer or are promoted from a non-physically demanding to a physically demanding job profile. The administrative rule governing the medical examination will also require amendment.

Effective Date: June 7, 2021





INFORMATION TECHNOLOGY



INFORMATION TECHNOLOGY

HB 1118

Author: Representative Giovanni Capriglione (R-Southlake)
Sponsor: Senator Angela Paxton (R-McKinney)



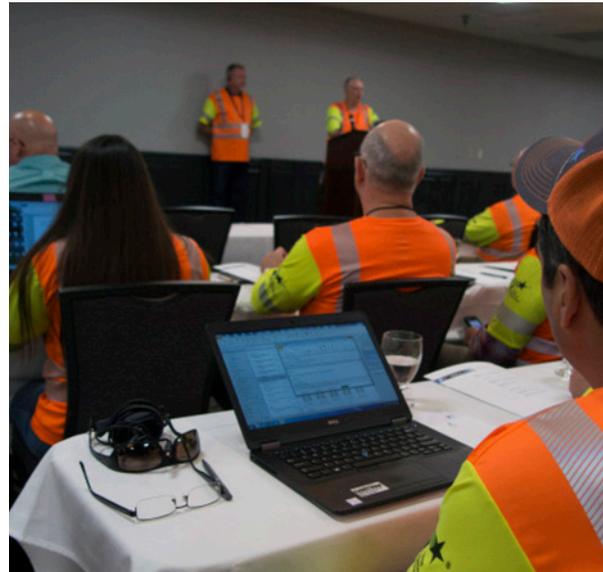
Relating to state agency and local government compliance with cybersecurity training requirements.

Summary

House Bill 1118 expands on House Bill 3834 (86th Legislature, Regular Session, 2019), which sought to safeguard state and local governments against cybersecurity risks by requiring certain government employees, officials, and contractors to complete an annual cybersecurity training. HB 3834 also addressed compliance with those new training requirements and specified certain employees exempted from such training.

HB 1118 amends Section 2054.5191, Government Code, to extend the same cybersecurity training criteria and requirements currently applied to state agencies to local government employees and elected and appointed officials who use a computer for at least 25 percent of their assigned duties. HB 1118 also adds Section 772.012, Government Code, which requires local governments applying for certain state law enforcement grant funding to certify compliance with the cybersecurity training requirements. Under HB 1118, if the Governor's Criminal Justice Division determines non-compliance with the cybersecurity training requirement, a local government criminal justice grant recipient must repay all grant funds.

Additionally, HB 1118 requires the Department of Information Resources (DIR) to develop a form for state agencies and local governments to verify the completion of cybersecurity training program requirements. The form must allow the state agency and local government to indicate the percentage of employee completion.



To bolster compliance with the cybersecurity training requirements, HB 1118 authorizes a local government entity's governing body or its designee to deny access to the local government's computer system or database to an individual out of compliance with the training requirements.

HB 1118 also exempts employees and officials subject to the cybersecurity training requirements who have been:

1. Granted military leave;
2. Granted leave under the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.);
3. Granted leave related to a sickness or disability covered by workers' compensation benefits, if that employee no longer has access to the state agency's or local government's database and systems;



- 4. Granted any other type of extended leave or authorization to work from an alternative work site if that employee no longer has access to the state agency's or local government's database and systems; or
- 5. Denied access to a local government 's computer system or database by the governing body of the local government or the governing body's designee.

HB 1118 also amends Section 2056.002(b), Government Code, to require state agencies to include a written certification of the state agency's compliance with the cybersecurity training required under Sections 2054.5191 and 2054.5192, Government Code, as part of the agency's strategic plan.

Impact on TxDOT

HB 1118 will result in a minor operational impact on TxDOT. TxDOT currently tracks the percentage of employees in compliance with cybersecurity training and must make minor changes to the tracking processes to remove employees exempted from training under HB 1118. Additionally, state law currently mandates TxDOT's Information Security Office to report compliance with Section 2054.5191, Government Code, annually to DIR. HB 1118 would require TxDOT to include a copy of this certification in its strategic plan.

Effective Date: May 18, 2021





Relating to state agency contracts for internet application development.

Summary

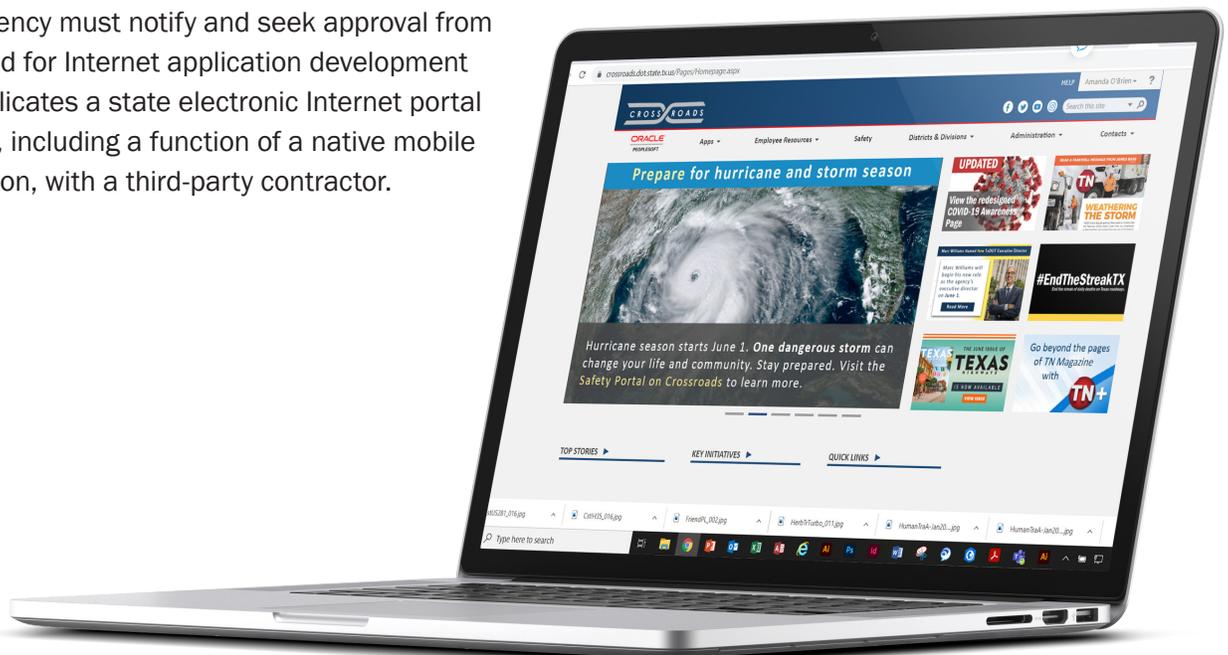
The Texas Department of Information Resources (DIR) operates the state's official website, Texas.gov, which offers a centralized portal for constituents to securely access state agency information and services – such as driver license renewal, vehicle registration, and occupational and professional licensing. Section 2054.113(b), Government Code, requires state agencies to use Texas.gov to centralize services for Texans and eliminate duplication costs by prohibiting state agencies from replicating elements of the website's infrastructure without DIR's approval.

House Bill 3130 amends Section 2054.113, Government Code, to extend state agency duplication prohibitions and DIR notice and approval requirements to the development of an agency's mobile applications. Under HB 3130, a state agency must notify and seek approval from DIR to bid for Internet application development that duplicates a state electronic Internet portal function, including a function of a native mobile application, with a third-party contractor.

Impact on TxDOT

HB 3130 may impact TxDOT to the extent TxDOT plans to contract with a third-party for the development of a mobile application that is currently available through the DIR's electronic internet portal. However, HB 3130's impact should be minimal as it only addresses the duplication of an existing Internet portal or native mobile application function. To the extent the DIR State Electronic Internet Portal Project is capable of providing the mobile application function needed, TxDOT will use DIR's available resources to accomplish the task. Otherwise, TxDOT may seek DIR approval to contract with a third-party pursuant to Sections 2054.111 and 2054.113, Government Code.

Effective Date: September 1, 2021





Relating to the purchase of cybersecurity insurance coverage by the Texas Department of Transportation.

Summary

House Bill 3390 amends Subchapter I, Chapter 201, Transportation Code, to add Section 201.712 (Purchase of Cybersecurity Insurance), which authorizes TxDOT to purchase insurance coverage considered necessary to protect against liability, revenue, and property losses that may result from a data breach or cyber-attack. The new section expressly defines “cyber-attack” as an attempt to gain illegal access to a computer or computer system for the purpose of causing damage, harm, or disruption.

HB 3390 authorizes insurance purchased by TxDOT to include coverage for several incidentals including: business and dependent business interruption loss, breach response, data recovery, cyber extortion or ransomware response, fiduciary liability, media liability, professional liability, or expenses for general incident management, such as investigation, remediation, and notification.

Impact on TxDOT

In May 2020, TxDOT experienced an agency-wide ransomware attack, which occurred through unauthorized access to TxDOT’s cybernetwork. TxDOT quickly identified, quarantined, and addressed the attack to minimize operational disruptions across the state. In the wake of similar cyberattacks experienced by other Texas agencies, TxDOT undertook and continues to upgrade and refine its information technology (IT) systems to prevent and protect against future cyber threats. Prior to the passage of HB 3390, TxDOT

lacked the explicit authority to purchase any cyber insurance policy to protect the state and taxpayers from financial losses in such circumstances.

HB 3390 aims to prevent potential financial losses resulting from a cyber-attack by adding Section 201.712, Transportation Code, which authorizes TxDOT to purchase insurance coverage to protect against liability, revenue, and property losses that may result from a data breach or cyberattack. While TxDOT currently has cyber insurance pursuant to Section 228.110, Transportation Code, as a protection for toll-revenue bondholders. HB 3390 expressly permits TxDOT to expend appropriated funds for a cyber insurance policy in the event that TxDOT’s non-toll operations IT systems suffer losses due to a cyber-attack.

By allowing TxDOT to use appropriated funds to purchase cyber insurance, HB 3390 may save TxDOT and the state significant costs and taxpayer dollars in the case of a future cyberattack. As demonstrated by the May 2020 ransomware attack which resulted in an approximately \$10 million in damages to TxDOT, cyber attacks can be costly. The exact cost of cyber insurance for TxDOT is not known at this time, and TxDOT will seek to purchase appropriate coverage through the state’s approved competitive procurement process.

Effective Date: May 24, 2021





Relating to certain notifications required following a breach of security of computerized data.

Summary

During the 86th Regular Legislative Session (2019), legislation passed to require entities to notify the Office of the Attorney General (OAG) of any security breach affecting 250 or more Texans. Since its implementation, security breaches have compromised more than 30 million Texans' data. House Bill 3746 amends Section 521.053, Business and Commerce Code, by requiring persons who have experienced a security breach to disclose or notify the OAG no later than 60 days after the initial breach.

HB 3746 requires the OAG to post a listing of the notifications received from individuals who experienced a breach on its publicly accessible website, excluding any sensitive and personal information that may compromise a data system's security and that is legally confidential. HB 3746 requires the OAG to update the listing no later than the 30th day after the date the officer receives notice of a new security breach. HB 3746 also requires the OAG to remove a notification from the listing, no later than one year after added to the listing, if the person has not informed the OAG of any additional breaches during that period. Finally, HB 3746 requires that the OAG only maintain the most recently updated listing on its website.

Impact on TxDOT

If TxDOT experiences a security breach involving sensitive personal information, TxDOT will provide the OAG information about the breach and the number of affected people to whom TxDOT provided a disclosure notice. This notice to the OAG is in addition to existing requirements of a system security breach notification.

Effective Date: September 1, 2021



INFORMATION TECHNOLOGY

HB 4018

Author: Representative Giovanni Capriglione (R-Southlake)
Sponsor: Senator Jane Nelson (R-Flower Mound)



Relating to legislative oversight and funding of improvement and modernization projects for state agency information resources.

Summary

House Bill 4018 adds Section 2054.577, Government Code, to create a Technology Improvement and Modernization Fund, a special fund in the state treasury outside the general revenue fund.

According to the author's statement of intent, HB 4018 aims to address long-term planning and coordination of state agency information technology by creating a funding source targeted at improving and modernizing technology. The fund also aims to overcome issues caused by outdated technology infrastructures, such as a limited capacity for interagency data and information sharing, and increased exposure to cybersecurity threats.

HB 4018 creates the Joint Oversight Committee on Investment in Information Technology Improvement and Modernization Projects (committee) – a six-member committee designed to review investment and funding strategies for information technology (IT) modernization and improvement projects. HB 4018 sets forth that the committee will be composed of three members of the Senate appointed by the lieutenant governor and three members of the House appointed by the speaker of the House, with the committee's presiding officer alternating annually between a member of the Senate and a member of the House appointed by their respective chambers' leader. Committee appointments must be made by the lieutenant governor and speaker within 30 days after the effective date of HB 4018, with the speaker of the house appointing the initial presiding officer.



HB 4018 also specifies the process for filling committee vacancies, committee reporting requirements, including a biennial written report to the legislature; committee powers and duties; and the committee's sunset date (September 1, 2026). HB 4018 directs the Department of Information Resources (DIR) to provide staff support and technical assistance to the committee.

HB 4018 authorizes money in the account to improve and modernize state agency information resources, including legacy system projects and cybersecurity projects and prohibits using money from the fund to replace or reduce money appropriated to a state agency for information resource operations and maintenance. Interest earned on dollars invested through the Technology Improvement and Modernization Fund is not subject to Section 404.071, Government Code, which governs the disposition of interest earned on investments.



HB 4018 INFORMATION TECHNOLOGY

HB 4018 provides that funding for the Technology Improvement and Modernization Fund will consist of moneys transferred or deposited by the legislature; received from the federal government for information resource improvement and modernization; gifts, donations, and grants, including federal grants; and earned as interest on investments in the fund.

HB 4018 requires, no later than March 31, 2022, that the committee, in consultation with DIR, prescribe the content and other elements that must be included in the preparation and submission of the IT modernization and improvement plans for each agency. Based on these specifications, each state agency appropriated money from the fund must prepare an agency-wide plan outlining a plan to transition information technology and data-related services and capabilities towards a modern, integrated, secure, and effective technological environment. Each agency's plan will be due by October 1, 2022. HB 4018 requires each state agency to submit the plan to DIR, the committee, and standing committees of the Texas Legislature that oversee state agency information technology.

Impact on TxDOT

HB 4018 will require TxDOT to create an agency-wide plan in which the agency intends to modernize and integrate its IT and data-related services. This will likely involve a moderate level of staff time and resources to prepare a modernization plan that reflects all TxDOT districts' and divisions' unique needs. Because TxDOT already maintains plans for creating a more modern technology ecosystem, much of the information requested in the required agency-wide plan already exists. The extent to which the plan requires TxDOT to modify or add to existing IT plans will dictate the exact workload required to develop the plan document.

The Technology Improvement and Modernization Fund received no appropriations during the 87th Regular Legislative Session (2021). Therefore, the fund and the committee's impact on TxDOT's current processes for capital IT requests and the Legislative Appropriations Request (LAR) going forward remains unknown.

Effective Date: June 18, 2021



SB 475

Author: Senator Jane Nelson (R-Flower Mound)
Sponsor: Representative Giovanni Capriglione (R-Southlake)

Relating to state agency and local government information management and security, including establishment of the state risk and authorization management program and the Texas volunteer incident response team; authorizing fees.

Summary

During the interim of the 86th Regular Legislative Session, the statutorily-created Texas Cybersecurity Council and the Texas Privacy Protection Advisory Council recommended improvements on state and local government entities' cybersecurity standards and data management practices. Senate Bill 475 adopts many of the councils' recommendations related to data security best practices; third-party security providers; cybersecurity incidence response; and data storage, retention, and dissemination.

SB 475 adds Section 2054.0332, Government Code, to create the Data Management Advisory Committee (committee), comprised of the Department of Information Resources' (DIR) chief data officer and data management officers designated by state agencies. SB 475 requires each state agency with at least 150 full-time employees to assign an employee as the agency's data management officer to serve on the committee. Committee members will establish statewide data ethics, principles, goals, strategies, standards, and architecture; will provide guidance and recommendations on data governance and management; and will set performance targets for state agencies based on statewide data goals.

SB 475 adds Section 2054.0593, Government Code, which requires DIR to create a state risk and authorization management program to provide state agency cloud computing service provider assessment, authorization, and

ongoing monitoring of cloud computing. SB 475 also provides that a vendor may demonstrate compliance with the program by submitting documentation showing compliance with another risk and authorization management program of the federal government or another state-approved by DIR. DIR will certify vendor compliance requests and requires vendors' compliance for the full contract term.

SB 475 amends Section 2054.0594, Government Code, to require DIR to establish a framework for regional cybersecurity working groups to execute "mutual aid agreements" as well as identify cybersecurity experts and resources to assist in response to and recovery effort of a cybersecurity event in Texas.

SB 475 adds Section 2054.137, Government Code, as previously mentioned, which requires state agencies with at least 150 employees to appoint a full-time employee to serve as the agency's Data Management Officer. SB 475 sets forth the Data Management Officer's duties including: coordination with the State Chief Data Officer and Information Security Officer, record's management officer, and Texas State Library and Archives Commission on data security matters on behalf of the Data Management Officer's agency; establishing the agency data governance program following DIR guidelines; overseeing the agency's data assets; and posting specified data sets to the Texas Open Data Portal. SB 475 also allows the Data Management Officer to delegate in writing another employee to implement the



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requirements of the Data Management Officer and participate in the Data Management Advisory Committee.

Section 2054.138, Government Code, requires each state agency that enters or renews a contract with a vendor authorized to access, transmit, use, or store data for the agency to include a provision in the contract requiring the vendor to meet security controls deemed appropriate by the agency based on risk and data sensitivity. SB 475 requires the vendor to periodically provide evidence that the vendor meets these contractual security control requirements to the agency.

SB 475 adds Section 2054.161, Government Code, which requires a state agency, upon initiation of any information resources technology project, to classify associated data and determine the appropriate data security and retention requirements.

SB 475 adds Subchapter N-2, Chapter 2054, Government Code, which creates a Texas Volunteer Incident Response Team placed under DIR's direction, to provide rapid-response assistance to participating entities in the case of a cybersecurity event. DIR will develop the conditions and fees associated with participating in the program in addition to the requirements for volunteering on the response team.

SB 475 amends Section 2054.515, Government Code, to add information on an agency's data governance program, described in Section 2054.137, to the Agency Information Security Assessment Report, which must be provided to DIR no later than November 15 of each even-numbered year.

SB 475 amends Section 2054.601, Government Code, to require each state agency and local

government to consider using relevant and appropriate next-generation technologies, including cryptocurrency, blockchain technology, robotic process automation, and artificial intelligence.

SB 475 adds Section 2059.201, Government Code, authorizing state agencies and local governments to participate in a Regional Network Security Center. DIR may offer cybersecurity services through the Regional Network Security Center, including network security monitoring, alerts, support, and response to detect and defeat network security threats. The center will also offer educational resources to better equip entities to detect and manage cybersecurity threats.

SB 475 adds Chapter 2062, Government Code, which restricts a state agency's use of certain personal or identifiable information. SB 475 prohibits state agencies from using global positioning system technology (defined in Section 17.49, Penal Code, as a system that electronically determines and reports an individual's location using a transmitter or similar), individual contact tracing, or technology designed to obtain biometric identifiers to acquire individuals' personal or locational information. If obtaining consent, SB 475 requires state agencies to retain that written or electronic consent until the expiration of a contract or agreement.

Impact on TxDOT

Section 2054.0332, Government Code, as created by SB 475, will require TxDOT to appoint a full-time employee as its Data Management Officer and for that person to participate on the Data Management Advisory Committee.

Under the new Section 2054.0593, vendors may pass along costs associated with compliance with the Cloud Computing State



SB 475 INFORMATION TECHNOLOGY

Risk and Authorization Management Program. This provision may limit the cloud computing vendors available to TxDOT if vendors choose to not comply with a state risk and authorization management program, which involves showing compliance with another risk and authorization management program of the federal government or another state-approved by DIR. TxDOT will incur additional costs to replace the vendor with one able to comply with the program. Finally, TxDOT will need to update existing tools and procedures, as well as allocate additional resources to hire personnel to oversee vendor compliance.

SB 475 may benefit TxDOT in its response to cybersecurity events if TxDOT chooses to participate in the mutual aid agreement – which will establish the terms under which two or more jurisdictions within the state assist one another in cybersecurity response – with the regional cybersecurity working group(s). TxDOT must update cybersecurity incident response procedures to comply with new requirements and include references to appropriate regional working group contacts and processes.

The newly added Subchapter N-2, Chapter 2054, Government Code, may assist TxDOT by providing access to cybersecurity response resources, should it choose to participate in the Texas Volunteer Incident Response Team. In the event TxDOT participates in the response team, TxDOT will be required to pay a fee established by DIR.

