

TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 201. GENERAL PROVISIONS AND ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. DEFINITIONS. (a) In this title:

(1) "Commission" means the Texas Transportation Commission.

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

(3) "Director" means the executive director of the Texas Department of Transportation.

(b) In this subtitle, "toll project" means one or more tolled lanes of a highway or an entire toll highway constructed, maintained, or operated as a part of the state highway system and any improvement, extension, or expansion to the highway, including:

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

(2) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll booth, toll plaza, service road, ramp, or service center;

(3) an administration, storage, or other building, operations center, maintenance or other facility, equipment, or system the department considers necessary to operate the project;

(4) property rights, easements, and interests the department acquires to construct, maintain, or operate the project;

(5) a parking area or structure, rest stop, park, and any other improvement or amenity the department considers necessary, useful, or beneficial for the operation and maintenance of the project; and

(6) a nontolled facility that is appurtenant to and necessary for the efficient operation and maintenance of the project, including a connector, service road, access road, ramp, interchange, bridge, or tunnel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.01, eff. June 14, 2005.

Sec. 201.002. OPERATING EXPENSES; USE OF STATE HIGHWAY FUND. (a) The legislature has the responsibility to:

(1) appropriate money for the maintenance and operational expenses of the department;

(2) determine the number of employees of the department; and

(3) set the amount of compensation of all employees of the department, including the director, and the members of the commission.

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 3.01, eff. September 1, 2007.

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

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

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

(d) A reference in law to the commissioner of transportation means the chair of the commission.

(e) A reference in law to a member of the commission means a commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2003, 78th Leg., ch. 140, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. TEXAS TRANSPORTATION COMMISSION

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

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area.

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

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

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

(2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

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

(4) is registered, certified, or licensed by the department.

(e) Repealed by Acts 1997, 75th Leg., ch. 1171, Sec. 1.49, eff. Sept. 1, 1997.

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

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

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

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.02, 1.49, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 140, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.052. TERMS. Members of the commission serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 3, eff. Sept. 1, 2003.

Sec. 201.053. CHAIR OF THE COMMISSION. (a) The governor periodically shall designate one commissioner as the chair of the commission, who shall serve as presiding officer of the commission.

(b) The chair shall:

(1) preside over commission meetings, make rulings on motions and points of order, and determine the order of business;

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

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

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

(5) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(6) periodically review the department's organizational structure and submit recommendations for structural

changes to the governor, the commission, and the Legislative Budget Board;

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

(8) create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to the commission as a whole;

(9) appoint a commissioner to act in the chair's absence; and

(10) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 4, eff. Sept. 1, 2003.

Sec. 201.054. COMMISSION MEETINGS. The commission shall hold regular meetings at least once a month and special meetings at the call of the chair. Commissioners shall attend the meetings of the commission. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each commissioner at least seven days before the meeting.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 5, eff. Sept. 1, 2003.

Sec. 201.0545. RECOMMENDATIONS TO LEGISLATURE. (a) The commission shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) On behalf of the commission, the chair shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the commission and relating to the operation of the department.

Added by Acts 2003, 78th Leg., ch. 140, Sec. 6, eff. Sept. 1, 2003.

Sec. 201.056. COMPENSATION. A member of the commission is entitled to compensation as provided by the General Appropriations Act. If compensation for members is not provided by that Act, each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

(2) violates a prohibition provided by Section 201.051;

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

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

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

(c) If the director knows that a potential ground for removal exists, the director shall notify the chair of the commission of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another commissioner, who shall notify the governor and the attorney general that a potential ground for removal exists.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.03, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 140, Sec. 7, eff. Sept. 1, 2003.

Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the commission, as often as necessary, information concerning the members' qualifications for office under Subchapter B and their responsibilities under applicable laws relating to standards of

conduct for state officers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.059. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

- (1) this subchapter;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
  - (A) open meetings law, Chapter 551, Government Code;
  - (B) open records law, Chapter 552, Government Code; and
  - (C) administrative procedure law, Chapter 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission. Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.04, eff. Sept. 1, 1997.

#### SUBCHAPTER C. COMMISSION'S POWERS AND DUTIES

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

- (1) adopt rules for the operation of the department;
- (2) maintain a record of all proceedings and official orders; and
- (3) keep on file copies of all road plans, specifications, and estimates prepared by the department or under its direction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.102. SEPARATION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the director and staff of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.05, eff. Sept. 1, 1997.

Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS.

(a) The commission shall plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

(b) The commission shall designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of the system. The commission may remove a segment of the state highway system that it determines is not needed for the system. In planning and making policies, the commission shall consider, for incorporation into the state highway system, turnpikes that other governmental or private entities are authorized to construct.

(c) The commission biennially shall submit a report of its work to the governor and the legislature. The report must include the recommendations of the commission and of the director.

(d) The director, under the direction and with the approval of the commission, shall prepare a comprehensive plan providing a system of state highways.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 668, Sec. 1, eff. June 20, 2003.

Sec. 201.104. DESIGNATION OF FARM-TO-MARKET ROADS.

(a) The commission may designate any county road as a farm-to-market road for the purposes of construction, reconstruction, and maintenance only, if the commissioners court of the county in which the county road is located by order entered in

its minutes waives any rights the county may have for state participation in any indebtedness incurred by the county in the construction of the road.

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

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

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

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

(f) The department is exempt from any law purporting to require the department to conform the provision of its services to service regions other than the districts established under this section.

(g) The commission may require by rule that any product or material that is approved for use in any one district may be approved for use by any other district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.35, eff. Sept. 1, 1997.

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the department and a private entity that offers the best value to the state may enter into an agreement for the:

(1) acquisition, design, construction, or renovation, including site development, of a building or other facility required to support department operations located on real property owned or acquired by the department; or

(2) acquisition from the private entity of real property, a building, or other facility required to support department operations that is constructed on the real property in exchange for department-owned real property, including any improvements.

(b) A project described by this section that is not wholly paid for by an exchange of department-owned real property may be financed in accordance with Section 1232.111, Government Code.

(c) Notwithstanding Section 202.024, the commission may authorize the executive director to execute a deed exchanging department-owned real property under Subsection (a)(2).

(d) The commission shall notify the Bond Review Board and Texas Public Finance Authority of the proposed transaction not less than 45 days before the date the commission signs an agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2).

(e) An agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2) that has an appraised value greater than the appraised value of real property and improvements acquired by the department under the agreement must require the private entity to compensate the

department for the difference. Any compensation paid by a private entity must be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095, Government Code. Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 19.01, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.02, eff. June 14, 2005.

Sec. 201.106. SETTLEMENT OF CLAIMS; PURCHASE OF LIABILITY INSURANCE. (a) This section applies to a claim against the department arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the roads, highways, rest areas, or other public grounds in this state.

(b) The department may settle a claim described by Subsection (a) if:

(1) the department may be liable under Chapter 101, Civil Practice and Remedies Code;

(2) the director determines that a settlement is in the best interest of the department; and

(3) the department's liability under the terms of the settlement is less than \$10,000.

(c) Section 101.105, Civil Practice and Remedies Code, does not apply to a settlement under this section.

(d) Settlement of a claim under this section bars any action involving the same subject matter by the claimant against the department employees whose act or omission gave rise to the claim.

(e) The department may insure the officers and employees of the department for liability arising from a claim described by Subsection (a). Coverage under this subsection must be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. The form of the policy must be approved by the commissioner of insurance, and the coverage must be approved by the attorney general.

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

(g) In this section, "equipment" includes an automobile, motor truck, trailer, aircraft, motor grader, roller, tractor, tractor power mower, and other power equipment.

(h) to (j) Deleted by Acts 1993, 73rd Leg., ch. 634, Sec. 7, eff. Sept. 1, 1993.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 59, Sec. 1, eff. May 15, 2003.

Sec. 201.107. FINANCIAL REPORTS OF THE DEPARTMENT.

(a) The commission shall prepare a quarterly statement containing an itemized list of all money received by the department and the source of the money and of all money paid by the department and the purpose of the payment. The statement shall be filed in the records of the department, and a copy shall be sent to the governor.

(b) The commission shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the department during the preceding fiscal year. The report must comply with each reporting requirement applicable to financial reporting provided by the General Appropriations Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.06, eff. Sept. 1, 1997.

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

(b) The auditor shall report directly to the commission on the conduct of department affairs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

(1) enhance existing sources of revenue; and

(2) create alternate sources of revenue.

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

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

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

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

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

(5) contracting for an independent audit of the department's management and business operations in 2007 and each 12th year after 2007;

(6) developing a cost-benefit analysis between the use of local materials previously incorporated into roadways versus use of materials blended or transported from other sources; and

(7) increasing private investment in the transportation infrastructure, including the acquisition of causeways, bridges, tunnels, turnpikes, or other transportation facilities, in the border region, including the counties of Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.32, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1395, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1413, Sec. 1, eff. June 16, 2001.

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

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

(2) establish respective responsibilities for the improvement.

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

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

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

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

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

(c) In this section, "improvement" includes construction, reconstruction, and maintenance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

(b) The commission shall adopt rules necessary to determine the qualifications of engineers who apply for highway construction work.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.112. CONTRACT CLAIMS. (a) The commission may by rule establish procedures for the informal resolution of a claim arising out of a contract described by:

(1) Section 22.018;

(2) Chapter 223;

(3) Chapter 361;

(4) Section 391.091; or

(5) Chapter 2254, Government Code.

(b) If a person with a claim is dissatisfied with the department's resolution of the claim under the procedures authorized under Subsection (a), the person may request a formal administrative hearing to resolve the claim under Chapter 2001, Government Code.

(c) An administrative law judge's proposal for decision rendered under Chapter 2001, Government Code, shall be submitted to the director for adoption. Notwithstanding any law to the contrary, the director may change a finding of fact or conclusion of law made by the administrative law judge or may vacate or modify an order issued by the administrative law judge. The director shall

provide a written statement containing the reason and legal basis for a change made under this subsection.

(d) The director's final order is subject to judicial review under Chapter 2001, Government Code, under the substantial evidence rule.