SB 475 (Section 2054.515, Government Code) will impact TxDOT operations by adding information related to TxDOT's data governance program to the DIR Agency Information Security Assessment Report submitted no later than November 15 of each even-numbered year.

SB 475 (Section 2054.601, Government Code) requires TxDOT to consider using next-generation technologies, including cryptocurrency, blockchain technology, robotic process automation, and artificial intelligence.

SB 475 could provide TxDOT additional resources for network and cybersecurity support if it participates in a Regional Network Security Center. SB 475 includes a provision requiring participating entities to agree to comply with the network security guidelines and standard operating procedures and, if TxDOT chooses to participate, the agency must ensure compliance with network security guidelines and standard operating procedures (provided by amended Chapter 2059, Government Code). This would require TxDOT to rearchitect how the agency provides regional services and cybersecurity services to its divisions and districts, adding significant new costs and staffing requirements.

Chapter 2062, Government Code, places restrictions on a state agency's use of certain individual-identifying information by prohibiting dissemination of information that alone or in conjunction with other information identifies an individual or their location, as well as information on contact tracing and biometrics without the individual's written or electronic consent. TxDOT is required to retain a written or electronic consent until the contract or agreement under which the information is acquired expires. This could impact TxDOT operations to the extent it collects such information and the agency is not currently obtaining written or electronic consents to permit dissemination of such information.

Effective Date: June 14, 2021; except Section 10 (Chapter 2062, Government Code) takes effect September 1, 2021





Relating to the definition of business case for major information resources projects.

Summary

During the 85th Regular Legislative Session (2017), legislation passed to require state agencies proposing to spend appropriated funds on major information resource projects to conduct an execution capability assessment. This requirement led to state agencies conducting self-assessments of their capabilities, in some cases resulting in biased measurements and results. Subsequent legislation passed during the 86th Regular Legislative Session (2019), repealing this requirement and instead requiring state agencies to prepare a business case providing initial justification for each proposed major information resource project.

Senate Bill 1541 amends Section 2054.303, Government Code, to redefine “business case” to mean a comparison of business solution costs and project benefits based on a solution assessment and validation for a major information resources project. This may include:

1. Alternative financing models, such as systems as a service (SaaS); and
2. A readiness score of the project using an evidence-based scoring method delivered by an independent third party including measurement and corrective actions to address agency’s operational and technical strengths and weaknesses related to the project.

Impact on TxDOT

SB 1541 requires TxDOT to meet the specific requirements of the business case for any major information resources projects (limited to information technology projects over \$5 million) proposed by the agency.

SB 1541 is permissive as it relates to the Texas Department of Information Resources (DIR) to require the readiness score. If DIR requires TxDOT to use a third-party readiness score for major information resources projects, TxDOT will incur costs associated with hiring an outside firm to conduct the readiness score.

Effective Date: September 1, 2021



LOCAL TRANSPORTATION ISSUES



LOCAL TRANSPORTATION ISSUES



HB 1698

Author: Representative John Raney (R-Bryan)
Sponsor: Senator Charles Schwertner (R-Georgetown)

Relating to authorizing an optional county fee on vehicle registration in certain counties to be used for transportation projects.

Summary

House Bill 1698 amends Section 502.402, Transportation Code, to add “a county with a population of more than 190,000 and not more than 1.5 million that is coterminous with a Regional Mobility Authority” (Brazos County) to the list of eligible counties that may impose an additional fee on locally-registered vehicles to fund long-term transportation projects within the jurisdiction. The new fee must not exceed \$10 and must be approved by a majority vote in a county referendum election.

Impact on TxDOT

TxDOT does not anticipate an immediate impact from HB 1698. However, HB 1698 does provide counties with additional funding for local road projects, which may increase counties’ collaboration with TxDOT on road projects – requiring some additional TxDOT resources over the long-run, while allowing for the delivery of more transportation projects – if the voters in Brazos County approve the fee.

Effective Date: September 1, 2021



LOCAL TRANSPORTATION ISSUES

HB 3399

Author: Representative Lina Ortega (D–El Paso)
Sponsor: Senator Cesar Blanco (D–El Paso)



Relating to the authority of the Texas Department of Transportation to provide road services on federal military property.

Summary

House Bill 3399 adds Section 201.1056, Transportation Code, to allow TxDOT to enter into agreements with the United States Department of Defense or another federal entity to assist with road maintenance, improvement, relocation, or extension services for military installations. HB 3399 prohibits TxDOT from using state funds or entering into an agreement with a federal entity if payment for the services provided under the agreement would originate from federal highway funds provided under Title 23, United States Code.

Impact on TxDOT

TxDOT anticipates that the operational impact of HB 3399 will depend upon the number of agreements TxDOT enters with the Department of Defense or other federal entities. HB 3399 is permissive as it allows TxDOT the discretion to manage and accept or deny any such agreements depending on internal employee resource capacity and other factors.

TxDOT maintains local government programs and procedures that can be modified to align with the provisions of HB 3399, should TxDOT decide to enter into such highway contracts. For example, TxDOT maintains contracts with local governments to complete highway projects, wherein the local government puts up the funds for TxDOT to manage project components from planning and design, to letting and construction management, to final closeout. TxDOT could adapt such programs for projects with the Department of Defense or other federal entities providing for varying levels of involvement

and participation as determined, agreed, and spelled out in the associated Advance Funding Agreement (AFA). TxDOT will need to develop agreement templates based on the respective agreement types.

HB 3399 prohibits TxDOT from using state funds and federal highway funds for any agreement pursuant to Section 201.1056, Transportation Code, any cost associated with HB 3399 (including TxDOT project management and administrative costs) must be covered by the Department of Defense or the federal entity for which TxDOT provides the assistance allowed. Therefore, TxDOT does not anticipate a fiscal impact.

Effective Date: September 1, 2021



LOCAL TRANSPORTATION ISSUES

SB 160

Author: Senator Charles Perry (R-Lubbock)
Sponsor: Representative Drew Darby (R-San Angelo)



Relating to county road reports.

Summary

The County Transportation Infrastructure Fund (CTIF) program requires TxDOT to provide and administer grants to counties for transportation infrastructure projects located in areas of the state affected by oil and gas production booms. TxDOT determines these grant disbursements to counties based on a statutory formula that accounts for a county's oil well production capacity, well completion ratio, oil and gas production tax ratios, and similar factors.

The 83rd Legislature (2013) appropriated \$250 million to the CTIF program, followed by a 2014 program call that drew 191 complete applications from the 254 eligible counties.

The 86th Legislature (2019) appropriated \$250 million to the CTIF program, followed by a 2020 program call that drew 216 complete applications from the 254 eligible counties.

Senate Bill 160 repeals Sections 251.005 and 251.018, Transportation Code, which require a county commissioner serving as a road supervisor to produce an annual report documenting the condition of roads, road segments, culverts, and bridges in the county, as well as planned maintenance and improvement of that infrastructure.

SB 160 also amends Section 256.104(a) and 256.106(a), Transportation Code, to remove the requirement that a county submit the county road condition report during the CTIF application process and for any subsequent application(s).

Impact on TxDOT

Under SB 160, TxDOT will no longer require the county road condition report as part of the CTIF application process. TxDOT staff responsible for the CTIF application documents and process will need to revise CTIF program rules (Texas Administrative Code Title 43, Chapter 15, Subchapter O, Section 15.188) and associated application materials to reflect the elimination of the county road report.

This does not have any impact on the current program. During the 87th Regular Session (2021), there were no additional funds appropriated to the CTIF program.

Effective Date: June 14, 2021

LOCAL TRANSPORTATION ISSUES

SB 633

Author: Senator Cesar Blanco (D–El Paso)
Sponsor: Representative Eddie Morales, Jr. (D–Eagle Pass)



Relating to the designation of State Highways 118 and 166 as the Davis Mountains Scenic Loop Highway and a historic highway.

Summary

Senate Bill 633 adds Section 442.033, Government Code, to require the Texas Historical Commission to work with TxDOT to designate, interpret, and market the route formed by SH 166 and the portion of SH 118 between Fort Davis and its intersection with SH 166 as “the Davis Mountains Scenic Loop Highway” and a Texas historic highway.

SB 633 allows the Texas Historical Commission and TxDOT to pursue federal highway enhancement funds to designate, interpret, and market the historic highway.

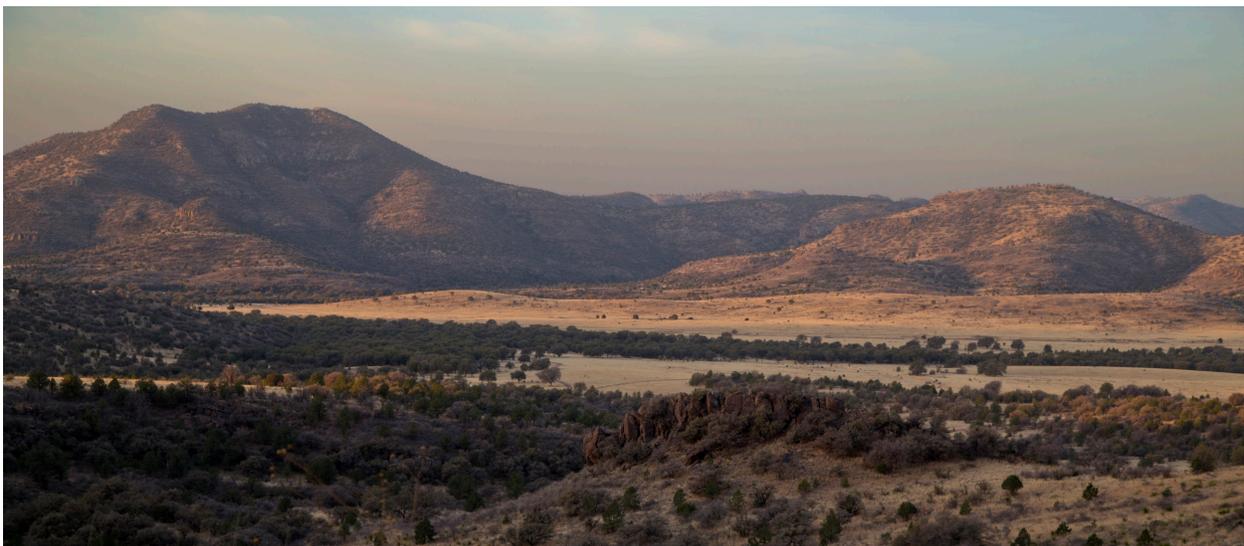
SB 633 expressly states in Section 442.033(d), Government Code, that TxDOT is not responsible for the design, construction, or erection of a marker that labels this highway designation unless TxDOT receives a grant or donation to do so.

Impact on TxDOT

TxDOT will coordinate with the Texas Historical Commission and the local government(s) on the portion of highway designated as the Davis Mountains Scenic Loop Highway and a Texas historic highway to approve the design, location, and costs of a signs.

SB 633 exempts TxDOT from covering the original costs of designing, constructing, and erecting highway markers. The bill does not address repair, maintenance, or replacement of signs. TxDOT will presumably be responsible for these costs unless Texas Historical Commission or a local government agrees to take that responsibility.

Effective Date: September 1, 2021



LOCAL TRANSPORTATION ISSUES



SB 1334

Author: Senator Juan “Chuy” Hinojosa (D–McAllen)
Sponsor: Representative Terry Canales (D–Edinburg)

Relating to the lease, rental, and donation to the United States of certain facilities relating to a toll bridge by certain counties and municipalities.

Summary

Senate Bill 1334 amends Chapters 364 and 367, Transportation Code, to allow counties and municipalities with toll bridges to lease, rent, or donate to the United States property or a building, structure, or other facility acquired, constructed, improved, enlarged, or equipped in whole or in part with proceeds from the sale of bonds issued by a county or a municipality under Chapters 364 and 367, Transportation Code. The bill provides that these actions are a public purpose and proper county or municipal function, regardless of whether the toll bridge or facility is located inside or outside the county or municipality.

SB 1334 is intended to facilitate the movement of people and goods across the Texas-Mexico Border. SB 1334 seeks to respond to counties’ and municipalities’ requests for authority to issue bonds to improve and construct toll bridges and related facilities.

Impact on TxDOT

Because SB 1334 applies only to counties and municipalities with toll bridges, TxDOT does not anticipate an operational or fiscal impact. However, SB 1334 may allow local governmental entities to invest in port of entry infrastructure that can provide greater efficiency in the cross-border movement of people and goods and better accommodate future growth and the state’s transportation.

Effective Date: May 18, 2021



LOCAL TRANSPORTATION ISSUES

SB 2243

Author: Senator Juan “Chuy” Hinojosa (D-McAllen)
Sponsor: Representative Terry Canales (D-Edinburg)



Relating to approval for certain projects related to bridges over the Rio Grande.

Summary

In 1968, the federal government began requiring new international bridges to obtain Presidential Permits. In 1995, the State of Texas established a similar requirement in Section 201.612, Transportation Code, requiring political subdivisions and private entities to obtain approval from the Texas Transportation Commission (commission) before constructing or financing the construction of a bridge over the Rio Grande. No exemption exists for the reconstruction or improvement of currently permitted bridges.

SB 2243 amends Section 201.612, Transportation Code, to exempt a political subdivision’s project from the required state permitting process, if the project:

1. Involves the reconstruction, improvement, expansion, or maintenance of an existing bridge; and
2. Received a Presidential Permit authorizing the project.

Impact on TxDOT

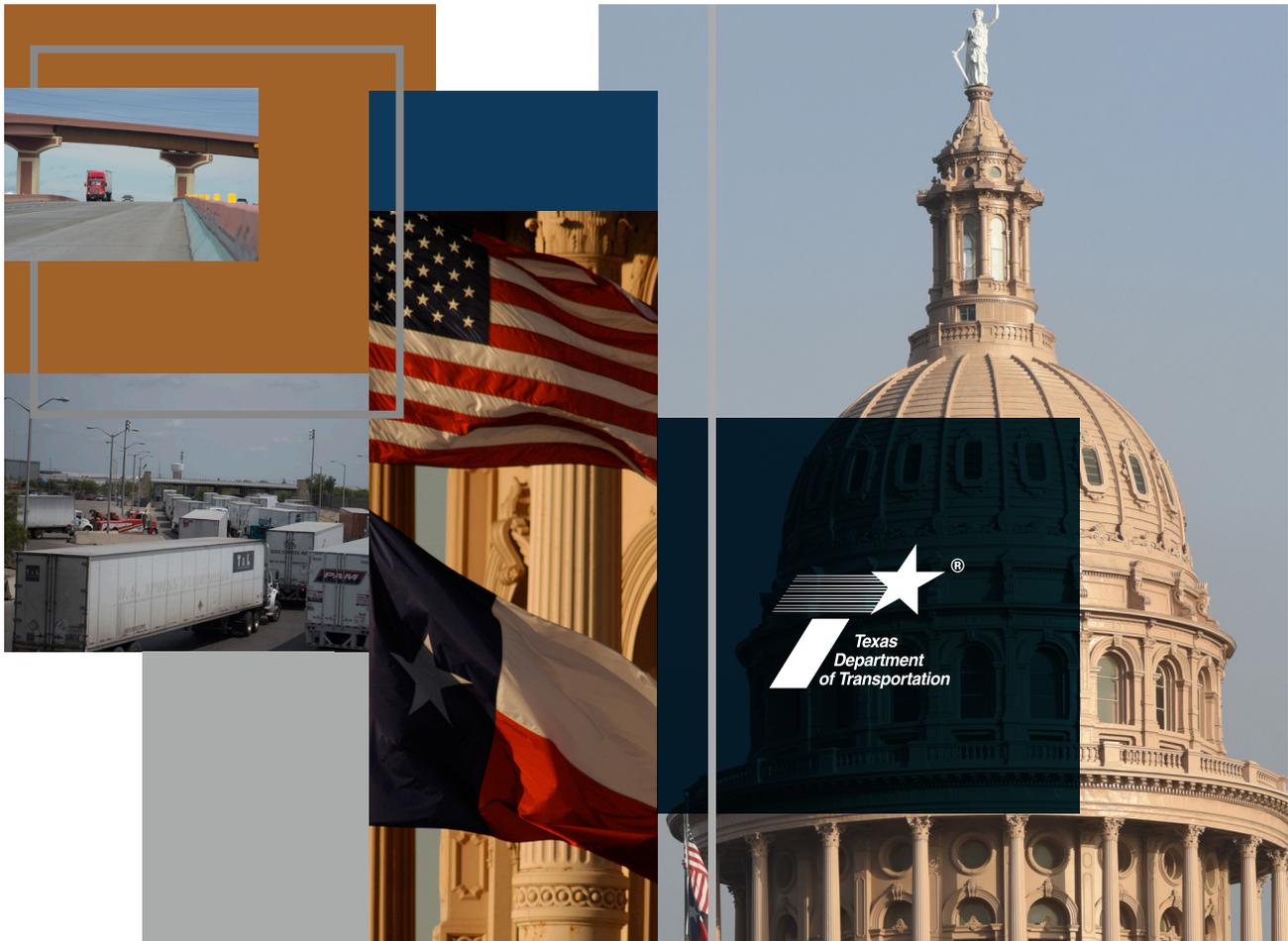
SB 2243 will not significantly impact TxDOT. Only one international bridge in Texas exists on the state system; the remaining are locally or privately controlled. Though HB 2243 exempts localities and private entities from the state’s statutory permitting process for bridge expansion projects, TxDOT still maintains control over how the project and its associated road(s) connect with the state highway system.

Effective Date: June 18, 2021





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OVERSIZE/OVERWEIGHT VEHICLES AND COMMERCIAL VEHICLES



OVERSIZE/OVERWEIGHT VEHICLES AND COMMERCIAL VEHICLES

HB 2223

Author: Representative Terry Canales (D-Edinburg)
Sponsor: Senator Robert Nichols (R-Jacksonville)



Relating to a study by the Texas Department of Transportation on the impact of certain classifications of motor vehicle on the roads and bridges of this state.

Summary

House Bill 2223 requires TxDOT, in consultation with the Texas A&M Transportation Institute (TTI), the University of Texas Center for Transportation Research (CTR), and transportation industry stakeholders, to study the impact of certain motor vehicles on roads and bridges. According to the author's intent statement, HB 2223 aims to provide currently unavailable data to guide policymakers in developing a fair state tax and fee structure by vehicle classification.

The study will examine and differentiate impacts to state highway infrastructure by motor vehicles type classified as passenger vehicles; commercial motor vehicles; and oversize or overweight vehicles. Additionally, the study will report:

1. The number and volume of each vehicle classification that drive on the system;
2. The number of miles traveled by each vehicle classification;
3. The total tax and fee revenue that each vehicle classification contributes towards construction and maintenance of roads and bridges;
4. The financial impact incurred for construction, maintenance, and congestion; and
5. Whether the revenues contributed cover the financial impact caused by each respective vehicle category.

The study must also assess the benefits of commercial motor vehicles and oversize or overweight vehicles on the Texas economy. Based on the results of such analyses, the study will recommend changes to existing tax and fee structures to ensure revenues of each vehicle class can cover the corresponding financial impact. The recommendations must specify dollar amounts for taxes and fees for each vehicle classification and, if applicable, new methods of structuring existing revenue sources. TxDOT must submit a final report, including findings, policy recommendations, and proposed statutory changes, to the governor, lieutenant governor, and legislature by December 1, 2022.

Impact on TxDOT

TxDOT anticipates that additional support and subject-area expertise may be needed to assist TxDOT, TTI, and CTR in conducting the study. TxDOT would also need to develop and implement contracts with TTI and CTR to assign and complete specific tasks and areas of work within the study's scope. However, most duties and staff resources associated with conducting the study will be absorbed within existing resources of TxDOT, TTI, and CTR.

Based on previously required studies that similarly examined pavement consumption and highway system impacts, TxDOT anticipates its share of costs associated with conducting the study and publishing the required report to total around \$600,000.

Effective Date: June 4, 2021



OVERSIZE/OVERWEIGHT VEHICLES AND COMMERCIAL VEHICLES



SB 1815

Author: Senator Kel Seliger (R-Amarillo)
Sponsor: Representative Armando Martinez (D-Weslaco)

Relating to motor vehicle size and weight limitations.

Summary

State transportation laws on size and weight limitations of certain vehicles traveling on the highway differ from federal regulations in some instances. Some divergences include rules related to increased idle reduction technology, emergency vehicle weights, automobile transporters, and towaway trailer transportation combination lengths. While federal rules related to oversize and overweight vehicle permitting changed in recent years, state laws have not been updated to reflect these changes. Senate Bill 1815 updates state law to align with federal policy and ensure compliance with federal standards. Updating state statutes to federal standards reduces the risk of federal lawsuits and any potential loss of federal highway funds.

SB 1815 adds Subchapter K to Chapter 622, Transportation Code, to expand size and weight limitations on oversize and overweight vehicles. Specifically, SB 1815 allows:

1. Certain automobile transporters to carry loads up to four feet beyond the transporter's front and up to six feet beyond its rear;
2. Trailer transporter combinations to measure up to 82 feet in length;
3. Emergency vehicles to exceed current weight limitations; and
4. The Texas Department of Motor Vehicles (TxDMV) to issue a permit allowing certain overweight and oversized equipment to operate on a state highway for the movement of equipment or commodities that cannot be reasonably dismantled.

Impact on TxDOT

TxDOT does not anticipate a significant operational impact in implementing increased allowances for oversize and overweight vehicles as these increases only apply to state highways, mirror existing federal law, or otherwise do not conflict with federal regulations. TxDOT also anticipates that the amendments to Section 623.071, Transportation Code, may result in an increase of oversize and overweight permit fees credited to the State Highway Fund, generating new revenue for TxDOT and resulting in a minimal, undetermined positive fiscal impact.



SB 1815 OVERSIZE/OVERWEIGHT VEHICLES AND COMMERCIAL VEHICLES

However, SB 1815 may have a negative fiscal impact by increasing pavement consumption on the state highway system as well as local roads due to the expanded limitations on allowable loads and weights. A direct correlation between higher axle-load and increased pavement consumption exists; therefore, expanding the allowable axle-load from 20,000 pounds and 34,000 pounds for single and tandem axle to 33,500 pounds and 62,000 pounds respectively, may cause increased pavement deterioration on the state highway

system. While SB 1815 does not provide specific load configurations, the most common emergency vehicles that run these high loads are 2-axle and 3-axle fire trucks. Pavement deterioration caused by these larger vehicles will require TxDOT to more frequently undertake maintenance and repair efforts on state roads, resulting in increased costs, staff time, and construction resources for TxDOT.

Effective Date: September 1, 2021





RIGHT OF WAY



RIGHT OF WAY

HB 1257

Author: Representative Trent Ashby (R-Lufkin)
Sponsor: Senator Robert Nichols (R-Jacksonville)



Relating to the definition of personal property for purposes of removing personal property from a roadway or right of way.

Summary

Section 545.3051, Transportation Code, authorizes local law enforcement, certain transportation authorities, and the Texas Department of Public Safety (TxDPS) to remove certain personal property (as defined in the statute) from a roadway or right-of-way without the consent of the owner of the property if the authority or law enforcement agency determines that the property blocks the roadway or compromises public safety.

HB 1257 adds unattended manufactured homes (as defined by Section 1201.003, Occupations Code) to the definition of personal property that local law enforcement, transportation authorities, and TxDPS are permitted to remove from a roadway or right of way without the consent of the owner of the property if the authority or law enforcement agency determines that the property blocks the roadway or endangers public safety.

Impact on TxDOT

TxDOT anticipates no direct impact from HB 1257 as “department” refers to TxDPS in Section 545.3051, Transportation Code, and therefore does not apply to TxDOT. While Section 472.011, Transportation Code, already gives TxDOT the authority to remove personal property, including manufactured homes, from a roadway or right of way without the consent of the owner if the property blocks the roadway or endangers public safety, HB 1257 may ultimately benefit TxDOT and promote the safety of the traveling public by allowing other entities to remove abandoned manufactured homes from roadways and other rights of way. The authority for other entities to remove such personal property may also potentially save TxDOT staff time and other resources.

Effective Date: September 1, 2021



HB 1925

Author: Representative Giovanni Capriglione (R-Southlake)
Sponsor: Senator Dawn Buckingham (R-Lakeway)



Relating to prohibitions on camping in a public place and to a political subdivision's designation of property for camping by homeless individuals; creating a criminal offense.

Summary

Responses to people experiencing homelessness and prohibitions on public camping vary between cities and localities in Texas. While some cities prohibit public camping entirely, others allow individuals experiencing homelessness and others to camp in public spaces. House Bill 1925 attempts to address inconsistencies in Texas local governments' response to people experiencing homelessness by enacting a statewide camping ban that sets a "minimum standard" for prohibited behavior, allowing local governments to enforce more stringent policies if deemed appropriate.

HB 1925 amends Chapter 48, Penal Code, to create a statewide ban for knowingly or intentionally camping in public places without the consent of the authority responsible for managing the public place. HB 1925 provides that violation of the camping ban results in a Class C misdemeanor, which entails a maximum fine of \$500.

Additionally, HB 1925 adds Chapter 364, Local Government Code, to prevent municipalities or counties from adopting any formal or informal policies contrary to the legislation. Implementation of such policies may result in injunctive action and may result in loss of state grant funds for the following fiscal year.

HB 1925 adds Section 48.05, Penal Code, to specify that "camping" entails temporarily residing in a place with "shelter" – defined as equipment or belongings, such as tents, tarps, and sleeping bags, designed to protect

an individual from the elements. The section provides that a person commits a Class C misdemeanor, punishable by a maximum \$500 fine, if the person intentionally or knowingly camps in a public place without the consent of the officer or agency that maintains the legal authority to manage the public place. This section also clarifies an individual's intent to camp may be established through conditions and actions in the public place, including evidence of cooking, starting a fire, storing personal belongings for an extended period, digging, and sleeping.

Exceptions to the violation and resulting misdemeanor include when an officer or political subdivision authorizes camping for:

1. Recreational purposes;
2. Permitted beach use;
3. Providing shelter during a declared disaster; or
4. Sanctioned camping for people experiencing homelessness (established by a governmental entity through a formal "plan" approved by the Texas Department of Housing and Community Affairs, as specified in new Subchapter PP, Chapter 2306, Government Code).

Section 48.05(g), Penal Code, also requires that before a peace officer issues a citation to a person unlawfully camping, the officer must make a reasonable effort to:

1. Advise where they may camp lawfully; and



2. If reasonable, contact a nonprofit or government service providers that may help the individual address their homelessness and related needs.

These provisions do not apply if a peace officer determines an imminent health or safety threat related to the unlawful camping exists, making offering services or alternative camping solutions impractical. Additionally, if an officer arrests an individual for a public camping violation, the officer must allow the person to move their belongings or offer safe storage of belongings while the person is in custody free-of-charge.

Section 48.05(f), Penal Code, states that the provisions of the state’s camping ban will not preempt a state or local government’s public camping ordinance or policy that is:

1. Compatible and equal to, or more stringent than the provisions; or
2. Unrelated to issues addressed by HB 1925.

HB 1925 amends Chapter 2306, Government Code, by adding the requirement that a political subdivision establish a “plan” to allow individuals experiencing homelessness to camp on a designated property. HB 1925 requires the political subdivision to submit the plan, including required contents that specify features of the property proposed for sanctioned camping, to the Texas Department of Housing and Community Affairs (TDHCA) for approval. If approved, the entity may create a designated or sanctioned camping area, equipped with appropriate onsite or nearby services and support for people experiencing homelessness. Public parks may not serve as the location for these designated encampments.

Finally, HB 1925 adds Chapter 364, Local Government Code, which applies only to local jurisdictions. The new Section 364.002, Local Government Code, prohibits municipalities or counties from adopting formal or informal policies contrary to the public camping ban. Implementation of such policies would result in injunctive action by the Office of the Attorney General (OAG) and may result in loss of state grant funds for the following fiscal year. HB 1925 does not prohibit a policy that encourages diversion or a provision of services in lieu of citation or arrest. HB 1925 provides that a local entity will lose state grant funds for the fiscal year following a final judicial determination that the entity has intentionally violated Section 364.002, Government Code. The Comptroller of Public Accounts (comptroller) must adopt rules to uniformly implement these provisions based on the current distribution of state grant funds amongst state agencies.

Impact on TxDOT

Currently, TxDOT has neither the authority to enforce camping bans or penalize individuals camping on TxDOT’s right of way. HB 1925 does not alter TxDOT’s authority. Currently, when TxDOT needs to clear portions of the state right of way for safety purposes, TxDOT requests local or state law enforcement to assist.

Currently, Section 545.411, Transportation Code, appears to be the only state statute addressing camping in the state right of way managed by TxDOT. Section 545.411, Transportation Code, prohibits camping in rest areas – providing that a person may be in violation if they remain at a TxDOT rest area for longer than 24 hours or they erect a tent, shelter, or other structure, and the person has been notified that the behavior is prohibited. This may be germane to Section 48.05(d), Penal Code, amended by HB 1925, which provides



HB 1925 RIGHT OF WAY

that a political subdivision may authorize camping for recreational and other specified purposes. TxDOT does not anticipate any changes to existing policies related to the use of TxDOT Safety Rest Areas or Visitor Centers.

Further, HB 1925 may require TxDOT to undertake additional monitoring and oversight of state grant administration based on the addition of Chapter 364, Local Government Code, which prohibits municipalities and counties from adopting formal or informal policies conflicting with the public camping ban at risk of losing state grant funds. TxDOT will need to track or otherwise be notified of any municipalities or counties found in violation

of new Chapter 364, Local Government Code, and set up administrative processes to ensure those entities do not receive state grant funds from TxDOT. TxDOT may need to coordinate with the comptroller, as the office responsible for implementing provisions of this section, to ensure TxDOT grant dollars are appropriately distributed to impacted municipalities or counties. While federal funds comprise most grant programs overseen by TxDOT, the agency also administers some state grant dollars, which may be impacted by HB 1925, requiring additional staff time and resources.

Effective Date: September 1, 2021





Relating to the acquisition of real property by an entity with eminent domain authority and the regulation of easement or right of way agents.

Summary

House Bill 2730 amends several sections of Chapter 402, Government Code; Chapter 21, Property Code; and Chapter 1101, Occupations Code to modify various aspects of the condemnation process including the landowner bill of rights (LOBR), right of way agent certification, property access rights, bona fide offer requirements, and the Special Commissioner's Court process.

Landowner Bill of Rights

HB 2730 amends Section 402.031, Government Code, to modify elements of the Office of the Attorney General's (OAG) preparation of the LOBR. Whenever a public or private entity attempts to use eminent domain authority to acquire private land for a public use project, they must provide landowners with a copy of the LOBR, which outlines landowner's statutory rights and the condemnation process more broadly.

HB 2730 adds to the list of rights outlined in the LOBR a notice that the landowner may file a written complaint to the Texas Real Estate Commission about alleged misconduct by a registered easement or right of way agent acting on behalf of a condemning entity. HB 2730 also adds that the LOBR must include an addendum outlining the terms required in a conveyance instrument provided by the condemnor and the terms a landowner may negotiate. HB 2730 also requires that the OAG review the published LOBR every two years to ensure compliance with Section 402.031, Government Code, and to verify the LOBR is both written in plain language and easily comprehensible by landowners. If

the OAG deems modifications or additions to the LOBR necessary, the OAG must publish any proposed changes in the *Texas Register* – which serves as the journal of state agency rulemaking for Texas – and accept public comment on the proposed statement for a reasonable period following publication.

Condemning Entities' Access to Private Property for Surveying Purposes

All condemning entities have a right under common law to conduct certain non-destructive surveying activities tied to their condemnation authority. HB 2730 adds Section 21.0101, Property Code, which provides that nothing in Chapter 21, Property Code, prevents a condemning entity from seeking survey access rights as provided by law. This language clarifies that certain condemning entities maintain the statutory right to enter landowners' private property for surveying purposes.

Bona Fide Offer Requirements

HB 2730 amends Section 21.0113(b), Property Code, to revise the conditions of an initial offer made to a landowner for their property on behalf of a condemning entities. The initial offer must include:

1. A copy of the LOBR;
2. A statement in bold print and larger front indicating whether the compensation being offered includes:
 - a. Damages to the remainder property and;
 - b. An appraisal by a certified appraiser;



3. A copy of the proposed instrument of conveyance in compliance with Section 21.0114, Property Code, if applicable; and
4. The contact information of an official representative for the condemning entity.

These additions serve as conditions that a condemning entity must meet to ensure an offer qualifies as “bona fide” to meet the procedural requirements of the law.

Provisions of a Condemnation Petition

To acquire property, condemning entities must file with the court a petition that the condemning entity observed the landowner’s rights when providing the initial and final offers. HB 2730 amends Section 21.012, Property Code, to require that a condemning entity must concurrently provide to the landowner a copy of the condemnation petition by first-class mail and certified mail with a return request. The condemning entity must also provide a copy of the petition to the landowner’s attorney (if written notification of a landowner’s attorney is provided to the condemning entity) either by first class mail, commercial delivery service, fax, or email.

Special Commissioners Court Process

Once a condemnation petition is filed and verified in compliance with the requirements of Section 21.012, Property Code, the judge of the court where that petition was filed must appoint three disinterested real property owners, who live in the same county as the condemned property, to serve as special commissioners. The special commissioners participate in the Special Commissioners Court process, an administrative proceeding in which commissioners determine the landowner’s compensation for the property.

HB 2730 amends Section 21.014, Property Code, to revise the processes;

1. For the appointment of special commissioners; and
2. By which either party may strike an appointed special commissioner.

HB 2730 requires that the court appoint special commissioners no later than 30 days after filing an initial petition. Within this timeframe, the court must also appoint two additional disinterested real property owners assigned as “alternate” commissioners. HB 2730 provides each party ten days after the appointment date, or 20 days after the petition’s filing date, to strike one special commissioner, if necessary, by electronic service and first-class mail concurrently. If the court removes one or more originally-appointed commissioner(s), the alternate special commissioner(s) would assume the assigned duties.

HB 2730 also adds that each party in an eminent domain proceeding is entitled to a copy of the court’s order appointing special commissioners. HB 2730 requires the court to “promptly” provide the signed order to the condemning entity, who must then provide copies to the landowner and the landowner’s attorney (if applicable). The copies must be sent to the landowner by certified mail by first-class mail and include a return receipt request, and, if applicable, to the landowner’s attorney by first-class mail, commercial delivery service, fax, or email.

Changes made to Chapter 21, Property Code, related to the Special Commissioners Court process would only apply in condemnation cases in which the acquisition was initiated after the effective date (January 1, 2022).



Impact on TxDOT

TxDOT anticipates various direct and indirect impacts from HB 2730. TxDOT expects the sections related to surveying rights, bona fide offer requirements, condemnation provision requirements, and the Special Commissioners Court process and timeline, respectively, to affect TxDOT operations, as outlined below.

Landowner Bill of Rights

Section 402.031, Texas Government Code, and Chapter 21, Texas Property Code, contain the LOBR. Current law requires TxDOT to provide a copy of the LOBR statement to a landowner before or at the same time TxDOT represents in any manner to the landowner that TxDOT possesses eminent domain authority. TxDOT must provide the LOBR during any attempt to acquire private property to ensure landowners stay informed of their various rights in the condemnation process related to compensation, notification, property appraisal, legal processes, and the appeals process.

HB 2730 requires the OAG to:

1. Modify the LOBR as specified in the legislation;
2. Review and update the document every two years as appropriate; and
3. Solicit and accept public comment on proposed changes, if applicable.

The primary changes resulting from HB 2730 include:

1. Specifying that the landowner may file a written complaint to the Texas Real Estate Commission regarding alleged misconduct by a registered easement or right of way agent acting on behalf of TxDOT; and

2. Outlining the terms required in a conveyance instrument provided by TxDOT and the terms a landowner may negotiate under.

Once the OAG adopts these changes to the LOBR, TxDOT must ensure they are reflected in copies of the LOBR distributed to landowners during the condemnation process as well as in other TxDOT manuals and condemnation-related documents. TxDOT anticipates incorporating these additions into TxDOT documents and ensuring landowners receive the updated LOBR will require minimal staff time and resources.

TxDOT's Access to Private Property for Surveying Purposes

As part of the condemnation process, state law requires TxDOT to properly describe the property to be acquired. To accomplish this, TxDOT hires an independent surveyor to determine the property's boundaries and physically stake the property being acquired. Common law provides that TxDOT – and all condemning entities – retain the right to conduct such non-destructive surveying activities tied to condemnation. Surveyors, acting on behalf of TxDOT, contact landowners in advance to request permission to enter the property for surveying purposes and attempt to amicably address a landowner's concerns regarding the surveying process.

HB 2730 adds Section 21.0101, Property Code, to clarify and uphold that TxDOT and other condemning entities maintain the right to enter landowners' private property for surveying purposes. By solidifying TxDOT's statutory authority and removing any ambiguity, TxDOT may avoid potential divergences of opinion amongst the agency, landowners, and the courts on TxDOT's ability to enter private property to survey.



Bona Fide Offer Requirements

Currently, when the state requires property for a transportation project, TxDOT first attempts to acquire property through negotiations with the landowner. To ensure TxDOT adheres to the Texas Constitution, which requires that a state agency pay adequate compensation when acquiring property, TxDOT works to determine the fair market value of that property, upon which TxDOT bases its original offer.

Once the independent appraisal process concludes and a fair market value is determined, TxDOT makes an initial offer to the landowner and provides a copy of the appraisal. After reviewing the appraisal, a landowner may choose to negotiate the offer amount through a counteroffer. The landowner should support any counteroffer with the landowner's own appraisal or documented conditions that may not have been considered in TxDOT's initial appraisal. If negotiations are successful, the landowner will deed the parcel of land to TxDOT and TxDOT pays the negotiated amount.

If negotiations are unsuccessful and to proceed in the condemnation process, TxDOT must comply with the terms of a "bona fide offer," provided in Section 21.0113(b), Property Code. This involves providing the landowner a written initial offer, as well as a written final offer at least 30 days after the initial offer. HB 2730 amends Section 21.0113(b), Property Code, to add conditions required for the initial offer. The initial offer to a landowner must now include in writing:

1. A copy of the LOBR;
2. A bolded statement indicating whether the compensation being offered damages to the remainder property determined either by the condemnor or a certified appraiser;

3. A copy of the proposed instrument of conveyance; and
4. The contact information of an official TxDOT representative.

TxDOT will incorporate these changes in the initial offer process as well as revise initial offer documentation to meet the new provisions of Section 21.1103(b), Property Code. TxDOT anticipates that minimal staff time and resources will be required to make these changes to TxDOT's right of way acquisition process and ensure compliance with bona fide offer terms.

Service of the Condemnation Petition

If TxDOT and the landowner cannot reach an agreement on the offer amount, TxDOT cannot locate a landowner, or title problems prevent the landowner from conveying a clear title, TxDOT will initiate the condemnation process. Under this process, TxDOT must file a condemnation petition that contains the elements set forth in Section 21.012, Property Code. HB 2730 amends Section 21.012, Property Code, to require TxDOT to provide a copy of the condemnation petition to the landowner via first-class mail and via certified mail, including a return request as well as a copy of the petition to the landowner's attorney (if written notification of a landowner's attorney is provided to TxDOT) either by first class mail, commercial delivery service, fax, or email. Because attorneys at the OAG handle the filing of the condemnation petition and other legal processes related to the condemnation process on behalf of TxDOT, these additional requirements will result in minimal impact to TxDOT. The OAG will need to send extra copies of the filed petition to the landowner and their attorney (if applicable) by the specified means.

Appointment of Special Commissioners

Once a condemnation petition is filed and verified to comply with requirements of Section 21.012, Property Code, the judge of the court where that petition was filed must appoint three disinterested real property owners, who live in the same county as the condemned property, to serve as special commissioners. HB 2730 revises the appointment and striking processes for special commissioners. HB 2730 requires that the court appoint special commissioners and their alternates no later than 30 days after the filing of an initial petition and provides each party ten days after the appointment date, or 20 days after the date the petition was filed, to strike one special commissioner.

Current language in Section 21.012, Property Code – which states that commissioners must be appointed and removed within a “reasonable period” – remains vague, occasionally creating delays in the condemnation process and pushing out project timelines. By clarifying and solidifying concrete timelines for the appointment and striking of special commissioners, TxDOT anticipates HB 2730 will

benefit the agency by streamlining the Special Commissioners Court process. This will likely expedite land acquisition and project delivery, ultimately saving time and reducing project costs. While the impact of these changes should be minimal and positive for the agency, TxDOT must ensure the OAG – the entity that oversees the Special Commissioners Court process on behalf of TxDOT – complies with the revised deadlines when striking an appointed special commissioner, if deemed necessary.

HB 2730 also requires that upon receipt of the court’s appointment of special commissioners, TxDOT must provide copies of the signed order to the landowner and the landowner’s attorney (if applicable). TxDOT anticipates only minimal operational impact from these provisions. To comply with these requirements, the OAG will need to modify current practices to incorporate sending extra copies of the signed court order to the landowner by both first-class and certified mail as well as hard or electronic copies to a stated attorney.

Effective Date: January 1, 2022

LANDOWNER BILL OF RIGHTS (LOBR)



<https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/general-oag/LandownersBillOfRights.pdf>



RIGHT OF WAY

SB 374

Author: Senator Kel Seliger (R-Amarillo)
Sponsor: Representative Hugh Shine (R-Temple)



Relating to municipal annexation of certain rights of way.