(e) This section does not waive state immunity from liability.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.36(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 713, Sec. 3, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728, Sec. 20.001, eff. September 1, 2005.

Sec. 201.113. AGREEMENTS WITH REGIONAL TOLLWAY AUTHORITIES. (a) Notwithstanding Sections 221.003 and 224.031, the commission and a regional tollway authority governed by Chapter 366 may enter into an agreement for the improvement by a regional tollway authority of portions of the state highway system.

(b) In this section, "improvement" means construction, reconstruction, maintenance, and the making of a necessary plan or survey before beginning construction, reconstruction, or maintenance and includes a project or activity appurtenant to a state highway, including drainage facilities, surveying, traffic counts, driveways, landscaping, lights, or guardrails.

(c) An agreement entered into under this section may provide that an improvement of a portion of the state highway system by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function.

Added by Acts 1999, 76th Leg., ch. 576, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.03, eff. June 14, 2005.

Sec. 201.114. BORDER TRADE ADVISORY COMMITTEE. (a) In this section, "coordinator" means the border commerce coordinator designated under Section 772.010, Government Code.

(b) The coordinator shall serve on the Border Trade Advisory Committee as presiding officer. The commission shall appoint the other members of the committee, which to the extent practicable must include:

(1) the presiding officers, or persons designated by the presiding officers, of the policy boards of metropolitan planning organizations wholly or partly in the department's Pharr, Laredo, Odessa, or El Paso transportation district;

(2) the person serving, or a person designated by the person serving, in the capacity of executive director of each entity governing a port of entry in this state; and

(3) a representative each from at least two institutes or centers operated by a university in this state that conduct continuing research on transportation or trade issues.

(c) The commission shall establish the Border Trade Advisory Committee to define and develop a strategy and make recommendations to the commission and governor for addressing the highest priority border trade transportation challenges. In determining action to be taken on the recommendations, the commission shall consider the importance of trade with the United Mexican States, potential sources of infrastructure funding at border ports, and the value of trade activity in the department's districts adjacent to the border with the United Mexican States.

(d) The commission may adopt rules governing the Border Trade Advisory Committee.

(e) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the Border Trade Advisory Committee.

Added by Acts 2001, 77th Leg., ch. 912, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 791, Sec. 1, eff. June 17, 2005.

Sec. 201.115. BORROWING MONEY. (a) The commission may authorize the department to borrow money from any source to carry out the functions of the department.

(b) A loan under this section may be in the form of an agreement, note, contract, or other form as determined by the

commission and may contain any provisions the commission considers appropriate, except:

(1) the term of the loan may not exceed two years;

(2) the amount of the loan, combined with any amounts outstanding on other loans under this section, may not exceed an amount that is two times the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan; and

(3) the loan may not create general obligation of the state and is payable only as authorized by legislative appropriation.

(c) If the department borrows money by the issuance of notes, the notes shall be considered a state security for purposes of Chapter 1231, Government Code.

(d) Notwithstanding Section 222.001, money in the state highway fund may be used to repay a loan under this section, if appropriated by the legislature for that purpose.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 1, eff. Sept. 13, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.04, eff. June 14, 2005.

Sec. 201.116. REPORT TO SECRETARY OF STATE. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) To assist the secretary of state in preparing the report required under Section 405.021, Government Code, the commission on a quarterly basis shall provide a report to the secretary of state detailing any projects funded by the department that serve colonias by providing paved roads or other assistance.

(c) The report must include:

(1) a description of any relevant projects;

(2) the location of each project;

(3) the number of colonia residents served by each project;

(4) the exact amount spent or the anticipated amount to be spent on each colonia served by each project;

(5) a statement of whether each project is completed and, if not, the expected completion date of the project; and

(6) any other information, as determined appropriate by the secretary of state.

(d) The commission shall require an applicant for funds administered by the commission to submit to the commission a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the commission may contact the secretary of state or the secretary of state's representative to obtain the classification number. On request of the commission, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia. Added by Acts 2005, 79th Leg., Ch. 828, Sec. 6, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341, Sec. 17, eff. June 15, 2007.

#### SUBCHAPTER D. TEXAS DEPARTMENT OF TRANSPORTATION

Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commission governs the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

(1) aviation;

(2) highways and roads;

(3) public transportation; and

(4) motor vehicle titles and registration.

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

construction and maintenance.

(c) In appointing a person to supervise a function previously performed by the former State Department of Highways and Public Transportation, Texas Department of Aviation, or Texas Turnpike Authority, preference shall be given to a person employed in a similar position in that former agency.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.203. DEPARTMENT OFFICE. The department shall have its statewide headquarters office in Austin.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.07, eff. Sept. 1, 1997.

Sec. 201.2035. ACCOUNTING STRUCTURE. The department shall create and maintain an accounting structure for roadway and warehouse inventory of the department. The accounting structure must provide for the accounting for lost or destroyed materials.  
Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.37, eff. Sept. 1, 1997.

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2009.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.01, eff. Sept. 1, 1997.