Summary

Last session, House Bill 347 (86th Regular Legislative Session, 2019) amended and repealed several sections of Chapter 43, Local Government Code, to eliminate unilateral annexation authority by any home rule city in Texas. HB 347 (86R, 2019) maintained that annexation may occur upon a property owner's request (otherwise known as "voluntary annexation"), which commonly originates from a property owner's desire for municipal water, sewer, or other services. To meet the stipulations for voluntary annexation, the proposed property for annexation must fall within a municipality's extraterritorial jurisdiction (ETJ) and touch the existing municipal limits.

In some cases, a landowner may request the annexation of an area across a road or railway easement. However, HB 347 (86R, 2019) repealed certain provisions that previously allowed a municipality to annex a property and an adjoining road or right of way. The change in law resulted in prohibiting certain annexations that include a state road right of way leaving many annexations across the state unworkable.



Senate Bill 374 amends Section 43.1055 and adds Section 43.1056, Local Government Code, to allow municipalities to complete annexations that include the "right of way of a street, highway, alley, or other public way or of a railway line, spur, or roadbed." The new Section 43.1056 states that a municipality may only annex a road right of way or railway easement that is:

1. Contiguous to areas requested for annexation; or
2. Contiguous and parallel to the municipality's boundaries.

Under SB 374, the municipality seeking to complete an annexation of road right of way must first provide written notice of the annexation to TxDOT or the right of way owner within the 61 days before the proposed annexation. The municipality must provide written notice through the owner's registered agent of service, if applicable. TxDOT – and all governmental right of way owners – may specify where a municipality must deliver these notices of proposed annexation. SB 374 allows TxDOT to object to an annexation when necessary so long as provided in writing before the proposed annexation date. In the absence of an objection, the annexation of the right of way may proceed without any affirmative action by TxDOT.

SB 374 also specifies that existing Section 43.054, Local Government Code – which prohibits municipalities from annexing areas within certain parts of the ETJ – does not apply to the annexation of right of way under this amended section.



Impact on TxDOT

Under Section 43.1055, Local Government Code, TxDOT, as the owner of state road or right of way, must currently request that an annexation of a property that includes state highway right of way occur. This, however, has presented issues for the agency in the past as both TxDOT and the Texas Transportation Commission (commission) lack the authority to consent to or request a municipal annexation unless the annexation directly relates to a transportation purpose. Because most proposed annexations do not present a transportation issue, TxDOT has not been able to consent to many annexation requests received from municipalities. This has been an obstruction to otherwise uncontested annexation processes.

By eliminating the requirement that TxDOT request or otherwise provide affirmative consent to annexations that include state highway right of way, SB 374 would largely release TxDOT from involvement in the municipal annexation

process unless objecting to the annexation. Because municipalities seeking to complete such annexations must provide written notice at least 61 days prior to the proposed annexation and right of way owners have until the date of annexation to object, TxDOT should have sufficient time to review the proposed annexation plan and provide written objection. Any objection must be based solely on a highway purpose and upon direction from the commission.

TxDOT will need to determine internal processes for receiving and considering written notices of proposed annexations that incorporate state highway right of way, including informing municipalities of where to direct written notice and issuing objections when necessary. Given the immediate effective date, TxDOT may need to prioritize and expedite establishing these processes.

Effective Date: June 14, 2021



RIGHT OF WAY

SB 424

Author: Senator Juan “Chuy” Hinojosa (D–McAllen)
Sponsor: Representative Todd Hunter (R–Corpus Christi)



Relating to state agency enforcement of laws regulating small businesses.

Summary

Senate Bill 424 creates a “right to cure” policy to lessen administrative, regulatory, and fiscal burdens for small businesses as well as to prevent high fees or fines due to first-time non-compliance with state laws and rules.

SB 424 amends Chapter 2006, Government Code, by adding Section 2006.003, which prohibits a state agency with regulatory authority over small businesses from imposing an administrative penalty against a small business for an initial violation of a statute or rule administered by the agency without first providing written notice and an opportunity to remedy the violation within a reasonable timeframe. SB 424 establishes that the “right to cure” only applies to a first-time violation not committed knowingly or intentionally by a small business – defined in the preceding Section 2006.001, Government Code, as a for-profit entity with fewer than 100 employees or less than \$6 million in annual gross receipts. SB 424

also provides that during the time provided to the small business to cure after notification, a violation may not be considered a “continuing violation” so long as the small business makes a good faith attempt to remedy the issue.

SB 424 specifies that this penalty waiver and ability to remedy first-time violation does not apply to actions taken by:

1. A state agency that protects public health and safety or the environment;
2. Officers responsible for regulating financial services (as specified in Section 411.076(b) (18), Government Code; or
3. The Texas Workforce Commission, if related to compliance with federal law.

While SB 424 states that not later than January 1, 2022, each state agency shall adopt and implement the policy required by Section 2006.003, Government Code, as added by this Act, SB 424 is permissive if money is not specifically appropriated to a state agency for the purposes of implementing the bill.

Impact on TxDOT

Because there was no specific appropriation for SB 424, the bill is permissive. If implemented, TxDOT anticipates minimal impact from SB 424, as TxDOT generally does not act as a regulatory entity. Currently, the agency provides regulatory authority over small businesses for only one program: The Highway Beautification Act.



SB 424 RIGHT OF WAY

The Texas Legislature passed the Texas Highway Beautification Act in 1972 to comply with the Federal Highway Beautification Act of 1965, which requires that each state regulate commercial signs along interstate and primary highways (Chapter 391, Transportation Code). In the same year, TxDOT also entered into a federal-state agreement that requires TxDOT to enforce the “effective control” of commercial signs to meet federal requirements to avoid loss of certain federal transportation funding. A small portion of the billboard companies regulated under this program qualify as “small businesses” under SB 424.

TxDOT’s existing rules and protocols for the Highway Beautification Act align with SB 424. When a commercial sign along a state highway violates federal or state law or rule, TxDOT first provides the respective commercial sign owner

with a notice to cure without penalty, along with 45 days from the date of notice to remedy the infraction. TxDOT does not enforce penalties for all first-time offenders, even if the case calls for TxDOT to file an injunction, so long as the commercial sign owner remedies the violation before the set court hearing date.

Currently, the only circumstance in which TxDOT does not provide the opportunity for a commercial sign owner to remedy a violation without penalty occurs when a non-compliant sign requires substantial changes, cannot be remedied, and therefore must be removed. TxDOT can modify this policy to ensure that TxDOT does not levy administrative penalties against first-time small business offenders in these situations.

Effective Date: September 1, 2021



RIGHT OF WAY

SB 507

Author: Senator Robert Nichols (R-Jacksonville)
Sponsor: Representative Charles “Doc” Anderson (R-Robinson)



Relating to an accommodation process authorizing the use of state highway rights of way by broadband-only providers.

Summary

Senate Bill 507 adds Section 250.002, Transportation Code, to require the Texas Transportation Commission (commission) to adopt rules to create a right-of-way accommodation process for the state highway system for “broadband-only providers,” defined as “an entity that exclusively provides broadband services.” SB 507 defines ‘broadband service’ as an internet service capable of providing “a download speed of 25 megabits per second or faster” and “an upload speed of three megabits per second or faster,” aligning with the Federal Communications Commission’s (FCC) definition. In establishing a right-of-way accommodation process for broadband providers, SB 507 allows broadband-only providers to access and use TxDOT’s state highway right of way free of charge, rather than by paying a lease, as was the law before SB 507. A special statutory exemption from the requirement of paying fair market rental under Section 202.052, Transportation Code, is available to certain public utilities, including gas, electric, and basic telecommunications services. These public utilities are entitled to use the right of way free of charge.

SB 507 requires the commission to create rules to establish a right-of-way accommodation process for broadband providers “on a competitively and technologically neutral and nondiscriminatory basis with respect to other providers of broadband service.” Under SB 507, broadband-only providers may use the right-of-way accommodation process to install new broadband facilities or maintain, add to,

adjust, or relocate existing broadband facilities. The commission must also create rules for the accommodation process that stipulate minimum requirements for the accommodation, method, materials, and location for broadband facilities’ installation, adjustment, and maintenance of broadband facilities.

According to the bill author’s statement of intent, SB 507 aims to eliminate a small but important obstacle to statewide broadband deployment, especially to rural and other disconnected parts of Texas, by putting broadband providers on equal footing with other utilities.

Impact on TxDOT

Pursuant to various state laws, Subchapter C, Chapter 21, Title 43 Texas Administrative Code, provides certain public utilities the right to access and place their facilities in state right of way at no charge. Under these rules, TxDOT maintains a utility accommodation process, established by commission rule, for these utilities. That accommodation process prescribes prerequisites for the installation, adjustment, and maintenance of utility facilities. To place infrastructure in or otherwise use state highway right of way, all other non-accommodated entities seeking to use the highway right of way must apply for and obtain a lease agreement with TxDOT, and TxDOT must charge fair market value for that lease, per Section 202.052, Transportation Code.

Because broadband service providers were not included in the definition of a utility pursuant to Section 11.004, Utilities Code, broadband



SB 507 RIGHT OF WAY

providers lacked the statutory right to access state highway rights of way to place the infrastructure for free. Instead, broadband providers were required to enter and pay for a lease with TxDOT for right of way access.

SB 507 directs the commission to adopt rules to expand the highway right-of-way accommodation process to allow broadband-only providers to use state highway rights of way, subject to highway purposes, free of charge – as is currently available to utilities. The commission will need to determine a competitive, technologically neutral, and nondiscriminatory process for the installation of new and modifications of existing broadband facilities. The commission must also establish requirements for the installation, adjustment, and maintenance of these broadband-only facilities. TxDOT will then need to formalize and implement the accommodation process as determined by the commission; this may include developing, editing, and publishing policies, manuals, forms, and applications; and reviewing and processing accommodation requests for broadband infrastructure.

Though an exact fiscal impact cannot be determined, allowing additional entities the right to access the state highway right of way may lead to increased costs or potential lost revenue for TxDOT. Adding new infrastructure to the right of way may result in a higher rate of relocating utilities to accommodate future highway improvement projects, in turn, leading to delays and increasing the time and cost of these projects. Allowing free use of the accommodation process by additional entities will likely introduce more demand for the use of the right of way for broadband deployment, which may ultimately limit other uses of the right of way by TxDOT and other utilities.

Additionally, TxDOT may experience some future revenue losses given broadband-only and other non-utility or private broadband providers no longer must pay fair market value for the lease of the state highway right of way.

Effective Date: June 14, 2021



RIGHT OF WAY

SB 721

Author: Senator Charles Schwertner (R-Georgetown)
Sponsor: Representative Ben Leman (R-Iola)



Relating to the disclosure of appraisal reports in connection with the use of eminent domain authority.

Summary

Senate Bill 721 amends Section 21.0111, Property Code, by adding a new subsection (a-1) that requires a condemning entity to provide all current and existing appraisals, on which the condemning entity bases a property's value on, at least three business days before a Special Commissioner's Hearing.

SB 721 requires that, if current and past appraisals are to be used to support TxDOT's offer of fair market value during a Special Commissioner's Hearing, the appraisals must all be provided by TxDOT to the landowner at least three business days prior to the hearing. Section 21.0111(b)(2), Property Code – the same section amended by SB 721 – currently requires landowners to comply with this three-day disclosure requirement in providing appraisal documents to the condemning entity. This legislation applies equivalent requirements to condemners.

Impact on TxDOT

When there is a need for the state to acquire private property for highway purposes, TxDOT begins by attempting to negotiate a purchase price with the landowner. During this process, TxDOT will provide the property owner with the appraisal(s) on which an offer of compensation to acquire the property is based. If TxDOT and the landowner cannot reach an agreement, TxDOT cannot locate a landowner, or title problems prevent the landowner from conveying a clear title, TxDOT initiates the condemnation process to acquire land. Through a request to the Office of the Attorney General of Texas,

the Special Commissioners' Hearing process commences and the court appoints special commissioners to determine the property owner's compensation for the property.

At the set date and location of a Special Commissioners' Hearing, the court-appointed special commissioners evaluate any damages to the owner relating to the property and hear testimony from TxDOT and the landowner on their respective appraisal values. The special commissioners determine the amount of adequate compensation based on the testimony from both parties. TxDOT's evidence of fair market value, the legal standard and amount TxDOT can pay under the law, of the property is based on appraisals obtained from independent third-party appraisers prior to the hearing.

Currently, during the condemnation process, TxDOT provides all current and existing appraisals at the time of the offer to purchase the property and any updates at least three business days before a Special Commissioner's Hearing, to the extent that updated appraisal information is available in the specified timeframe. Additionally, Section 21.016, Texas Property Code, currently requires that each party involved in a condemnation process receive written notice from the special commissioners informing them of the time and place of a Special Commissioner's Hearing at least 20 days prior to the set hearing date.

Given that TxDOT is typically aware of a Special Commissioner's Hearing at least 20 days prior to its scheduled date, the proposed three-



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day disclosure requirement would give TxDOT reasonable time to update and provide such information to the landowner. In general, TxDOT aims to complete and update appraisal information within 30 days in preparation for a hearing – although unique circumstances may alter this timeline on a case-by-case basis.

Overall, SB 721 may result in a minimal though potentially positive operational impact to TxDOT by streamlining the process for providing and considering appraisal information in advance to the Special Commissioner’s Hearings, for preventing last-minute appraisal information from being presented immediately before or during a hearing, and for allowing sufficient time for involved parties to review and consider relevant information that may impact the valuation of a property.

In some instances, an appraiser may become aware of new information that impacts the value of the property of which should be included into the appraisal report within the three-day period before a Special Commissioner’s Hearing. While this makes it difficult for TxDOT to meet the three-day rule, these situations are rare and unlikely to impact TxDOT or the Special Commissioner’s Hearing significantly. If the new information was critical to the hearing, TxDOT could ask for a new hearing date to meet the three-day deadline.

Effective Date: September 1, 2021



RIGHT OF WAY

SB 726

Author: Senator Charles Schwertner (R-Georgetown)
Sponsor: Representative Ben Leman (R-Iola)



Relating to establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity.

Summary

Pursuant to Subchapter E (Repurchase of Real Property from Condemning Entity), Chapter 21, Property Code, a person from whom an entity acquires a real property interest through eminent domain for public use – or that person’s heirs, successors, or assigns – is entitled to repurchase the property if no “actual progress” (as defined by the law) is made toward the public use for which the property was acquired between the acquisition date and the tenth anniversary of that date.

Senate Bill 726 amends Section 21.101(b), Property Code, to increase the legal threshold for demonstrating actual progress to determine the right to repurchase real property from a condemning entity. SB 726 will expand the right to repurchase a condemned property by establishing that actual progress entails the completion of three – rather than two, as currently required – statutorily provided actions on the property by the condemning authority within ten years of condemnation. Additionally, SB 726 reduces the number of qualifying actions that demonstrate actual progress from seven to five.

SB 726 requires a condemning entity to demonstrate actual progress by completing at least three of the following five actions within the ten-year timeframe:

1. Performing significant labor to develop the project for which the property was acquired;
2. Providing significant materials for project development;
3. Hiring of or contracting with project staff and performing significant architectural, engineering, or surveying planning for the project;
4. Applying for state or federal funds for the project; or
5. Applying for a state or federal permit for the project.



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SB 726 eliminates two previously qualifying actions:

1. Acquiring an adjacent tract or parcel to the property adjacent for the same project; and
2. Adopting a development plan for a project indicating the entity will not complete sufficient action within ten years of acquisition (only applicable to governmental entities).

SB 726 provides exceptions for port authorities and navigation and water districts by allowing them to establish actual progress by completing two qualifying actions, including at least one of the five remaining actions and adopting a project plan for the property. These exemptions do not apply to TxDOT.

SB 726 only applies to real property interests acquired through a condemnation proceeding when a petition is filed on or after the effective date (September 1, 2021).

Impact on TxDOT

When the state needs to acquire land for highway purposes, TxDOT works with the private property owner to acquire the land and, in most cases, acquires it through negotiations with landowners. However, if TxDOT and a property owner cannot reach an agreement for the sale of the property, TxDOT may use condemnation – the legal process used to acquire private property for public use – through its statutory power of eminent domain.

Section 21.101, Property Code, grants landowners – or their heirs or successors – the right to repurchase property acquired through condemnation under certain conditions. Currently, landowners are provided the right to repurchase a property from TxDOT after ten years of acquisition if:

1. The public use project for which the property was acquired is canceled;
2. The property becomes unnecessary for the project within ten years of acquisition; or



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3. TxDOT cannot demonstrate actual progress within ten years of acquisition.

Per Section 21.103, Property Code, at that time, TxDOT must offer to sell the property back for the price paid to the owner by the condemning entity at the time of acquisition.

By narrowing the definition and increasing the legal threshold of actual progress, SB 726 may increase the likelihood that property acquired for roadway purposes may be repurchased under Section 21.101, Property Code. When constructing or expanding a highway, TxDOT frequently acquires all the necessary right of way for the ultimate configuration of the project but completes projects in phases – for example, constructing frontage roads initially and main lanes next. However, if one portion of the project is constructed initially and on-time but the remainder is not constructed within the ten-year timeline, actual progress may not be

established. Thus, SB 726 will require TxDOT to devote additional financial and staff resources for long-term right of way acquisition and road planning and to guarantee projects meet the standard for actual progress within ten years.

Narrowing the definition and increasing the legal threshold of actual progress could subject more state property to a right of repurchase, in turn, making advanced right of way acquisition and road planning more difficult and costly. Further, SB 726 may increase instances in which TxDOT is divested of needed properties and must reacquire properties to complete a project. Often, such reacquisition prices exceed the original purchase price. TxDOT may also incur added costs associated with negotiating a second acquisition or re-entering the eminent domain process.

Effective Date: September 1, 2021



RIGHT OF WAY

SB 941

Author: Senator Dawn Buckingham (R-Lakeway)
Sponsor: Representative Eddie Morales, Jr. (D-Eagle Pass)



Relating to the adoption of a state scenic byways program.

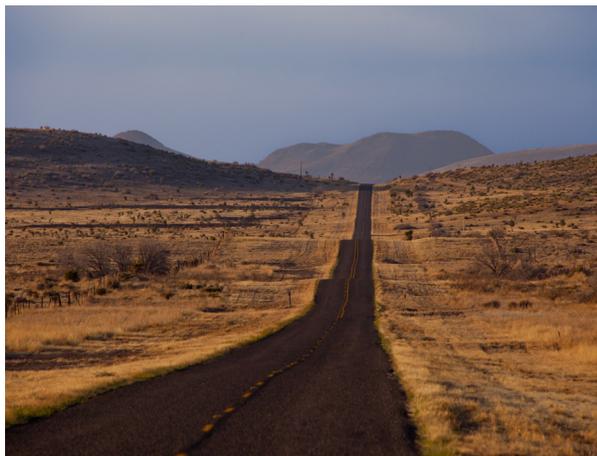
Summary

Senate Bill 941 amends Subchapter I, Chapter 391, Transportation Code, by adding Section 391.256, to establish a State Scenic Byways Program.

The National Scenic Byways Program – administered by the U.S. Department of Transportation’s (USDOT) Federal Highway Administration (FHWA) under Title 23, Section 162, United States Code (U.S.C.) – aims to recognize, preserve, and enhance select roads throughout the United States. To apply for a National Scenic Byway designation, a road must be designated as a “state scenic byway” in the road’s respective state.

SB 941 requires TxDOT, not later than December 1, 2021, to create a nationally-recognized State Scenic Byways program to allow the state and local communities to participate in the National Scenic Byway program.

SB 941 requires the Texas Transportation Commission (commission) to adopt rules



by December 1, 2021, to prohibit outdoor advertising in a manner consistent with 23 U.S.C. Section 131(s) on a State Scenic Byway designated under the program.

Once established, the program will require TxDOT to:

1. Receive proposals from political subdivisions or other community groups approved by TxDOT to fund projects in accordance with federal law governing the National Scenic Byways Program (23 U.S.C. Section 162);
2. Apply for certain federal grants for the projects under 23 U.S.C. Section 162; and
3. Allow an applicant that agrees to pay for project costs not covered by the federal grants.

SB 941 provides that TxDOT may only designate the specific roadway segments listed in current law (Section 391.252, Transportation Code) as a State Scenic Byway. Under Section 391.252, Transportation Code, a person may not erect commercial signs adjacent to and visible from those roadway segments. SB 941 further requires the commission by rule to prohibit outdoor advertising consistent with federal law on a State Scenic Byway designated under the program. Only projects on those highways designated by TxDOT as State Scenic Byways under these guidelines are eligible to apply for federal Scenic Byway grants.