Sec. 201.205. PROTECTION AND USE OF INTELLECTUAL PROPERTY AND PUBLICATIONS. (a) The department may:

(1) apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a patent, copyright, trademark, or other evidence of protection or exclusivity issued in or for an idea, publication, or other original innovation fixed in a tangible medium, including:

(A) a literary work;  
(B) a logo;  
(C) a service mark;  
(D) a study;  
(E) a map or planning document;  
(F) an engineering, architectural, or graphic design;

(G) a manual;  
(H) automated systems software;  
(I) an audiovisual work;  
(J) a sound recording; or  
(K) travel literature, including a pamphlet, bulletin, book, map, periodical, or electronic information published or produced under Section 3, Chapter 193, Acts of the 56th Legislature, Regular Session, 1959 (Article 6144e, Vernon's Texas Civil Statutes);

(2) enter into a nonexclusive license agreement with a third party for the receipt of a fee, royalty, or other thing of monetary or nonmonetary value;

(3) waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed if the department determines that the waiver will:

(A) further the goals and missions of the department; and

(B) result in a net benefit to the state; and  
(4) adopt and enforce rules necessary to implement this section.

(b) Money paid to the department under this section shall be deposited to the credit of the state highway fund.  
Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.07(a), eff. Sept. 1, 1997.

Sec. 201.206. DONATIONS AND CONTRIBUTIONS. For the purpose of carrying out its functions and duties, the department may accept, from any source, a donation or contribution in any form, including realty, personalty, money, materials, or services.  
Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.08, eff. Sept. 1, 1997.

Sec. 201.207. CROSS-BORDER TRANSPORTATION AND INFRASTRUCTURE MEETINGS. (a) The department shall initiate efforts to meet at least quarterly with the department's counterparts in those states of the United Mexican States that border this state to discuss issues relating to truck inspections and transportation and infrastructure involved in truck inspections and transportation.

(b) To assist the department in carrying out this section,

the department shall contact the border commerce coordinator designated under Section 772.010, Government Code, and the mayors of each municipality in this state in which a port of entry for land traffic is located.

(c) At least one department representative participating in a meeting under Subsection (a) must be proficient in Spanish.

(d) The department, in conjunction with the border commerce coordinator, shall develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade by mitigating delays in border crossing inspections for northbound truck traffic. In developing the plans, the department and coordinator shall consider information obtained from any meetings under Subsection (a). The department shall update the plan biennially and submit the updated plan to the lieutenant governor, the speaker of the house of representatives, and each other member of the legislature on or before December 1 of each even-numbered year.

Added by Acts 2001, 77th Leg., ch. 915, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 309, Sec. 1, eff. June 17, 2005.

Sec. 201.208. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES. (a) The commission may adopt rules regarding the method of payment of a fee for any goods sold or services provided by the department or for the administration of any department program.

(b) Goods sold and services provided include the sale of travel promotional materials and department publications and the issuance of licenses, permits, and registrations.

(c) The rules may:

(1) authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the department; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

(d) Revenue generated from payments of discount or service charges under Subsection (c) shall be deposited in the state highway fund.

Added by Acts 1999, 76th Leg., ch. 507, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 918, Sec. 1, eff. June 18, 1999.

Sec. 201.209. AUTHORITY TO CONTRACT. (a) The department may enter into an interlocal contract with one or more local governments in accordance with Chapter 791, Government Code.

(b) The department by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding the contracts under this section.

Added by Acts 2001, 77th Leg., ch. 869, Sec. 1, eff. June 14, 2001.

#### SUBCHAPTER E. DIRECTOR

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

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

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(47).

(d) The director shall:

(1) serve the commission in an advisory capacity, without vote; and

(2) submit to the commission, quarterly, annually, and biennially, detailed reports of the progress of public road construction, detailed reports of public and mass transportation development, and detailed statements of expenditures.

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(47), eff. Sept. 1, 2003.

Sec. 201.302. STATE ROAD MAP. The director shall make, regularly revise, and keep in a form convenient for examination in the office of the department a complete road map of the state that shows road construction in the counties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.303. USE OF UNIVERSITY LABORATORIES FOR ANALYZING MATERIALS. The director may use laboratories maintained at Texas A&M University and The University of Texas to test and analyze road and bridge material. Persons in charge of the laboratories shall

cooperate with and assist the director with those tests and analyses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. DEPARTMENT EMPLOYEES

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

(1) an officer, employee, or paid consultant of a Texas trade association:

(A) in the field of road construction or maintenance or outdoor advertising; or

(B) of automobile dealers; or

(2) the spouse of an officer, manager, or paid consultant described by Subdivision (1).

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

(c) In this section, "Texas trade association" has the meaning assigned by Section 201.051.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department work force that meets federal and state laws, rules, and regulations, and instructions directly adopted under those laws, rules, or regulations;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state laws, rules, and regulations, and instructions directly adopted under those laws, rules, or regulations encourage a more equitable balance; and

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

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated at least annually, be reviewed by the Texas Commission on Human Rights for compliance with Subsection (a)(1), and be filed with the governor's office.

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.09, eff. Sept. 1, 1997.