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Impact on TxDOT

SB 941 requires the commission to establish rules for the State Scenic Byways program. Once the commission establishes the program, TxDOT must:

1. Solicit proposed grant applications from local governments and interested community groups;
2. Review, finalize, and file applications for federal grants;
3. Establish a mechanism for depositing any federal grant or local entity funds; and
4. Monitor compliance with the State and Federal Scenic Byways program.

SB 941 authorizes TxDOT to use State Highway Fund dollars for Scenic Byway projects only to cover federally-required state funding matching. Successful federal grants should cover up to 80 percent of the costs for scenic byways projects. Local project sponsors may provide matching funds to cover the remaining costs not covered by the federal government, alleviating TxDOT from expending State Highway Fund dollars.

The following roadway segments, pursuant to Sections 391.252 and 391.256, Transportation Code, will be eligible for designation under the state and federal program:

1. U.S. Highway 290 between the western city limits of the city of Austin and the eastern city limits of the city of Fredericksburg;
2. State Highway 317 between the northern city limits of the city of Belton to the southern city limits of the city of Valley Mills;

3. State Highway 16 between the northern city limits of the city of Kerrville and Interstate Highway 20;
4. U.S. Highway 77 between State Highway 186 and State Highway 44;
5. U.S. Highway 281 between:
 - a. State Highway 186 and Interstate Highway 37, exclusive of the segment of U.S. Highway 281 located in the city limits of Three Rivers; and
 - b. the southern boundary line of Comal County and State Highway 306;
6. State Highway 17 between State Highway 118 and U.S. Highway 90;
7. State Highway 67 between U.S. Highway 90 and Farm-to-Market Road 170;
8. Farm-to-Market Road 170 between State Highway 67 and State Highway 118;
9. State Highway 118 between Farm-to-Market Road 170 and State Highway 17;
10. State Highway 105 between the western city limits of the city of Sour Lake to the eastern city limits of the city of Cleveland;
11. State Highway 73 between the eastern city limits of the city of Winnie to the western city limits of the city of Port Arthur;
12. State Highway 21 between the southern city limits of the city of College Station and U.S. Highway 290;
13. A highway located in:
 - a. the Sabine National Forest;
 - b. the Davy Crockett National Forest; or
 - c. the Sam Houston National Forest;

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14. Segments 1 through 4 of State Highway 130;
 15. A highway in Bandera County that is part of the state highway system;
 16. Farm-to-Market Road 3238 beginning at State Highway 71 and any extension of that road through Hays and Blanco Counties;
 17. Farm-to-Market Road 2978 between Farm-to-Market Road 1488 and the boundary line between Harris and Montgomery Counties;
 18. U.S. Highway 90 between the western city limits of the city of San Antonio and the eastern city limits of the city of Hondo; or
 19. The following highways in Austin County:
 - a. State Highway 159;
 - b. Farm-to-Market Road 331;
 - c. Farm-to-Market Road 529;
 - d. Farm-to-Market Road 1094; and
 - e. Farm-to-Market Road 2502.
- Effective Date: September 1, 2021**





STATE CONTRACTING



STATE CONTRACTING

HB 692

Author: Representative Hugh Shine (R-Temple)
Sponsor: Senator Brandon Creighton (R-Conroe)



Relating to retainage requirements for certain public works construction projects.

Summary

House Bill 692 amends Sections 2252.031 and 2252.032, Government Code, which governs retainage law for public works contracts and allows a government entity to withhold a portion of recurring payments from contractors until project completion. According to the bill author's statement, HB 692 addresses statewide inconsistencies in retainage practices by making retainage standards between contractors and public agencies prescriptive.

In addition to contracts between government and contractors that prescribe terms and work conditions, Chapter 2253, Government Code, also requires contractors to provide performance (or "surety") bonds and payment bonds – which are designed to protect the financial interests of government agencies in the case a contractor does not perform or defaults on the project – on public works construction projects.

HB 692 adds that a governmental entity may withhold retainage if the contract's surety – the entity responsible for monitoring and verifying a contractor's performance on a project – does not agree to the release of retainage and that the withholding limitations provided do not limit the withholding of any offsets from retainage, as provided in the terms of the contract.

HB 692 also amends Section 2252.033, Government Code, to exempt contracts made by TxDOT under all of Chapter 223, Transportation Code, from provisions of HB 692. Formerly the exemption had been limited to contracts made



under Subchapter A, Chapter 223. Under HB 692, the exemption applies to comprehensive development agreements and design-build and highway improvement contracts.



Impact on TxDOT

Because Section 2252.033, Government Code, specifically exempts TxDOT public contracts awarded pursuant to Chapter 223, Transportation Code (the low-bid process, comprehensive development agreements, and design-build), TxDOT anticipates minimal impact to its existing letting and contracting practices.

Additionally, per Item 9, Article 8 of TxDOT's Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges manual, TxDOT does not withhold retainage on low-bid highway construction contracts despite Section 223.010, Transportation Code allowing up five-percent retainage. TxDOT's standard specifications do allow contractors to withhold retainage on subcontractors in accordance with state and federal regulations.

However, HB 692 applies to local government contracts where the county or municipality owns and awards the contract, but TxDOT manages and oversees the contract. Although HB 692 exempts TxDOT from these changes to retainage practices, TxDOT will need to update local government guidance documents and communicate the changes to TxDOT district staff and local government entities with whom TxDOT maintains project agreements. TxDOT currently reviews local government bid and contract documents and would need to ensure that the local government contracts comply with HB 692's provisions.

Effective Date: June 15, 2021





HB 1476

Author: Representative Keith Bell (R-Forney)
Sponsor: Senator Robert Nichols (R-Jacksonville)

Relating to a vendor's remedies for nonpayment of a contract with this state or a political subdivision of this state.

Summary

Under Section 2251.042, Government Code, government entities must inform vendors of an error or dispute with an invoice, and are permitted to withhold all funds owed until the vendor resolves the issue. While state statute requires notice, no provisions currently exist that require government entities to quantify or provide a detailed statement of the amount of the invoice in dispute. Subsequently, government entities currently may withhold all funds owed to that vendor until the parties resolve the dispute.

House Bill 1476 amends Section 2251.042, Government Code, to expand the notification requirement to include any amount in dispute along with a detailed statement of the invoice amount in dispute. HB 1476 allows the governmental entity to withhold at most 110 percent of the disputed amount from payments to the vendor, allowing the vendor to receive partial payment for work completed not in dispute.

Impact on TxDOT

TxDOT anticipates an operational impact to comply with HB 1476. The Texas Comptroller of Public Account's (comptroller) online contract management guidance addresses existing Section 2251.042, Government Code, and requires TxDOT to provide a detailed notice to vendors regarding invoice disputes. Existing TxDOT policy may already materially align with these requirements; however, this would need to be verified and updated if necessary, requiring some staff time and resources.

Section 2251.042, Government Code, as amended by HB 1476, applies only to a contract entered on or after the legislation's effective date (September 1, 2021). The law in effect on the date a contract was entered governs any contract executed before that legislation's effective date, and the former law continues in effect for applicable contracts.

Effective Date: September 1, 2021



STATE CONTRACTING

SB 13

Author: Senator Brian Birdwell (R-Granbury)
Sponsor: Representative Phil King (R-Weatherford)



Relating to state contracts with and investments in certain companies that boycott energy companies.

Summary

Senate Bill 13 amends Subtitle F, Title 10, Government Code, by adding Chapter 2274, to prohibit a governmental entity from entering a contract for goods or services unless the contract contains a written verification from the contractor that it does not currently and will not boycott energy companies, as defined by Section 809.001, Government Code, during the contract term. SB 13 exempts a governmental entity that determines the prohibitions against contracting with an energy boycotting company are inconsistent with the entity's constitutional or statutory duties related to debt obligation issuance, incurrence, or management or the deposit, custody, management, borrowing, or investment of funds. The bill provides that Chapter 2274, Government Code, applies only to a contract between a governmental entity and a company with at least ten full-time employees and a value of \$100,000 or more paid wholly or partly from the entity's public funds. It does not apply to a company that is a sole proprietorship.

Impact on TxDOT

By creating a new certification, SB 13 will require TxDOT to undertake additional duties to ensure compliance during the procurement process. TxDOT will need to update contract documents to reflect the new contract provision and ensure companies provide written verification stating they do not and will not boycott energy companies during the procurement process. TxDOT's design-build contracts, among potential others, may need to include a written certification that a chosen developer does not boycott energy companies.

TxDOT must determine whether the written verification requirements under SB 13 align with TxDOT's existing duties relating to debt obligations and investments, as provided by SB 13. If TxDOT identifies inconsistencies, TxDOT will not need to obtain the required written verification from companies involved in debt obligations or investments.

Currently, whether and on what basis TxDOT could determine inconsistencies between SB 13 and TxDOT's constitutional or statutory duties remains unclear.

Effective Date: September 1, 2021



STATE CONTRACTING

SB 19

Author: Senator Charles Schwertner (R-Georgetown)
Sponsor: Representative Giovanni Capriglione (R-Southlake)



Relating to prohibited contracts with companies that discriminate against the firearm or ammunition industries.

Summary

Senate Bill 19 amends Subtitle F, Title 10, Government Code, by adding Chapter 2274, which prohibits a governmental entity from entering a contract with a company for the purchase of goods or services unless the contract contains a written verification that the company:

1. Does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. Will not discriminate during the term of the contract against a firearm entity or firearm trade association.

SB 19 applies only to contracts between governmental entities and companies of at least ten full-time employees and a value of at least \$100,000 paid fully or in part by public dollars from that governmental entity.

SB 19 does not apply to a governmental entity that contracts with a sole-source provider (the only provider capable of providing that good or service) or does not receive any bids from a company able to provide the required written verification. SB 19 also exempts contracts between governmental entities and companies connected with the issuance, sale, or delivery of notes – including commercial paper notes and any obligations under credit agreements entered into by the Comptroller of Public Accounts (comptroller) regarding the issuance of the notes,” as defined under Subchapter H, Chapter 404, Government Code – or the

administration of matters related to the notes, including investing note proceeds. However, this exemption applies only if the comptroller determines that compliance with SB 19 will likely prevent an issuance, sale, or delivery sufficient to address the general revenue cash flow shortfall forecast or the administration of the notes.

SB 19 also requires that before determining an exemption, the comptroller must survey potential respondents or bidders to a solicitation for a contract to determine the number of qualified potential respondents or bidders can provide the required written verification and evaluate qualified potential bidders’ historical bidding performance.

Impact on TxDOT

TxDOT will need to update contract, purchase order, and solicitation templates to include this requirement and potentially create a form to document this verification.

Effective Date: September 1, 2021



STATE CONTRACTING

SB 799

Author: Senator Jane Nelson (R-Flower Mound)
Sponsor: Representative Chris Paddie (R-Marshall)



Relating to contracting procedures and requirements for governmental entities.

Summary

During the 84th, 85th, and 86th Legislative Sessions (2015, 2017, and 2019, respectively), the legislature passed major reforms to procurement processes used by state agencies. Senate Bill 799 expands upon these reforms by amending various sections of the Government Code to add and modify requirements to the state's procurement and contract management guide and processes, including those related to guidance, instructions, and training. According to the author's statement of intent, SB 799 aims to standardize procurement processes to improve training and compliance, increase agencies' purchasing power, and improve the Comptroller of Public Accounts' (comptroller) procurement and contract management guide.

SB 799 adds a requirement that the procurement and contract management guide include:

1. Instructions for state agencies to carry out procurement and vendor notification procedures;
2. A general outline for required training for state agencies' procurement evaluators;
3. For procurements exceeding \$20 million, a state agency must include in a contract file on the agency's evaluator, such as their qualifications; and
4. Communications procedures between vendors and agency employees.

SB 799 provides the procurement and contract management guide must require a state agency to notify interested parties at least two months before the date the agency issues the solicitation for any procurement exceeding \$20 million – exempting a contract entered by the comptroller. SB 799 modifies the definition of Major Information Resources Project (MIRP) to include any information resources technology project – which has a development cost exceeding \$5 million – of a state agency designated for additional monitoring by the State Auditor's Office (SAO).

SB 799 modifies statutory guidance for state agencies to determine best value for the state based on the “principal considerations” of:

1. Purchase price; and
2. Whether the goods and services meet certain specifications, balanced with other relevant factors.

SB 799 adds “the impact of a purchase on the agency's administrative resources” as a relevant factor that state agencies may consider alongside price and specifications in determining best value. SB 799 requires state agencies to specify proposal criteria used in considering the relevant factors in their request for bids.

SB 799 amends Section 2054.008 (b), Government Code, to require a state agency to provide written notice about a major information system-related contract to the Legislative Budget Board (LBB) on a form prescribed by



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the LBB no later than the 30th day after the contract date.

SB 799 amends Sections 2155.132 (a), (b), and (e), Government Code, to increase the authorized amount delegated to a state agency to purchase goods and services from \$15,000 to \$50,000. The legislation also increases:

1. The authorization for the comptroller to delegate purchase of goods and services by the same amount; and
2. The competitive bidding requirement purchase amount from \$5,000 to \$10,000.

SB 799 amends Section 2155.264, Government Code, changing the threshold for which a state agency that proposes to make a purchase or other acquisition must solicit bids or proposals from each eligible vendor on the master bidders list that serves the agency's geographic region from \$15,000 to \$25,000.

SB 799 amends Section 2157.068, Government Code, to require state agencies to submit pricing requests to at least six vendors on the Department of Information Resource's (DIR) schedule, or to all vendors if there are fewer than six, for a commodity contract up to \$10 million – raised from \$5 million.

SB 799 amends Section 2166.2551, Government Code, to increase the threshold to provide written notice of a contract for a construction project to the LBB if the amount of the contract, including an amendment, modification, renewal, or extension of the contract, from \$14,000 to \$50,000 and further extends the timeframe for which a notice is required to be filed with LBB from the 10th day after the date an agency enters into the contract to the 30th day.

SB 799 also amends Sections 2254.0301(a) and 2254.006, Government Code, to raise the amount of consulting and professional



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service contracts, respectively, for which state agencies are required to notify the LBB to \$50,000 (previously \$14,000) and extends the time for such notice to 30 days after the date of entering the contract (previously ten days). SB 799 amends Subchapter A, Chapter 2254, Government Code, adding Section 2254.003, to authorize a governmental entity to award contracts for physicians, optometrists, and registered nurses based on the provider's agreement to payment of a set fee as a range or lump-sum amount and that the provider has the necessary licenses and experience, and is not subject to competitive advertising or evaluation requirements.

SB 799 provides that if a state agency determines that a waiver or authorization from a federal agency is necessary prior to a provision's implementation, the affected agency must request the waiver or authorization and

may delay implementation until the waiver or authorization is granted.

Impact on TxDOT

SB 799 does not designate TxDOT as responsible for additional contract monitoring. However, if the TxDOT's designation ever changes, contracts must follow all requirements of MIRPs. Further, if its designation changes, TxDOT would be subject to additional oversight for such contracts, resulting in added costs associated with the contract oversight services.

SB 799 would raise the amount which a contract must be competitively bid from \$5,000 to \$10,000, allowing TxDOT more flexibility in making small purchases. SB 799 also allows agencies, including TxDOT, to use a purchasing method designated by the comptroller for commodity contracts between \$5 and \$10 million – potentially expediting information



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technology procurements while maintaining the determination of best value for these commodities.

SB 799 raises the professional service contracts amount by which TxDOT must notify the LBB from \$14,000 to \$50,000, and extends the time allowed for TxDOT to provide that notice from ten days to 30 days after the contract date.

Further, the SB 799 allows TxDOT to award contracts for physicians, optometrists, and registered nurses based on the provider's agreement to payment of a set fee as a range or lump-sum amount and the provider's qualifications, and is not subject to competitive advertising or evaluation requirements. This section would require the adoption of rules to contract with physicians, optometrists, and registered nurses.

SB 799 raises the amount of consulting services contracts for which state agencies must notify the LBB from \$14,000 to \$50,000, and extends

the time for that notice from 10 days to 30 days after the date of entering the contract. SB 799 adds notification requirements for the Contract Management Guide for procurements over \$20 million, which could increase the procurement time for these high dollar contracts. TxDOT will need to update its Procurement Manual to align with the updated contract management guide.

SB 799 adds "the impact of a purchase on the agency's administrative resources" as a relevant factor considered by TxDOT in determining best value for goods or services. The legislation also requires state agencies to specify the proposal criteria used in considering the relevant factors in the request for bids. TxDOT will need to review current practices to ensure compliance with these provisions in the procurement of goods and services.

Effective Date: September 1, 2021





TOLLS AND TOLL OPERATIONS



TOLLS AND TOLL OPERATIONS

HB 1116

Author: Representative Ed Thompson (R-Pearland)
Sponsor: Senator Carol Alvarado (D-Houston)



Relating to toll collection and enforcement on state highway toll lanes by entities other than the Texas Department of Transportation.

Summary

In some scenarios, toll road users pass through multiple, separate tollways operated by various tolling entities. As a result, these users are responsible for paying separate toll fees to each respective entity, even if the tollways form one continuous road.

House Bill 1116 generally provides that – notwithstanding Sections 228.0545 through 228.0547, Transportation Code, or any other law – the fee and fine structure of the entity issuing the initial toll invoice governs a toll collected by a toll project entity pursuant to Section 228.007(b), Transportation Code, or under an agreement under Subchapter E, Chapter 223, Transportation Code (a comprehensive development agreement).

Sections 228.0545, 228.0546, and 228.0547, Transportation Code, comprise the toll collection and enforcement provisions added by Senate Bill 312 (85th Regular Legislative Session, 2017). Those provisions generally require TxDOT to send a written invoice containing an assessment for tolls incurred, rather than administering violations to users because of a failure to pay the proper toll when going through a tolling point. SB 312 (85R, 2017) also limited administrative fees that may be charged by TxDOT if a person fails to pay the amount owed as stated in an invoice.

Under HB 1116, a toll project entity will not have to comply with the SB 312 (85R, 2017) requirements when operating certain concession projects. The bill places toll project entities in a similar position as the North Texas

Tollway Authority (NTTA) by authorizing the provision of tolling services for TxDOT projects. However, unlike NTTA, the toll project entity would not be required to provide tolling services for projects within its boundaries.

HB 1116 allows a toll project entity collecting a toll for the use of a TxDOT toll project to adopt its own rules and procedures relating to toll collection and enforcement when operating the toll project. These rules and procedures may include treating a person who fails to pay the proper toll as a violator – when authorized under the laws, rules, and procedures applicable to the toll project entity, even though this would not be authorized under the laws, rules, and procedures applicable to TxDOT.



Impact on TxDOT

In 2020, TxDOT expanded SH 288 in Harris and Brazoria Counties to include new managed toll lanes. A singular managed lane runs from Brazoria County to the Sam Houston Tollway but includes separate tollways operated by different tolling entities. Blueridge Transportation Group (BTG), the developer for the SH 288 concession project in Houston, has expressed interest in using the Harris County Toll Road Authority (HCTRA) to operate the project. HB 1116 will allow BTG to use the fee structure of HCTRA rather than the fee structure of TxDOT required

by SB 312 (85R, 2017). HB 1116 will not affect toll rates; rather, it affects fees associated with using tollways.

HB 1116 will likely result in increased fees as compared to the operation of a TxDOT toll project in compliance with the SB 312 provisions. The exact amount of increased funds depends on the toll road, toll agreement, and the fee and fine structure set by the entity issuing the initial toll invoice.

Effective Date: May 15, 2021



Relating to certain local government corporations created for the development, construction, operation, management, or financing of transportation projects.

Summary

In 2020, the Harris County Commissioners Court authorized the creation of a local government corporation to operate and improve the Harris County Toll Road Authority (HCTRA) toll road system, pursuant to Chapter 431, Transportation Code. The plan envisioned the local government corporation contracting with Harris County for the county toll road system's continued operation and administration, and for the payment of franchise fees to Harris County from available system revenues for the right to collect and receive toll revenues and use county assets to operate the system. These franchise fees would have provided the Harris County Commissioners Court the flexibility to use a portion of toll road revenue to meet needs otherwise ineligible for transfers from system revenues (the plan was to use such franchise fees for certain non-transportation purposes).

SB 1727 amends Chapter 431, Transportation Code, by adding Section 431.1015 to prohibit a county with a population of more than four million – which currently only includes Harris County – from creating a local government corporation under that chapter to develop, construct, operate, manage, or finance a toll project or system located in the county.

An existing local government corporation created by such a county for the above purposes:

1. May not undertake any new bonds, notes, or other obligations or extend the terms of any existing bonds, notes, or other obligations or enter into any new contracts or extend the terms of any existing contracts; and

2. Must be dissolved when all bonds, notes and other obligations and contracts of the corporation have been satisfied.

Section 431.1015, Transportation Code, provides that income earned and revenues received by or from a local government corporation created to develop, construct, operate, manage, or finance a toll project or system under Chapter 284 may be used only to pay the costs of a turnpike project (as defined by Section 370.003, Transportation Code) or a road, street, or highway project (as provided for under Section 284.0031, Transportation Code).

SB 1727 would prevent Harris County from moving forward with a plan to contract with a local government corporation to operate and manage the county's toll road system and to use toll road revenues for non-transportation purposes.

Impact on TxDOT

Because SB 1727 deals with local government corporations and local-level toll road management, TxDOT does not anticipate a direct operational or fiscal impact.

Effective Date: June 7, 2021





TRANSPORTATION PLANNING



TRANSPORTATION PLANNING



SB 1474

Author: Senator Charles Perry (R-Lubbock)
Sponsor: Representative Four Price (R-Amarillo)

Relating to the I-27 Advisory Committee.

Summary

Last session's House Bill 1079 (86th Legislature, Regular Session, 2019) set forth that TxDOT, in conjunction with the Ports-to-Plains Advisory Committee created by the legislation, conduct a comprehensive study of certain improvements to the Ports-to-Plains (I-27) Corridor – a multi-state corridor that offers efficient transportation of goods and people from Mexico, through west Texas and ultimately the Pacific Northwest and Canada. The study, which concluded in October 2020, evaluated the feasibility, costs, and logistics of proposed improvements – including extending I-27 – to create a continuous flow, four-lane divided highway that meets interstate highway standards. HB 1079 and the advisory committee that it created will expire on August 31, 2021.



Senate Bill 1474 amends Chapter 201, Transportation Code, to add Section 201.623, which creates the I-27 Advisory Committee. The new advisory committee will:

1. Provide TxDOT with information on concerns and interests along the Ports-to-Plains Corridor (as designated under Section 225.069, Transportation Code); and
2. Advise TxDOT on improvements impacting the corridor.

The committee membership is comprised of 23 members, including:

1. Ten county judges or their designees from Dallam, Howard, Lubbock, Midland, Moore, Potter, Sherman, Tom Green, Val Verde, and Webb Counties;
2. The mayor, city manager, or assistant city manager of seven cities: Amarillo, Big Spring, Del Rio, Laredo, Lubbock, Midland, and San Angelo (one representative per city);
3. Three economic development professionals selected based on geographic proximity to the corridor;
4. One agricultural industry representative;
5. One international trade industry representative; and
6. One energy industry representative.



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SB 1474 requires the seven mayors or their designees to appoint the three economic development professionals, as well as the agricultural, international trade, and energy industry representatives by October 1, 2021. The committee's chair and vice-chair must be elected by the majority vote of its members. SB 1474 also prescribes how the advisory committee shall fill any committee vacancies.

SB 1474 requires that the I-27 Advisory Committee meet at least twice each state fiscal year in-person, remotely, or by teleconference, as determined by the chair or TxDOT. The I-27 Advisory Committee must meet initially within 30 days of the mayors or their designees

completing the appointment of the six-remaining designated representative committee members, and on or before the 30th day after initial committee members' appointments (required by October 1, 2021). All committee meetings must be open to the public.

SB 1474 does not allow monetary compensation of committee members or coverage of travel expenses. Further, per SB 1474, the I-27 Advisory Committee is not subject to the provisions of Chapter 2110, Government Code, which governs the establishment, composition, reimbursement, purpose, evaluation, reporting, and duration of state agency advisory committees.



SB 1474 TRANSPORTATION PLANNING

Impact on TxDOT

Because the I-27 Advisory Committee builds off work and research of the previous Ports-to-Plains Advisory Committee created by HB 1079 (86R, 2019), TxDOT maintains much of the institutional knowledge, experience, and framework to stand up the new I-27 Advisory Committee. Nevertheless, TxDOT must provide resources, oversight, and logistical coordination to support the advisory committee's efforts. TxDOT staff will need to oversee, coordinate logistics for, and attend committee meetings held in-person or virtually, requiring significant staff time and administrative resources.

Further, TxDOT will likely need to cover indirect and direct expenses associated with supporting the I-27 Advisory Committee in data collection, analysis, coordination, and preparation of

planning documents. While TxDOT currently contracts with consultants with expertise in corridor planning, TxDOT must coordinate with the consultants to develop a new project-specific scope of work, schedule, and budget – requiring additional time and staffing resources.

Based on recent administrative costs of the Ports-to-Plains Advisory Committee, TxDOT estimates an annual cost for the agency to stand up and support the committee of around \$125,000. A five-year fiscal impact would be \$625,000 to the State Highway Fund.

Effective Date: June 14, 2021





TRANSPORTATION SAFETY AND LAW ENFORCEMENT



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 103

Author: Representative Brooks Landgraf (R-Odessa)
Sponsor: Senator Judith Zaffirini (D-Laredo)



Relating to establishment of the Texas Active Shooter Alert System.

Summary

House Bill 103 amends Chapter 411, Government Code, to establish a statewide Active Shooter Alert System. HB 103 requires the Texas Department of Public Safety (TxDPS), in cooperation with TxDOT, the Office of the Governor, and other appropriate law enforcement agencies in this state, to develop and implement an alert system to be activated on a report of an active shooter. HB 103 requires that upon report(s) of an active shooter and a local law enforcement agency request, TxDPS must activate the alert system and notify alert system participants at the request of a local law enforcement agency or as TxDPS determines appropriate, if that agency or TxDPS:

1. Believes an active shooter is in the agency's jurisdiction;
2. Determines an active shooter alert would assist individuals near the location;
3. Verifies the active shooter situation through preliminary investigation; and
4. Provides the active shooter's last known location and any identifiable information about the active shooter.

HB 103 requires TxDOT to use its existing dynamic message signs (DMS) to broadcast the Active Shooter Alerts within the specified 50-mile radius upon activation of the Alert system and notification from TxDPS.

HB 103 limits TxDOT's participation and use of dynamic message system if TxDOT receives notice from the Federal Highway Administration (FHWA) that using the signs for the alert system may result in loss of federal highway funding or other punitive actions to TxDOT due to non-compliance with federal laws or regulations.

HB 103 also requires TxDOT to coordinate with TxDPS in developing and implementing the alert system, and to establish a plan for informing agency employees on activation of the alert system, as appropriate.

HB 103 sets forth the Active Shooter Alert's administration, activation, and termination, which fall within TxDPS and local law enforcement's purview.

Impact on TxDOT

The Active Shooter Alert System created by HB 103 is similar to other statutorily required alert programs that use TxDOT's dynamic message signs, which rapidly notify the public of specific public safety messages along state highway rights of way across the state. Alerts can be issued statewide or within any Texas geographical area. Only law enforcement agencies can request to activate the State Network. Each alert program contains criteria designed to ensure network integrity and prevent public desensitization.

HB 103 adds an Active Shooter Alert to the existing statutorily required alerts that law enforcement may ask TxDOT to activate to



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notify the public. TxDOT will develop procedures in cooperation with TxDPS, as done for other statewide advisories.

When implementing Amber, Silver, Camo, and Blue Alerts, TxDPS typically sends notification messages to a TxDOT Traffic Management Center, which confirms receipt by phone. TxDOT distributes the alert information via email to TxDOT districts within a 200-mile radius. Using similar processes, TxDOT will coordinate with TxDPS to execute the new alert system within a 50-mile radius of an active shooter's location.

The use of and content displayed on TxDOT's dynamic message signs remains subject to federal laws and regulations, which set parameters on allowable displayed content.

Non-compliance with federal laws and regulations may result in the withholding of federal highway funds. Because the Active Shooter Alert System is not specifically allowed under current federal law or regulations and federal policies can change at any time, HB 103 includes new Section 411.378, Government Code, which expressly exempts TxDOT from using dynamic message signs to display such alerts if doing so jeopardizes federal highway funding or may result in other punitive action. Because HB 103 includes limitation language for the use of dynamic message signs in compliance with federal laws, regulations, or policies, TxDOT does not anticipate a fiscal impact.

Effective Date: September 1, 2021



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 1281

Author: Representative Terry Wilson (R-Marble Falls)
Sponsor: Senator Charles Schwertner (R-Georgetown)



Relating to the operation of golf carts in certain areas.

Summary

House Bill 1281 amends Section 551.403, Transportation Code, to allow an individual to operate a golf cart in certain residential master-planned communities without a license plate. HB 1281 is bracketed to “a residential subdivision for which a county or municipality has approved one or more plats.”

According to the author’s statement of intent, many of these master-planned communities strategically accommodate golf carts with designated pathways and slower speed limits. HB 1281 is in response to HB 1548 (86th Regular Legislative Session, 2019), which added a statute requiring golf carts and other off-road vehicles to display license plates to operate on highways. HB 1281 specifies that a person may operate a golf cart in a certain master-planned community without a license plate on a highway where the speed limit does not exceed 35 miles per hour, including through an intersection of a highway with a speed of more than 35 miles per hour.

HB 1281 also amends Section 551.4031, Transportation Code, to change the section referenced in authorizing a county, municipality, or TxDOT to prohibit the operation of a golf cart on a highway under Section 551.403 if done in the interest of safety, but does not change TxDOT’s existing authority.

Impact on TxDOT

HB 1281 will not impact TxDOT’s authority to prohibit the operation of golf carts on highways if in the interest of safety. Therefore, TxDOT anticipates no operational or fiscal impact from HB 1281.

Effective Date: June 15, 2021



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 1759

Author: Representative Matt Krause (R-Fort Worth)
Sponsor: Senator Kelly Hancock (R-North Richland Hills)



Relating to the operation of vehicles and certain equipment at railroad grade crossings when on-track equipment is approaching.

Summary

State law requires motor vehicle operators to follow specified traffic safety laws, depending on the type of vehicle and the rail crossing, when crossing or approaching railroad grade crossings while trains or certain train warning signals are present.

House Bill 1759 amends Section 545.001, Transportation Code, to include “on-track equipment” – defined as any car, rolling stock, equipment, or other device – in current state traffic law safety requirements. HB 1759 extends existing safety requirements – including special stops and restrictions – to apply when “on-track equipment” or a train (currently included in statute) is present on a railroad track. Applicable requirements include:

1. A vehicle operator approaching a railroad grade crossing must stop between 15 and 50 feet of the crossing in instances when: warning signals, flags, or gates indicate an approaching train or on-track equipment; a train or on-track equipment is within around 1,500 feet of or plainly visible from the crossing; or other law, statute, traffic devices, or traffic signals require the operator to stop.
2. An operator must yield the right-of-way when approaching a railroad crossing with railroad crossbuck signs without other signals that indicate an approaching train or on-track equipment.

3. Certain operators (commercial bus drivers, school bus drivers, operators of vehicles with hazardous materials, and operators of vehicles that move heavy equipment or other vehicles) must stop or slow down and examine whether a train or on-track equipment is approaching.

HB 1759 also prohibits operators of certain vehicles or heavy equipment from crossing a railroad grade crossing when provided warning of the immediate approach of on-track equipment.

Impact on TxDOT

While TxDOT provides oversight of certain rail safety elements – including some state and federal rail safety compliance, inspections, and operating practices throughout the state – TxDOT does not maintain the authority to police or enforce traffic safety laws. Further, HB 1759 will not modify the railroad inspection process or any other rail safety element within TxDOT’s authority. Thus, the scope of this bill falls outside of TxDOT’s responsibilities and will not directly impact TxDOT.

Effective Date: September 1, 2021



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 2048

Author: Representative Matt Krause (R-Fort Worth)
Sponsor: Senator Beverly Powell (D-Burleson)



Relating to the criminal offense of passing certain vehicles on a highway.

Summary

The state's "Move Over, Slow Down" law, outlined in Section 545.157, Transportation Code, requires motorists to move over one lane when approaching certain vehicles displaying the proper lighting when possible or otherwise reduce their speed to 20 miles per hour below the posted limit. If the road does not offer multiple lanes, the driver must slow down. On roadways with posted speed limits of 25 miles per hour or less, drivers must reduce their speed to 5 miles per hour. Violators may incur fines of up to \$2,000.

The "Move Over, Slow Down" law applies when approaching:

1. Authorized emergency vehicles using visual signals or lights – for example, fire, police, or ambulance;
2. TxDOT vehicles or other highway construction or maintenance vehicles used for a highway project and using visual signals or lights;
3. Certain stationary tow trucks;
4. Utility service vehicles with visual signals; and
5. Stationary vehicles used to transport solid waste or recyclables while removing or transporting such waste from locations along a highway.

House Bill 2048 amends Section 545.157, Transportation Code, by adding vehicles operated by or associated with a contract with

a toll project entity to the list of vehicles for which the "Move Over, Slow Down" law applies. Toll entity vehicles must use lighting standards-compliant with current TxDOT standards for highway maintenance, construction, and service vehicles.

Impact on TxDOT

TxDOT anticipates no operational impact from HB 2048 as TxDOT maintains policies and standards for highway maintenance, construction, and service vehicles that may be adopted for toll entities' vehicles. TxDOT's equipment lighting policy states that all on-road and off-road equipment shall, as a minimum, meet the lighting requirements specified in Chapter 547, Transportation Code. Lighting for these types of vehicles is further outlined in TxDOT's Lighting Standards document and may be used by toll entities' vehicles or vehicles associated with toll project contracts to ensure drivers move over or slow down while passing such vehicles.

Effective Date: September 1, 2021

TxDOT VEHICLE LIGHTING STANDARDS



<https://ftp.dot.state.tx.us/pub/txdot/fod/vehicle-lighting-standards.pdf>



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 2677

Author: Representative Greg Bonnen (R-Friendswood)
Sponsor: Senator Larry Taylor (R-Friendswood)



Relating to the name of the statewide alert system for certain missing adult.

Summary

House Bill 2677 amends Subchapter Q, Chapter 411, Government Code (Alert for Missing Adults), to rename the “Alert for Missing Adults” statewide alert program to the “Coordinated Law Enforcement Adult Rescue (CLEAR) Alert for Missing Adults.” HB 2677 does not make substantive legal changes to the current program.

Impact on TxDOT

Using TxDOT’s dynamic message signs (DMS) along state highway rights of way across the state, TxDOT, in coordination with the Texas Department of Public Safety (TxDPS), manages an established process for several statutorily required alert programs used to rapidly notify the public of specific missing person cases to prompt tips and leads to law enforcement. Advisories can be issued statewide or within any Texas geographical area. Only a law enforcement agency can make a request to activate the State Network. Each alert program contains criteria designed to ensure network integrity and prevent public desensitization.

TxDOT anticipates minimal operational impact from HB 2677 as it does not change how the alert system functions and only changes the name of one existing alert program.

Both the use of and content displayed on TxDOT’s dynamic message signs remain subject to federal laws and regulations, which set parameters on allowable displayed content. Non-compliance with federal laws

and regulations can result in the withholding of federal highway funds. Although the Coordinated Law Enforcement Adult Rescue (CLEAR) Alert for Missing Adults is not specifically permitted under federal law or regulations, TxDOT believes this type of alert program may qualify as allowable under general Federal Highway Administration (FHWA) and the Manual on Uniform Traffic Control Devices (MUTCD) dynamic message sign policies and guidance documents.

Because this program is not specifically allowed under current federal law or regulations and federal policies can change at any time, current state law, Section 411.470, Subchapter Q (as added by Chapter 227, HB 1769, Acts of the 86th Legislature, Regular Session, 2019), limits TxDOT’s participation and use of dynamic message signs. The section states that TxDOT is not required to use any existing system of dynamic message signs in the statewide CLEAR Alert system if doing so would result in TxDOT losing federal highway funding or other punitive actions from FHWA due to noncompliance with federal laws or regulations.

Because HB 2677 does not change the limitation language for the use of dynamic message signs in compliance with federal laws, regulations, or policies (Section 411.470, Government Code), TxDOT does not anticipate a fiscal impact.

Effective Date: May 15, 2021



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 3282

Author: Representative Terry Canales (D-Edinburg)
Sponsor: Senator Robert Nichols (R-Jacksonville)



Relating to the authority of a district engineer for the Texas Department of Transportation to temporarily lower the speed limit at a highway maintenance activity site.

Summary

The Texas Transportation Commission (commission) has statutory authority to lower speed limits in work zones for state highway construction projects. Under Section 545.353, Transportation Code, a “prima facie” speed limit, or posted speed limit, may be changed by the commission only after an engineering and traffic study by TxDOT. Changing the posted speed limit requires an official vote by the commission, who typically meet once monthly. Thus, the commission lacks the flexibility to quickly lower speed limits in state highway maintenance work zones daily or on a job-by-job basis when necessary.

House Bill 3282 grants authority to TxDOT’s district engineers to temporarily lower speed limits – without an engineering and traffic investigation study by TxDOT or commission vote – for short-term maintenance activities if the district engineer determines that the prima facie speed limit for all or part of a highway if maintenance poses safety concerns. The temporary speed limit may not exceed 45 days.

Section 545.3531, Transportation Code, as added by HB 3282, requires that when a TxDOT district engineer temporarily lowers a speed limit, TxDOT must:

1. Place and maintain temporary speed limit signs that conform to the Texas Manual on Uniform Traffic Control Devices (TMUTCD) at the maintenance activity site; and
2. Temporarily conceal all other signs that indicate an allowed speed limit higher than the temporary limit on the highway or part of a highway impacted by maintenance.

Once a district engineer determines the completion of a maintenance activity and the site is cleared of all equipment or the temporary speed limit expires after 45 days, HB 3282 requires that TxDOT remove all temporarily posted speed limit signs.

If the speed limit needs to exceed 45 days, the commission approval process in Section 545.353, Transportation Code, must be followed.



Impact on TxDOT

TxDOT does not anticipate a significant operational impact from HB 3282, though TxDOT will need to develop standard operating procedures and forms for district engineers to approve temporary speed limits in maintenance areas.

TxDOT anticipates HB 3282 will significantly reduce safety risks for TxDOT maintenance workers. On large-scale and long-term construction projects, TxDOT can often manage and plan for the additional time for an

engineering and traffic study and commission approval needed to lower work zone speed limits for the duration of a construction project. However, for short-term maintenance projects – which often require maintenance crews to work on various areas of a highway for shorter periods – the engineering and traffic investigation study and commission approval process can prove impractical and limit TxDOT’s ability to ensure the safety of its workers. HB 3282 allows for a swift and clear-cut path to temporarily lower work zone speed limits in these situations.

Effective Date: June 15, 2021



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

HB 3319

Author: Representative Morgan Meyer (R-Dallas)
Sponsor: Senator Kelly Hancock (R-North Richland Hills)



Relating to certain measures to promote compliance with and improve public awareness of the state's move over or slow down law concerning the passing of certain vehicles.

Summary

The state's "Move Over, Slow Down" law requires motorists to yield when approaching certain emergency and service vehicles. The law, as provided under Section 545.157, Transportation Code, requires motorists to move one lane over, if possible, when approaching the following vehicles:

1. Authorized emergency vehicles using visual signals or lights – for example, fire, police, or ambulance;
2. TxDOT vehicles or other highway construction or maintenance vehicles used for a highway project and using visual signals or lights;
3. Certain stationary tow trucks;

4. Utility service vehicles with visual signals; and
5. Stationary vehicles used to transport solid waste or recyclables while removing or transporting such waste from locations along a highway.

If moving over is not possible, drivers must reduce their speed by at least 20 miles below the posted speed limit. House Bill 3319 aims to promote and create public awareness around the "Move Over, Slow Down" law by adding two provisions to the current law. First, HB 3319 amends Chapter 1001, Education Code, to require the inclusion of educational information on the "Move Over, Slow Down" law pertaining to passing certain vehicles in driver education and driver safety course curriculums taught in Texas.



**◀ MOVE OVER ▶
OR SLOW DOWN**

IT'S THE LAW.

When you see a TxDOT vehicle with flashing lights on the side of the road, slow to 20 miles per hour below the posted speed limit or move over a lane. Move over or slow down, it's the law.

BE SAFE. DRIVE SMART.

TxDOT
www.txdot.gov

HB 3319 TRANSPORTATION SAFETY AND LAW ENFORCEMENT

The second part of HB 3319 amends Chapter 201, Transportation Code, to direct TxDOT to develop and implement a public awareness campaign that promotes compliance and bolsters public knowledge of the “Move Over, Slow Down” law. HB 3319 permits TxDOT to work with the Texas Department of Public Safety (TxDPS) and Texas Department of Motor Vehicles (TxDMV) to develop and implement the campaign. To implement the campaign, TxDOT may engage in online advocacy, issue public service announcements, distribute materials, and post signage on roadways that promote awareness of the “Move Over, Slow Down” law. HB 3319 also allows TxDOT to use gifts, grants, donations, matching funds, and any available funds to fund the campaign.