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

(1) open all positions compensated at or above the amount prescribed by the General Appropriations Act for salary group B17 of the position classification salary schedule to applicants from inside and outside the department;

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

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

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

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

(b) The department shall designate a central authority to

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

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

(d) In this section, "minority" includes African Americans, Hispanic Americans, Asian Americans, American Indians, Alaska natives, and Pacific Islanders.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 595, Sec. 1, eff. June 17, 2005.

Sec. 201.404. EMPLOYEE PROGRAMS. (a) The director or the director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees in the department. The program shall require intra-agency posting of all positions concurrently with any public posting.

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

(c) The department shall provide to its employees, as often as necessary, information concerning the employees' qualifications for employment under this subchapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.10, eff. Sept. 1, 1997.

Sec. 201.405. EXCHANGE OF ENGINEERS WITH MEXICO. (a) The commission may employ not more than five citizens of the United Mexican States who are student engineers or graduate engineers for a period of not more than six months and pay those employees for their services from the state highway fund if the United Mexican States employs an equal number of engineers of the department in similar work in the United Mexican States for similar periods and pays them for their services.

(b) The commission may grant leaves of absence to not more than five engineers of the department to accept employment with the United Mexican States as provided under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.406. RELOCATION ASSISTANCE. (a) In addition to authority granted by other law, the department may reimburse transferred employees for expenses or costs related to selling existing housing and purchasing and financing comparable replacement housing if the director determines that the transfer will enhance the department's ability to accomplish its goals and missions.

(b) For purposes of this section, the following expenses or costs related to the selling of existing housing and the leasing, purchasing, and financing of comparable replacement housing are reimbursable:

(1) any commissions and fees due to a broker or real estate agent;

(2) costs incurred as a purchaser to obtain a home loan, including loan application fees, credit report fees, and mortgage points;

(3) origination fees, title insurance, recording fees, and all other closing costs required to be paid by the employee;

(4) fees or charges, other than refundable deposits, necessary to establish telephone, gas, and electric service; and

(5) travel expenses incurred while looking for a new residence, reimbursed at the standard mileage rate, for travel to and from the new designated headquarters.

(c) Under this section, the department may not:

(1) provide reimbursement for more than five employees per fiscal year;

(2) pay a sum of more than \$15,000 to any employee;

(3) purchase or pay any part of the purchase price of any employee's home;

(4) provide reimbursement for the purchase or financing of a house if the employee did not own and occupy existing housing at the time of transfer; or

(5) provide reimbursement when the distance between the two designated headquarters of a transferred employee is less than 25 miles.

(d) The department may pay the reasonable, necessary, and resulting costs of moving the household goods and effects of a transferred employee if:

(1) the director determines that the transfer will enhance the department's ability to accomplish its goals and missions; and

(2) the distance between the two designated headquarters of a transferred employee is at least 25 miles.  
Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.38, eff. Sept. 1, 1997.

#### SUBCHAPTER G. RECORDS

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

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

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

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

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

(f) Certified records shall be furnished to any person who is authorized by law to receive them.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.502. RETENTION OF DEED. A deed that conveys any interest in real property to the state for a highway purpose shall be deposited and retained in the Austin office of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.503. DISPOSAL OF RECORDS. Unless otherwise required by law, and subject to Chapter 441, Government Code, the department may dispose of or destroy a record that the department determines is not required for the performance of the department's duties and functions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

#### SUBCHAPTER H. PLANS AND PROJECTS

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

- (1) highways and turnpikes;
- (2) aviation;
- (3) mass transportation;
- (4) railroads and high-speed railroads; and
- (5) water traffic.

(b) In developing the plan, the department shall seek opinions and assistance from other state agencies and political subdivisions that have responsibility for the modes of transportation listed by Subsection (a). As appropriate, the department and such an agency or political subdivision shall enter into a memorandum of understanding relating to the planning of transportation services.

(c) The plan must include a component that is not financially constrained and identifies transportation improvements designed to relieve congestion. In developing this component of the plan, the department shall seek opinions and assistance from

officials who have local responsibility for modes of transportation listed in Subsection (a).

(d) The plan shall include a component, published annually, that describes the evaluation of transportation improvements based on performance measures, such as indices measuring delay reductions or travel time improvements. The department shall consider the performance measures in selecting transportation improvements. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 19.01, eff. Sept. 1, 2003.

Sec. 201.6011. INTERNATIONAL TRADE CORRIDOR PLAN. (a) To the extent possible, the department shall coordinate with appropriate entities to develop an integrated international trade corridor plan. The plan must:

(1) include strategies and projects to aid the exchange of international trade using the system of multiple transportation modes in this state;

(2) assign priorities based on the amount of international trade, measured by weight and value, using the transportation systems of this state, including:

- (A) border ports of entry;
- (B) commercial ports;
- (C) inland ports;
- (D) highways;
- (E) pipelines;
- (F) railroads; and
- (G) deepwater gulf ports; and

(3) address implementation of the recommendations of the Border Trade Advisory Committee under Section 201.114.