Impact on TxDOT

Currently, TxDOT’s “Be Safe. Drive Smart.” safety campaign incorporates public education and awareness efforts around the “Move Over, Slow Down” law. The campaign aims to reduce roadway fatalities and urges Texas drivers to observe safe driving practices, including slowing down or moving over for flashing lights, as well as law enforcement and emergency

vehicles, tow trucks, or TxDOT vehicles that may be stopped along the side of the road. TxDOT can leverage this existing campaign’s messaging platforms and strategies to develop and implement the “Move Over, Slow Down” campaign required by HB 3319.

Because TxDOT already includes elements of a “Move Over, Slow Down” campaign within the “Be Safe. Drive Smart.” initiative, TxDOT does not anticipate a fiscal impact from HB 3319. TxDOT may modify the current campaign and expand it to include new authorized public messaging avenues. If gifts, grants, donations, matching funds, or other funds become available, TxDOT may use them to expand the campaign. In 2021, \$73,490 was spent for public service announcements for the “Be Safe. Drive Smart.” campaign, which included the “Move Over, Slow Down” campaign.

Effective Date: September 1, 2021



TRANSPORTATION SAFETY AND LAW ENFORCEMENT

SB 1907

Author: Senator Cesar Blanco (D-El Paso)
Sponsor: Representative Armando Martinez (D-Weslaco)



Relating to a feasibility study on the colocation of federal and state motor vehicle inspection facilities at ports of entry.

Summary

As trade between Mexico and Texas amounts to hundreds of billions of dollars annually and only continues to increase, the efficiency of Texas-Mexico ports of entry proves crucial for Texas's economic outlook. Commercial vehicle traffic moving through ports of entry in Texas currently remains subject to separate federal and state inspections, resulting in extensive wait times and less efficient cross-border trade. California and Arizona both experienced success implementing colocation strategies for federal and state inspections at ports of entry.



Senate Bill 1907 proposes a feasibility study to help determine if Texas should implement an inspection process like other border states. SB 1907 requires the Texas A&M Transportation Institute (TTI), in consultation with TxDOT and the Texas Department of Public Safety (TxDPS), to conduct a feasibility study on erecting and maintaining a collocated federal and state inspection facility at each port of entry in the

state to inspect motor vehicles for compliance with federal and state commercial regulations.

The study requires providing a summary of the following:

1. Past efforts for colocation;
2. Any current efforts for colocation;
3. Current wait times at inspection facilities at each port of entry;
4. Current priorities and expectations of the TxDOT and TxDPS regarding motor vehicle inspections at ports of entry;
5. TxDOT and TxDPS's perspectives on the advantages and disadvantages of colocation; and
6. The Federal Motor Carrier Safety Administration's perspective.

The study must also include:

1. Potential scenarios for colocation at each port of entry and analyses of each scenario's advantages and disadvantages;
2. Potential economic benefits of collocating federal and state inspection facilities at each port of entry; and
3. Potential effects of collocating federal and state inspection facilities at each point of entry on wait times at inspection facilities.



SB 1907 TRANSPORTATION SAFETY AND LAW ENFORCEMENT

SB 1907 requires that TTI solicit the Federal Motor Carrier Safety Administration's perspective on the advantages and disadvantages of collocated federal and state inspection facilities. SB 1907 requires TTI to arrange receipt of the report with the Federal Motor Carrier Safety Administration. No later than December 1, 2022, TTI must report the results of the study and any recommendations to the Federal Motor Carrier Safety Administration. By December 1, 2022, TTI must also submit a report on study results and recommendations on legislative or other action to members of the legislature.

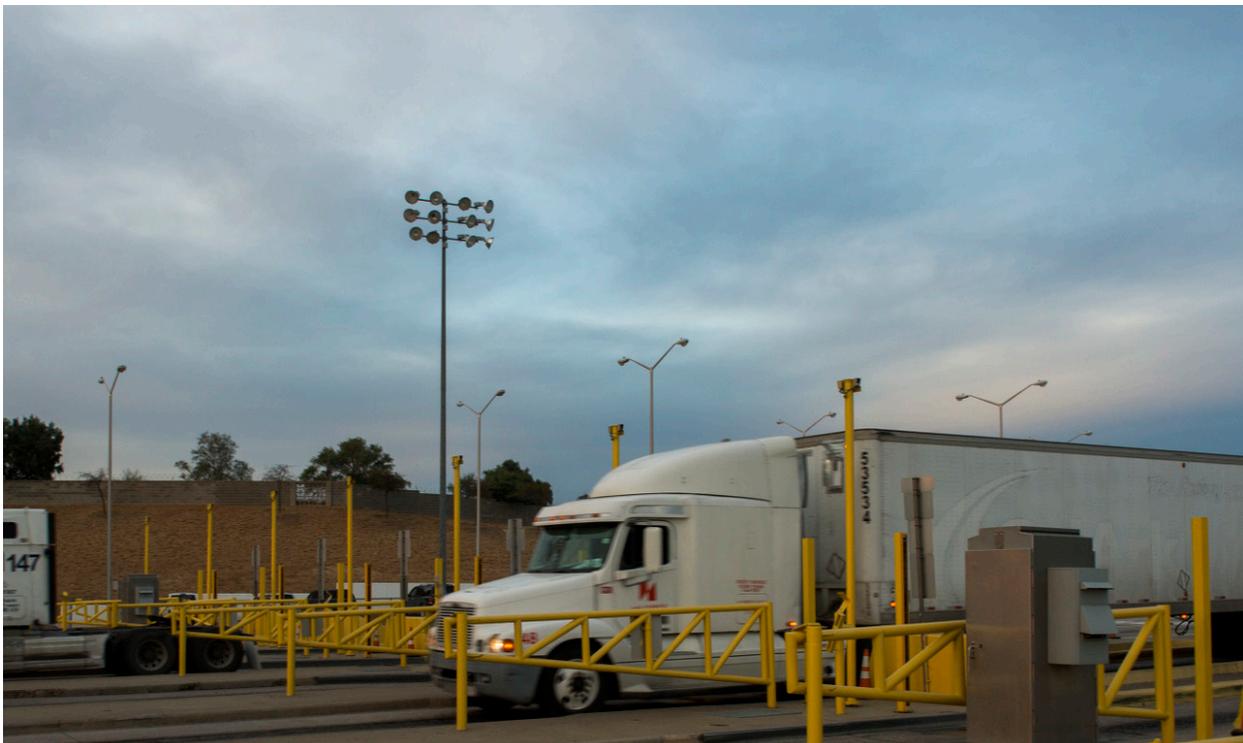
Finally, SB 1907 provides that TTI must implement the bill only if the legislature appropriates money specifically for that purpose. TTI is authorized but not required to implement the Act using other available appropriations if the legislature does not do so. Section 18.66, Article IX, SB 1 (General Appropriations Act), 87th Regular Session, 2021, provided TTI with an appropriation to conduct the study.

Impact on TxDOT

TxDOT is not involved in the motor vehicle inspections to determine compliance with federal and state commercial motor vehicle regulations. Rather, TxDOT's authority remains limited to traffic flow and safety on the state highway system, which leads to the ports of entry along the border. TxDOT typically does not own or control the highway facilities at the port of entry but may be involved in studying the traffic issues at the ports of entry and their impact on the state highway system. TxDOT will work with TTI and TxDPs to provide information and analyze the study results and conclusions to the extent the report requires such information.

SB 1907 will result in a minimal and undetermined fiscal impact to TxDOT as staff time and resources will be necessary to work with TTI.

Effective Date: September 1, 2021

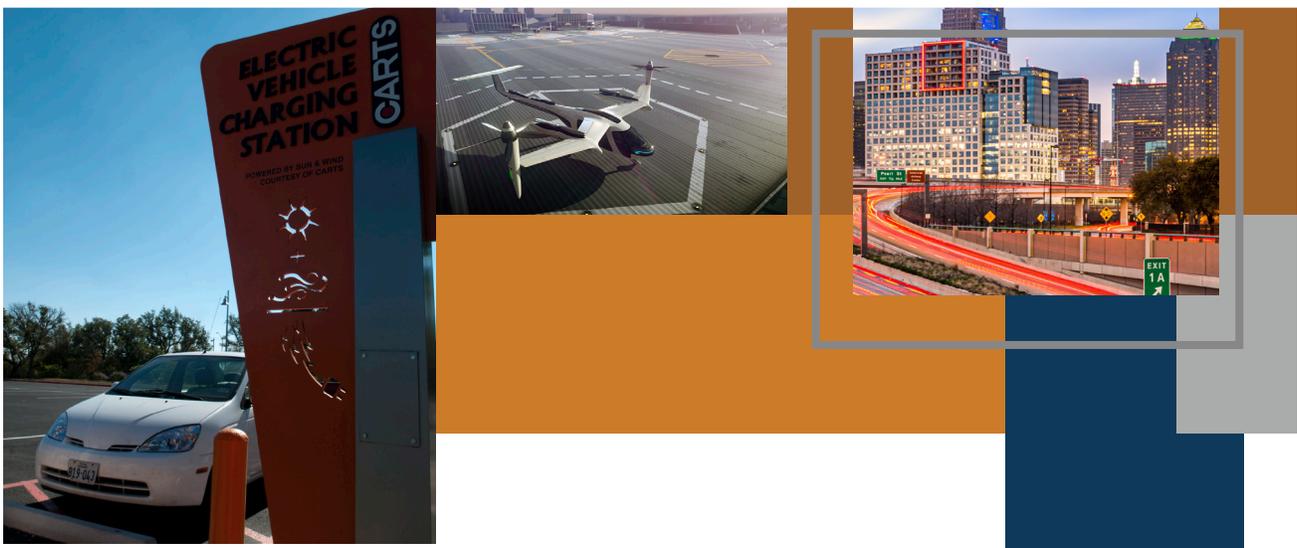




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TRANSPORTATION TECHNOLOGY



TRANSPORTATION TECHNOLOGY

HB 3026

Author: Representative Terry Canales (D-Edinburg)
Sponsor: Senator Carol Alvarado (D-Houston)



Relating to the operation and regulation of certain automated motor vehicles.

Summary

In 2017, the Texas Legislature passed Senate Bill 2205, which added to Subchapter J, Chapter 545, Transportation Code, to allow both testing and operation of autonomous vehicles (AV) on Texas public roads. Though SB 2205 (85R, 2017) created a regulatory framework aimed at balancing industry, technology, and public safety needs, some AV manufactures sought targeted revisions to existing law this session to deal with emerging differences between traditional human-operated vehicles and AVs and the application of vehicles safety standard laws.

House Bill 3026 amends sections of Chapters 545 and 547, Transportation Code, to exempt automated motor vehicles designed to be operated exclusively by the automated driving system from motor vehicle equipment laws and regulations for motor vehicles operated by a human driver. HB 3026 defines an “automated driving system” as hardware and software installed in a vehicle capable of all aspects of driving the vehicle and “any fallback maneuvers necessary to respond to a failure of the system” without the intervention of a human operator.

HB 3026 provides that if the law requires a vehicle safety inspection for the operation of an automated driving system-equipped AVs, then the applicable AV must automatically pass the vehicle inspection with respect to any equipment from which the vehicle is exempt under or not required under HB 3026.

Impact on TxDOT

TxDOT does not anticipate any operational or fiscal impact from HB 3026 as TxDOT neither owns, operates, or regulates these fully autonomous vehicles. Regulation of motor vehicle equipment and operation of AVs falls outside of TxDOT’s purview. Further, TxDOT is not responsible for any aspect of vehicle inspections as the Texas Department of Public Safety (TxDPS) oversees and regulates this process statewide.

Effective Date: September 1, 2021





SB 149

Author: Senator Beverly Powell (D-Burleson)
Sponsor: Representative Craig Goldman (D-Fort Worth)

Relating to the prosecution of the offense of operation of an unmanned aircraft over certain facilities.

Summary

Section 423.0045, Government Code, establishes a criminal offense for operating an unmanned aircraft, or drone, over correctional facilities, detention facilities, and “critical infrastructure facilities” – defined as an enclosed and clearly marked property designed to exclude trespassing.

Senate Bill 149 amends Section 423.0045(1-a), Government Code, by expanding the definition of a “critical infrastructure facility” over which unmanned aircraft vehicle operation is prohibited and considered a criminal offense. SB 149 aims to address recent safety and security concerns amongst airport and military personnel about the increased use of unmanned aircrafts, or drones, over these facilities. Although the Federal Aviation Administration (FAA) primarily oversees and regulates drone use and restricts their use above military installations, SB 149 aims to address ambiguities in federal regulations and clarify state law on legal drone operation to improve safety and security at Texas airports and military facilities.

SB 149 adds:

1. Public and private airports “depicted in any current aeronautical chart published by the Federal Aviation Administration (FAA);” and
2. Military installations owned or operated by a federal, state, or other governmental entity to the list of facilities considered “critical

infrastructure.” Other critical infrastructure facilities, as defined by Section 423.0045, Government Code, include certain oil and gas, electric power, chemical, water, transportation, manufacturing, environmental, and agricultural facilities and infrastructure.

Section 423.0045, Government Code, prohibits a person from intentionally or knowingly:

1. Operating an unmanned aircraft over these critical infrastructure facilities within a distance close enough to interfere with operations or cause a disturbance; or
2. Allowing an unmanned aircraft to make contact with the facility, including any person or object on the premises. Those in violation may receive a Class B misdemeanor for an initial offense and a Class A misdemeanor for any additional convictions of the same offense, or for illegally operating an unmanned aircraft over a sports venue (Section 423.0046, Government Code).

Section 423.0045, Government Code, exempts certain governmental entities or their contractors, law enforcement agencies or their contractors, and operators using an unmanned aircraft for a commercial reason (so long as FAA-compliant) from this prohibition. The bill also exempts owners or operators of the critical infrastructure facility, their contractors, persons provided written consent by the owner or operator, and the owner of property on which a facility is located.



SB 149 TRANSPORTATION TECHNOLOGY

The critical infrastructure designation – and any resultant offense for knowingly or intentionally operating unmanned aircraft over these facilities – applies only if a facility remains completely enclosed by a fence or other physical barrier(s) designed to prevent trespassing or intrusion.

Impact on TxDOT

SB 149 will not impact TxDOT as TxDOT does not regulate unmanned aircraft. Rather, the FAA maintains exclusive authority to regulate

airspace for all aircraft in the United States. Enforcement of the statute, with its expanded application to airports and military installations under SB 149, falls outside of TxDOT's authority. Additionally, TxDOT does not operate airports or military installations, therefore, the prohibition would not impact TxDOT facilities.

Effective Date: September 1, 2021





Relating to the creation of the urban air mobility advisory committee.

Summary

The Federal Aviation Administration (FAA) coined the term “Urban Air Mobility” as a future aviation transportation system that employs highly automated aircraft, such as drones, to transport passengers or cargo at relatively low altitudes in urban and suburban areas. The FAA’s vision for Urban Air Mobility involves an elaborate ecosystem and framework that reflects careful consideration of aircraft safety and technology, best practices for operation, airspace access, infrastructure development, and community engagement. In anticipation of plans to test this framework and technology in Texas, stakeholders have proposed studying any potential changes to state law needed to facilitate this industry’s development, safety, and regulatory system.

Senate Bill 763 establishes an Urban Air Mobility Advisory Committee (committee) appointed by the Texas Transportation Commission (commission) to assess current state law and determine potential changes that may enable Texas’s development of urban air mobility operations and infrastructure. Under SB 763, the commission must appoint advisory committee members representing the state’s diverse geographic regions; state and local law enforcement; the urban air mobility industry; transportation experts; commercial airport representatives; vertical takeoff and landing operators; local governments; and the public.

The committee must hold public hearings and receive comments via a public website (if appropriate). No later than September 1, 2022, the committee must also submit a report to

the commission and legislature on its findings and recommended changes for facilitating the development of urban air mobility operations and infrastructure. SB 763 establishes a committee sunset date of January 1, 2023.

Impact on TxDOT

TxDOT will be responsible for the administrative responsibilities and functions of the advisory committee, including facilitating meetings, gathering necessary information from external sources, and assisting in the report’s development. Because of the relatively short timeframe specified by SB 763 to study an ever-growing industry that affects federal, state, and local policymakers and stakeholders, facilitating the process may demand additional staff time and effort as well as outside support and expertise in urban air mobility.

Additionally, due to the study’s focus on unique and emerging subject matter that currently falls outside of TxDOT’s purview, TxDOT may need to contract with a specialized third-party to assist with conducting the study. Based on administrative and consultant contract costs to add a commission-appointed advisory committee and statutorily-required report, TxDOT anticipates a cost of approximately \$150,000 annually for the two years (\$300,000 total). Most anticipated costs are associated with conducting research and developing the report.

Effective Date: June 14, 2021



TRANSPORTATION TECHNOLOGY

SB 1308

Author: Senator Cesar Blanco (D–El Paso)
Sponsor: Representative Terry Canales (D–Edinburg)



Relating to a study on the impacts of using certain motor vehicle technologies.

Summary

According to the U.S. Department of Commerce, trade between Mexico and Texas totaled \$62.7 billion in 2019. While the ports of entry between Texas and Mexico remain crucial to the state's economy, increased traffic and multiple inspection points contribute to significant traffic delays at the border – posing negative consequences for both the United States and Texas economies.

Senate Bill 1308 requires TxDOT and the Texas Department of Public Safety (TxDPS), in consultation with the Texas A&M Transportation Institute (TTI) and appropriate federal agencies, to jointly study potential benefits of using automated vehicle (AV) driving systems, connected driving systems, and other emerging technologies to alleviate motor vehicle traffic congestion at Texas-Mexico ports of entry. SB 1308 also requires TxDOT, TxDPS, and TTI to study the effects of using automated driving systems, connected driving systems, and other emerging technologies on the transportation industry workforce and the broader Texas economy, including impacts on driver and public safety. The study must be completed and submitted to the governor, lieutenant governor, and the legislature no later than January 1, 2023.

Impact on TxDOT

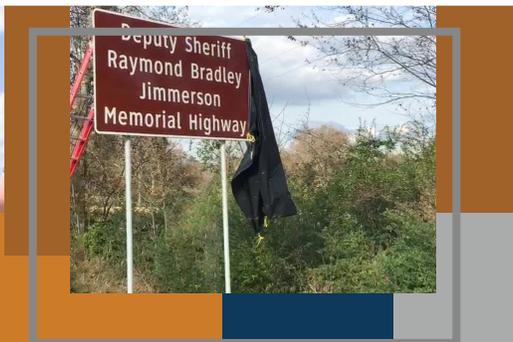
TxDOT anticipates requiring additional administrative support to administer and facilitate the study as well as outside expertise in connected driving systems and related emerging technologies. Based on administrative and support costs for other statutorily required reports, TxDOT estimates a cost of approximately \$200,000 to complete the study required by SB 1308. The bulk of the cost relates to conducting the proper research and studies to create the report.