(b) The department shall update the plan biennially and report on the implementation of this section to the presiding officer of each house of the legislature no later than December 1 of each even-numbered year.

Added by Acts 2003, 78th Leg., ch. 312, Sec. 78(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 791, Sec. 2, eff. June 17, 2005.

Sec. 201.602. PROJECT SELECTION HEARINGS. The commission annually shall hold hearings on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.603. AGREEMENT WITH OTHER AGENCIES FOR ROADS.

(a) On request of the Texas Department of Mental Health and Mental Retardation or the Texas Youth Commission, the department may enter into agreements with that department or commission for the construction, maintenance, or repair of roads in an institution, hospital, or school under the control, management, or supervision of that department or commission.

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

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

(3) analysis of project alternatives; and

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

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

(c) The commission shall consider the results of its reviews

in executing its duties.

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

(e) At least once during each five-year period, the commission, after a public hearing, shall review the rules relating to environmental reviews and make appropriate changes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

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

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

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

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

(b) The department and each agency by rule shall adopt all revisions to the memorandum.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.608. PROJECTS FOR TRAFFIC FROM INTERNATIONAL TRADE. (a) The department annually shall review its proposed road projects to determine whether the projects are adequate to allow for the projected volume of highway traffic resulting from international trade over the five-year period following the date of the review.

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.609. NOTICE TO LEGISLATORS OF COMPLETED PROJECTS.

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

(b) The department shall ask each legislator whether the legislator wants to receive notices under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.610. HIGHWAY SOUND BARRIERS. The department may

erect a sound barrier to reduce the noise from a road or highway in the state highway system at any location the department determines is appropriate, including along the right-of-way of a railroad that runs parallel or adjacent to a road or highway.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.39, eff. Sept. 1, 1997.

Sec. 201.611. COORDINATION OF FLOOD CONTROL. In the construction of its highway projects, the department shall coordinate with local flood control authorities to minimize the impact of flooding.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.40, eff. Sept. 1, 1997.

Sec. 201.612. APPROVAL BY COMMISSION OF BRIDGE OVER RIO GRANDE. (a) A political subdivision or private entity authorized to construct or finance the construction of a bridge over the Rio Grande:

(1) must obtain approval from the commission and from the United States under Subchapter IV, Chapter 11, Title 33, United States Code, for the construction of the bridge; and

(2) shall submit to the commission a report that details the feasibility, location, economic effect, and environmental impact of the bridge and any other information the commission by rule may require.

(b) The department shall:

(1) to the maximum extent practicable, implement the approval process in the manner least burdensome to an applicant; and

(2) allow an applicant to concurrently seek approval from the commission and the United States under Subsection (a)(1).

(c) In determining whether to approve construction of the bridge, the commission shall consider:

(1) the financial resources available to the political subdivision or private entity for construction of the bridge;

(2) whether the revenue to be generated by the bridge is sufficient to finance the planning, design, construction, operation, and maintenance of the bridge;

(3) whether the construction of the bridge is consistent with the transportation plan adopted by the state and, if appropriate, by the metropolitan planning organization with jurisdiction over the bridge;

(4) the potential effect of the bridge on:

(A) the economy of the region in which the bridge is to be located;

(B) the environment of the region in which the bridge is to be located;

(C) traffic congestion and mobility; and

(D) the free flow of trade between the United Mexican States and this state; and

(5) commitments from the appropriate jurisdictions of the United Mexican States to provide adequate approach roadways to the bridge.

(d) In determining whether to approve the construction of the bridge, the commission shall solicit the advice of:

(1) the Department of Public Safety;

(2) the Texas Natural Resource Conservation Commission;

(3) the Texas Historical Commission;

(4) the Department of Agriculture;

(5) the Texas Alcoholic Beverage Commission;

(6) the Texas Department of Commerce; and

(7) any other state agency the commission determines is appropriate.

(e) If the commission fails to make a determination before the 121st day after the date the commission receives a request for approval under Subsection (a), the request is considered approved.

(f) The commission may adopt rules to administer this section.

(g) If the commission does not approve construction of the bridge, the applicant shall withdraw the request for approval from the United States.

Added by Acts 1997, ch. 165, Sec. 30.08(a), eff. Sept. 1, 1997; Acts 1997, ch. 165, Sec. 30.08(a), eff. Sept. 1, 1997. Renumbered from Sec. 201.610 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(93), eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 576, Sec. 1, eff. June 20, 2003.

Sec. 201.613. ONE-STOP BORDER INSPECTION FACILITIES.

(a) The department shall erect and maintain border inspection facilities along a major highway at or near a border crossing from Mexico in the Pharr, Laredo, and El Paso districts for the inspection of motor vehicles for compliance with federal and state commercial motor vehicle regulations.

(b) If a facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, is to be located in a municipality or a municipality's extraterritorial jurisdiction, the municipality may choose the location of the facility within the municipality or the municipality's extraterritorial jurisdiction. The municipality shall choose a location before the later of the 180th day after:

(1) the date the department makes a request for a location; or  
(2) the effective date of the Act enacting this provision.

(c) One or more inspection facilities may be constructed in a municipality described by this section.