Effective Date: June 18, 2021





MEMORIAL HIGHWAY NAMINGS AND DESIGNATIONS



MEMORIAL HIGHWAY NAMINGS AND DESIGNATIONS

The following highway designations passed as legislation during the 87th Regular Legislative Session (2021):

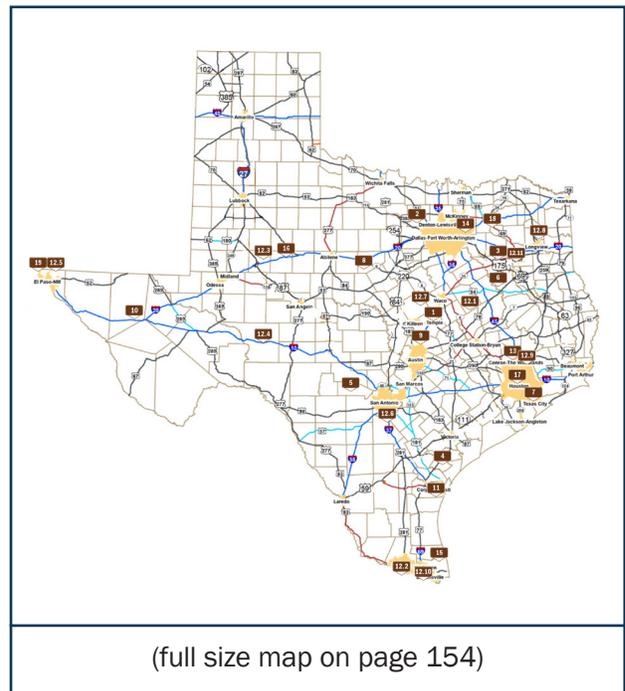
	Bill	Designation	Highway	Location	Bill Author/ Sponsor
1	HB 532	Deputy Sheriff John Rhoden Memorial Highway	State Loop 121	Bell County	Rep. Shine, Hugh Sen. Buckingham, Dawn
2	HB 1115	Sergeant Randy D. White Memorial Highway	Segment of SH 114	Wise County	Rep. King, Phil Sen. Springer, Drew
3	HB 1321	Deputy Sheriff Tony Ogburn and Deputy Sheriff Paul Habelt Memorial Highway	Segment of SH 198	Henderson County	Rep. Bell, Keith Sen. Nichols, Robert
4	HB 2167	Second Lieutenant Lloyd "Pete" Hughes Medal of Honor Memorial Highway	Segment of US 77	Refugio County	Rep. Morrison, Geanie Sen. Kolkhorst, Lois
5	HB 2431	Master Sergeant Rodney Lee Buentello Memorial Highway	Segment of SH 173	Bandera County	Rep. Murr, Andrew Sen. Buckingham, Dawn
6	HB 2521	Bascom W. Bentley III Memorial Loop	State Loop 256	Palestine	Rep. Harris, Cody Sen. Nichols, Robert
7	HB 2678	Sergeant Andrew James Creighton Memorial Highway	Segment of SH 3	Dickinson	Rep. Bonnen, Greg Sen. Taylor, Larry
8	HB 2807	Deputy Kenneth Maltby Memorial Highway	Segment of FM 570	Eastland County	Rep. Rogers, Glen Sen. Perry, Charles
9	HB 3067	Purple Heart Trail	Segment of SH 195	Williamson & Bell Counties	Rep. Buckley, Brad Sen. Buckingham, Dawn
10	HB 3324	U.S. Border Patrol Agent Rogelio Martinez Memorial Highway	Segment of IH 10	Culberson County	Rep. Morales, Eddie Jr. Sen. Blanco, Cesar
11	HB 3496	Peace Officers Memorial Highway	Segment of SH 358	Nueces County	Rep. Herrero, Abel Sen. Hinojosa, Chuy
12.1	HB 3512	Trooper Chad M. Walker Memorial Highway	Segment of SH 164	Limestone County	Rep. Canales, Terry Sen. Schwertner, Charles
12.2	HB 3512	Trooper Moises Sanchez Memorial Highway	Segment of IH 69C	Hidalgo County	Rep. Canales, Terry Sen. Schwertner, Charles
12.3	HB 3512	Trooper Troy Hogue Memorial Highway	Segment of IH 20	Howard County	Rep. Canales, Terry Sen. Schwertner, Charles
12.4	HB 3512	Corporal Willie Dale Taylor Memorial Highway	Segment of IH 10	Crockett County	Rep. Canales, Terry Sen. Schwertner, Charles
12.5	HB 3512	Trooper Javier Arana Jr. Memorial Highway	State Loop 375	El Paso County	Rep. Canales, Terry Sen. Schwertner, Charles
12.6	HB 3512	Sergeant William Kuhnle Jr. and Trooper Ralph G. Zerda Memorial Highway	Segment of US 90	Bexar County	Rep. Canales, Terry Sen. Schwertner, Charles
12.7	HB 3512	Trooper Richard Dale Cottle Memorial Highway	Segment of IH 35	McLennan County	Rep. Canales, Terry Sen. Schwertner, Charles
12.8	HB 3512	Trooper Timothy Wade McDermott Memorial Highway	Segment of US 80	Gregg & Harrison Counties	Rep. Canales, Terry Sen. Schwertner, Charles



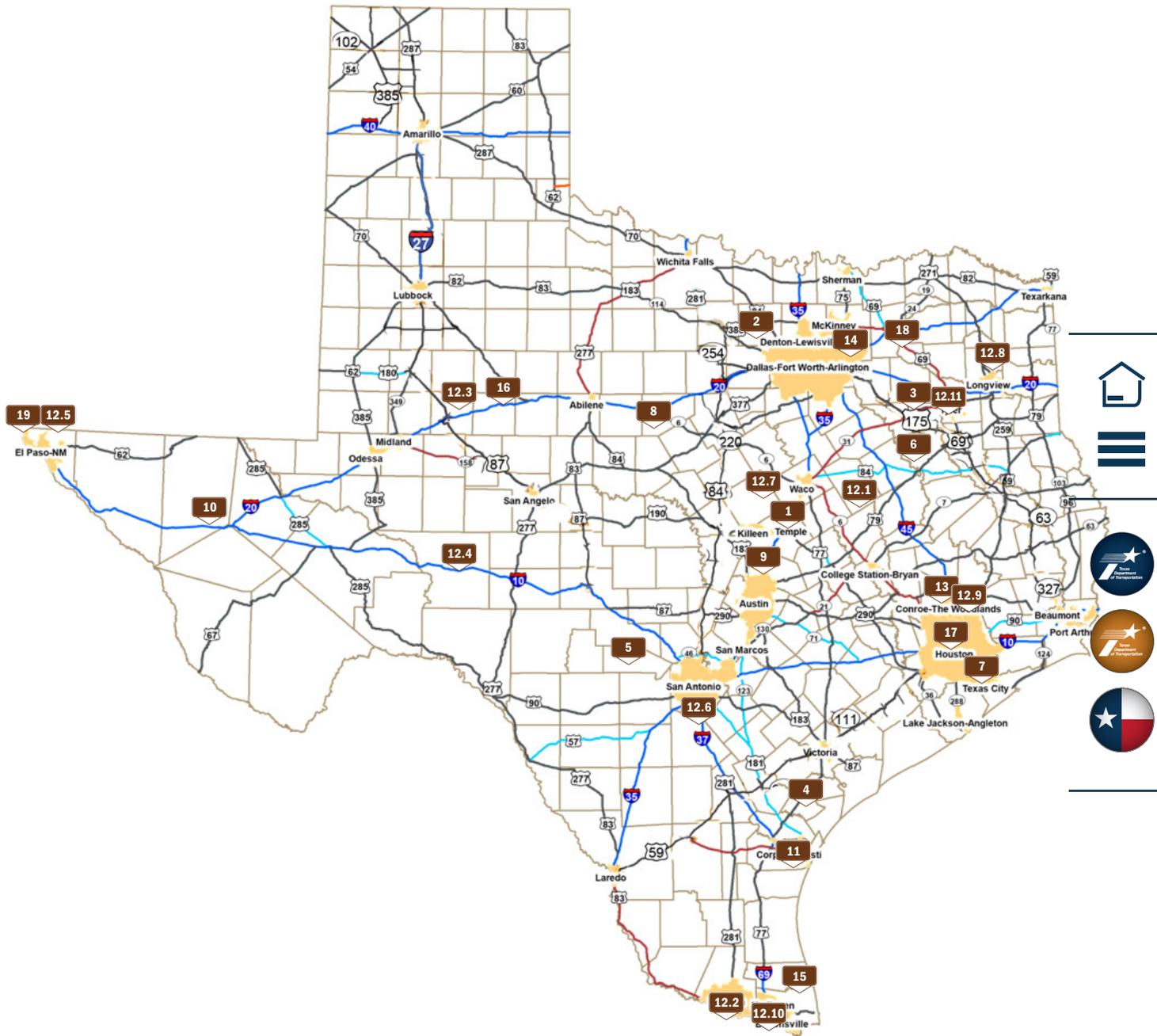
MEMORIAL HIGHWAY NAMINGS AND DESIGNATIONS

	Bill	Designation	Highway	Location	Bill Author/ Sponsor
12.9	HB 3512	Trooper Mark Jeffrey Phebus Memorial Highway	Segment of FM 1774	Montgomery County	Rep. Canales, Terry Sen. Schwertner, Charles
12.10	HB 3512	Trooper David Irvine Rucker Memorial Highway	Segment of SH 100	Cameron County	Rep. Canales, Terry Sen. Schwertner, Charles
12.11	HB 3512	Trooper Daniel Higdon Memorial Highway	Segment of IH 20	Smith County	Rep. Canales, Terry Sen. Schwertner, Charles
13	HB 3630	Sergeant Stacey Baumgartner Memorial Highway	Segment of SH 242	Montgomery County	Rep. Metcalf, Will Sen. Creighton, Brandon
14	SB 730	Commissioner David Magness Highway	Segment of SH 66	Rockwall County	Sen. Hall, Bob Rep. Holland, Justin
15	SB 787	Bobby Morrow Memorial Highway	Segment of FM 1479	Cameron County	Sen. Lucio, Eddie Jr. Rep. Lucio III, Eddie
16	SB 1124	James "Jim" Baum Memorial Highway	Segment of IH 20-J	Colorado City	Sen. Perry, Charles Rep. Burrows, Dustin
17	SB 1185	Vanessa Guillen Memorial Highway	Segment of SH 3	Harris County	Sen. Alvarado, Carol Rep. Morales, Christina
18	SB 1208	Staff Sergeant Shawn Henry McNabb Memorial Bridge	Segment of SH 276	Hunt & Rains Counties	Sen. Hall, Bob Rep. Slaton, Bryan
19	SB 1704	Korean War Veterans Memorial Highway	Segment of US 54	El Paso County	Sen. Blanco, Cesar Rep. Moody, Joe

TxDOT is prohibited from officially naming any portion of the state highway system with anything other than the regular highway number. However, portions of the state highway system may be designated as a named or memorial highway by state legislation or local government ordinance or resolution. When state or local law designates a portion of the state highway system, costs for the signs and installation are required by state law to be paid in full by grant or donation to the state highway fund (Section 225.021, Transportation Code). For more information on Memorial Highway Namings and Designations please visit TxDOT's 2021-2022 Educational Series at txdot.gov and search "Memorial & Specialized Highway Signs."



MEMORIAL HIGHWAY NAMINGS AND DESIGNATIONS



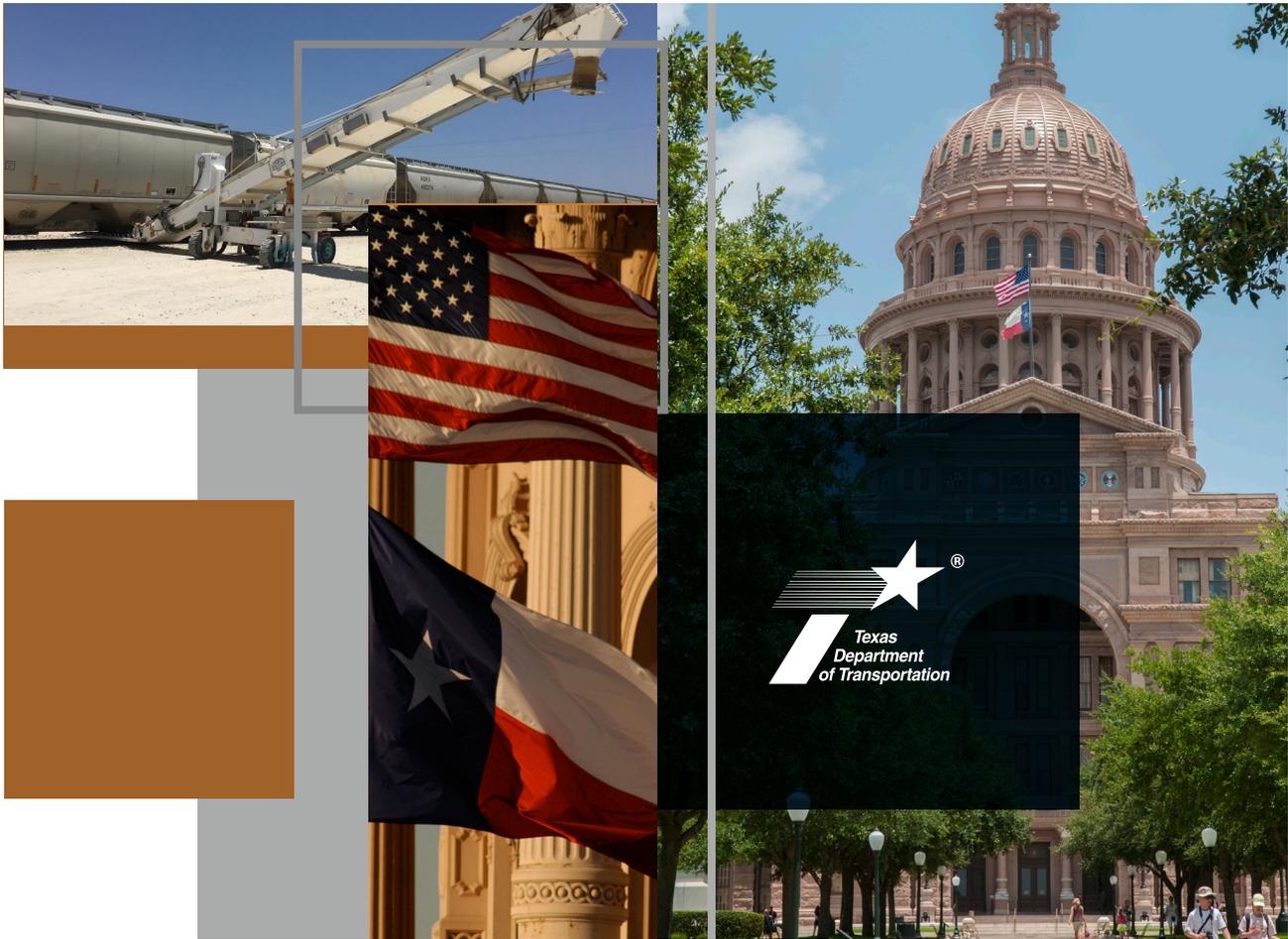
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SUPPLEMENTAL SECTION

87TH LEGISLATURE (2021), THIRD CALLED SPECIAL SESSION



87TH LEGISLATURE (2021), THIRD CALLED SPECIAL SESSION

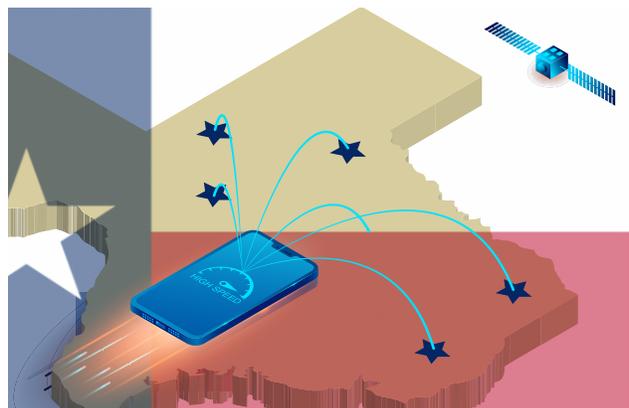
On September 20, 2021, members of the Texas Legislature convened for a third called special session of the 87th Legislature, 2021, as called by Governor Greg Abbott.¹ While the legislature was tasked with considering and acting upon eight key issue areas by the governor, the only item that directly impacted TxDOT was:

- Legislation providing appropriations from the American Rescue Plan Act of 2021 (ARPA), Pub. L. No. 117-2.

The federal American Rescue Plan Act, signed into law by President Joe Biden in March 2021, established the Coronavirus State and Local Fiscal Recovery Fund to address the negative economic impacts of the pandemic and promote a strong, equitable recovery. Through the State and Local Fiscal Recovery Fund, the State of Texas directly received an allocation of around \$15.8 billion in federal funds, some of which were considered for appropriation during the third called special session.² Federal guidance enables broad and flexible use of these funds to:

- Support public health efforts;
- Recover from and address economic impacts caused by the pandemic;
- Replace lost public sector revenue;
- Provide premium pay for essential workers; and
- Invest in specific infrastructure, including water, sewer, and broadband.

Senate Bill 8 was the legislature's appropriations bill for a portion of these funds during the third special session. The following summary provides an overview of the legislation's impact on TxDOT.



1. Legislators did not pass any bills impacting TxDOT nor were any items on the call relevant to TxDOT during the two previously called sessions.

2. In total, the state received around \$39.6 billion in American Rescue Plan Act funds, directed to the state, cities, counties, and other specific uses such as health, education, housing, and disaster relief.

SUPPLEMENTAL SECTION

87TH LEGISLATURE (2021), THIRD CALLED SPECIAL SESSION

SB 8

Author: Senator Jane Nelson (R-Flower Mound)

Sponsor: Representative Greg Bonnen (R-Friendswood)



Relating to making supplemental appropriations and giving direction regarding appropriations.

Summary

Senate Bill 8 serves as a supplemental appropriations bill to those funds allocated during the regular legislative session (87th Legislature, Regular Session, 2021) using federal American Rescue Plan Act (the Act) provided to the State of Texas. Through the Act's Coronavirus State and Local Fiscal Recovery Fund, the funding is designed to assist states in addressing the negative economic impacts of the COVID-19 pandemic and promote a strong, equitable recovery.

SB 8 appropriates federal relief funds to various state agencies and uses of which \$15.5 million was allocated to TxDOT for the Presidio Customs Inspections Station on the South Orient Rail Line. SB 8 also appropriates more than \$500 million for statewide broadband infrastructure, including \$75 million for the Texas broadband pole replacement program.

Impact on TxDOT

South Orient Rail Line

The South Orient Rail Line extends approximately 391 miles from San Angelo Junction in Coleman County through San Angelo and the Permian Basin to Presidio at the Texas-Mexico border. In 2001, under the direction of the Texas Legislature, TxDOT purchased the rail line to prevent its abandonment. TxDOT became the railroad's permanent owner and delegated Texas Pacifico – a subsidiary of Grupo México which owns Ferromex, the largest railroad in Mexico – as the line's operator through a 40-

year lease. To date, more than \$130 million has been invested in rehabilitating the South Orient Rail Line, a majority of which has been from Texas Pacifico and federal sources. A multi-year rehabilitation program of the rail line commenced in 2009 with initial construction beginning at the north end in Coleman County. Most of the line has been rebuilt or upgraded, permitting heavy haul trains to operate at 40 miles per hour through much of the eastern section of the line.

The shared objective of TxDOT and Texas Pacifico has been to reestablish international commercial rail service to facilitate and expand the line's transportation of key goods and materials throughout the state, from as far south as the Mexican Port of Topolobampo (located in the Gulf of California in Sinaloa, Mexico). The final project element needed before international rail service can resume is a Freight Rail Inspection Facility near the Presidio-Ojinaga port of entry. According to U.S. Customs and Border Protection rules, a project sponsor – in this case, TxDOT – must construct a permanent facility for inspection and processing of trains crossing the Texas-Mexico border. U.S. Customs and Border Protection prohibits freight from crossing the border until this facility is operational. Through extensive discussions about the inspection facility beginning in 2017, TxDOT and U.S. Customs and Border Protection determined that TxDOT is responsible for designing and building the estimated \$33 million in facilities, including modern Non-Intrusive Inspection equipment.



SB 8 SUPPLEMENTAL SECTION

87TH LEGISLATURE (2021), THIRD CALLED SPECIAL SESSION

SB 8 provides \$15.5 million to TxDOT to fully fund the customs inspection facility in Presidio on the SORL, to be used during the two years beginning on the effective date of the legislation (November 8, 2021).

Before the passage of SB 8, TxDOT was unable to identify funding for all elements of the inspection facility. In 2021, TxDOT secured a commitment for approximately \$17.5 million from the Federal Highway Administration (FHWA) through the National Highway Freight Program (NHFP) to cover eligible cost categories associated with the project, including buildings, demolition, office equipment, parking, roads, site work, and utilities. However, the project's remaining \$15.5 million for several U.S. Customs and Border Protection-required elements, including Non-Intrusive Inspection equipment, security systems, and related contingencies, do not qualify for the National Highway Freight Program funding.

TxDOT anticipates an operational and fiscal impact from SB 8 as it fills a critical funding gap, allowing the inspection facility project to move towards completion, and eventually enabling international freight rail movement once again. SB 8 will require engagement, planning, staffing, and administrative time from TxDOT to design the project, undertake necessary environmental and design clearances, procure inspection equipment, construct the facility, and ensure effective ongoing operations. Further, SB 8 will require TxDOT to coordinate with federal partners, including U.S. Customs and Border Protection and the Federal Highway Administration, as well as local and private entities on funding, equipment procurement, construction, and long-term operations of the inspection facility.

TxDOT anticipates a minimal fiscal impact to its ongoing operations. Once the border inspection facility is complete and functioning, Texas Pacifico will assume ongoing operational costs, resulting in minimal to no fiscal impact to TxDOT on a long-term basis. Additionally, as is current practice, rail safety inspectors will handle any needed rail inspections along the rail line through TxDOT's Rail Safety Program. Currently, the Rail Safety Program is sufficiently staffed and funded to cover anticipated new business associated with opening the international crossing on the South Orient Rail Line.

Broadband Infrastructure

SB 8 also provides funding to the Texas Comptroller of Public Accounts' Broadband Development Office for statewide broadband infrastructure development – including \$75 million dedicated to the broadband pole replacement program, established through legislation passed during the regular session to partially reimburse broadband for pole replacement costs in underserved areas.

Given TxDOT's current involvement in statewide broadband development – for example, opportunities that allow broadband providers to access TxDOT right of way (refer to the summary for SB 507, 87R) – TxDOT plans to coordinate and collaborate with the Broadband Development Office as programs funded through SB 8 are established. Currently, TxDOT does not anticipate a direct fiscal impact from this portion of the legislation.

Effective Date: November 8, 2021