(d) In determining the location for a border inspection facility under Subsection (b), the municipality shall:

(1) obtain and pay for an independent study completed by a university that conducts transportation studies or any other entity that conducts transportation studies to identify commercial truck traffic patterns for the location at which the facility is to be located to ensure that the location has adequate capacity to conduct a sufficient number of meaningful vehicle safety inspections in compliance with 49 U.S.C. Section 13902;

(2) choose a location that does not impair the receipt of federal or state funds for implementation of this section;

(3) choose a location within one mile of an international border;

(4) choose a location within one mile of the U.S. Customs and Border Protection federal port of entry; and

(5) choose a location that provides a dedicated route for commercial vehicles coming from the federal port of entry to the state port of entry commercial vehicle inspection station.

(e) To the extent the department considers appropriate to expedite commerce, the department shall provide for implementation by the appropriate agencies of the use of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) in:

(1) any new commercial motor vehicle inspection facility constructed; and

(2) any existing facility to which this section applies.

(f) Implementation of systems under Subsection (e) must be based on the Texas ITS/CVO business plan prepared by the department, the Department of Public Safety, and the comptroller. The department shall coordinate with other state and federal transportation officials to develop interoperability standards for the systems.

(g) In implementing systems under Subsection (e) in the construction of a facility, the department to the greatest extent possible shall:

(1) enhance efficiency and reduce complexity for motor carriers by providing:

(A) a single point of contact between carriers and state and federal officials regulating the carriers; and

(B) a single point of information, available to wireless access, about federal and state regulatory and enforcement requirements;

(2) prevent duplication of state and federal procedures and locations for regulatory and enforcement activities, including consolidation of collection of applicable fees;

(3) link information systems of the department, the Department of Public Safety, the comptroller, and, to the extent possible, the United States Department of Transportation and other appropriate regulatory and enforcement entities; and

(4) take other necessary action to:  
(A) facilitate the flow of commerce;  
(B) assist federal interdiction efforts;  
(C) protect the environment by reducing idling time of commercial motor vehicles at the facilities;

(D) prevent highway damage caused by overweight commercial motor vehicles; and

(E) seek federal funds to assist in the implementation of this section.

Added by Acts 1999, 76th Leg., ch. 1527, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1275, Sec. 1, eff. June 15, 2007.

Sec. 201.614. SAFE ROUTES TO SCHOOL PROGRAM. (a) The department shall establish and administer a Safe Routes to School Program to distribute money received under the Hazard Elimination Program (23 U.S.C. Section 152), as amended, to political subdivisions for projects to improve safety in and around school areas. Projects eligible to receive money under this program may include:

- (1) installation of new crosswalks and bike lanes;
- (2) construction of multiuse trails;
- (3) construction and replacement of sidewalks;
- (4) implementation of traffic-calming programs in neighborhoods around schools; and
- (5) construction of wide outside lanes to be used as bike routes.

(b) The department, in considering project proposals under this section, shall consider:

- (1) the demonstrated need of the applicant;
- (2) the potential of the proposal to reduce child injuries and fatalities;
- (3) the potential of the proposal to encourage walking and bicycling among students;
- (4) identification of safety hazards;
- (5) identification of current and potential walking and bicycling routes to school; and
- (6) support for the projects proposed by local school-based associations, traffic engineers, elected officials, law enforcement agencies, and school officials.

(c) The department may allocate money received by the department from the federal government under the Hazard Elimination Program (23 U.S.C. Section 152), as amended, to projects under this section.

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

Added by Acts 2001, 77th Leg., ch. 1085, Sec. 3, eff. Sept. 1, 2001.

Sec. 201.615. DESIGN CONSIDERATIONS. (a) The department shall consider the following factors when developing transportation projects that involve the construction, reconstruction, rehabilitation, or resurfacing of a highway, other than a maintenance resurfacing project:

- (1) the extent to which the project promotes safety;
- (2) the durability of the project;
- (3) the economy of maintenance of the project;
- (4) the impact of the project on:
  - (A) the natural and artificial environment;
  - (B) the scenic and aesthetic character of the area in which the project is located;
  - (C) preservation efforts; and
  - (D) each affected local community and its economy;

- (5) the access for other modes of transportation, including those that promote physically active communities; and

- (6) except as provided by Subsection (c), the aesthetic character of the project, including input from each affected local community.

(b) The commission shall adopt rules to implement this section.

(c) Subsection (a)(6) does not apply to transportation projects that involve the rehabilitation or resurfacing of a bridge or highway.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 1, eff. Sept. 1, 2001. Renumbered from Transportation Code Sec. 201.614 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(125), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.05, eff. June 14, 2005.

Sec. 201.616. ANNUAL REPORT TO LEGISLATURE ON CERTAIN MATTERS. (a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:

(1) the expenditures made by the department in the preceding state fiscal year in connection with:

(A) the unified transportation program of the department;

(B) turnpike projects and toll roads of the department;

(C) the Trans-Texas Corridor;

(D) rail facilities described in Chapter 91; and

(E) non-highway facilities on the Trans-Texas Corridor if those expenditures are subject to Section 227.062(c);

(2) the amount of bonds or other public securities issued for transportation projects; and

(3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B), (C), (D), and (E) and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

(c) The report may be submitted in an electronic format. Added by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 5.02, eff. Jan. 11, 2004.

Text of section as transferred by Acts 2005, 79th Leg., R.S., Ch. 281, Sec. 2.07

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 474, Sec. 1, see other Sec. 201.617.

Sec. 201.617. MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS.

(a) If authorized by an applicable regulatory authority, to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the department may:

(1) pay a fee to an appropriate public agency or private entity in lieu of acquiring or agreeing to manage property;

(2) transfer real property to an appropriate public agency or private entity with or without monetary consideration if the property is used or is proposed to be used for mitigation purposes; or

(3) contract with any public or private entity for the management of property owned by the department and used for mitigation purposes.

(a-1) Before the commission may acquire by purchase or condemnation real property to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the department shall, if authorized by an applicable regulatory authority, offer to purchase a conservation easement from the owner of the real property. If the landowner does not accept the offer to execute a conservation easement before the 61st day after the date the offer is made, the department may acquire the property by purchase or condemnation.

(b) A contract under this section is not subject to Chapter 771, Government Code.

(c) In this section, "management" means administration, control, or maintenance that is required by an agency of the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 922, Sec. 2, eff. June 14, 2001.

Transferred from Transportation Code, Section 203.004 and amended by Acts 2005, 79th Leg., Ch. 281, Sec. 2.07, eff. June 14, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 474, Sec. 1

For text of section as transferred by Acts 2005, 79th Leg., R.S., Ch. 281, Sec. 2.07, see other Sec. 201.617.

Sec. 201.617. "WELCOME TO TEXAS" SIGNS. (a) The department may erect a "Welcome to Texas" sign to designate the state boundary on an interstate, United States, or state highway entering the state.

Text of subsection effective until January 20, 2009

(b) A "Welcome to Texas" sign erected by the department must include the following elements:

(1) a depiction of the state flag;

(2) the phrase "Drive Friendly--The Texas Way"; and

(3) the phrase "Welcome to Texas--Proud to be the Home of President George W. Bush."

Text of subsection effective on January 20, 2009

(b) A "Welcome to Texas" sign erected by the department must

include the following elements:

- (1) a depiction of the state flag; and
- (2) the phrase "Drive Friendly--The Texas Way."

Text of subsection effective on January 20, 2009

(c) If the president of the United States is a resident of Texas, a "Welcome to Texas" sign erected by the department must include the phrase "Welcome to Texas--Proud Home of President [insert name of the president of the United States]."

Added by Acts 2005, 79th Leg., Ch. 474, Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 634, Sec. 1, eff. January 20, 2009.

Sec. 201.618. HYDROGEN-FUELED VEHICLES AND REFUELING STATIONS. (a) The department may seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations as provided by this section.

(b) If the department secures funding under Subsection (a), the department may establish and operate at least five hydrogen refueling stations. A refueling station established under this subsection must be located in an urbanized area along a major state highway and be accessible to the public.

(c) If the department secures funding under Subsection (a), the department may purchase to operate in an area in which a refueling station is established under Subsection (b) vehicles capable of operating using hydrogen, including, at a minimum:

(1) four vehicles with internal combustion engines that run on hydrogen; and

(2) three fuel-cell vehicles, one internal combustion engine bus that runs on hydrogen, or one fuel-cell bus.

(d) A vehicle purchased to meet the requirements of Subsection (c) may be used to satisfy the alternative fuels percentage requirement under Subchapter A, Chapter 2158, Government Code.

(e) The department may establish hydrogen refueling stations on the Trans-Texas Corridor under Chapter 227.

(f) The department shall:

(1) ensure that data on emissions from the vehicles and refueling stations purchased under this section and from the production of hydrogen for the vehicles and refueling stations are monitored and analyzed and compared with data on emissions from control vehicles with internal combustion engines that operate on fuels other than hydrogen; and

(2) report the results of the monitoring, analysis, and comparison to the Texas Commission on Environmental Quality.

(g) The department may charge the public a reasonable fee to use a hydrogen refueling station operated under Subsection (b). The amount of the fee shall be based on the department's estimate of the number of customers that will use the refueling stations and the direct and indirect costs that will be incurred by the department to operate the refueling stations. Fees collected by the department under this section shall be deposited in the state highway fund, may be appropriated only to the department to implement this section, and are exempt from the application of Section 403.095, Government Code.

Added by Acts 2005, 79th Leg., Ch. 281, Sec. 3.03, eff. June 14, 2005.

Sec. 201.619. COOPERATIVE PLANNING WITH COUNTIES. (a) In this section, "corridor" means a geographical band that follows a general directional flow connecting major sources of trips.

(b) The department and a county may enter into an agreement that identifies future transportation corridors within the county in accordance with this subsection. The corridors identified in the agreement must be derived from existing transportation plans adopted by the department or commission, the county, or a metropolitan planning organization.

(c) The department shall publish in the Texas Register and in a newspaper of general circulation in the county with which the department has entered into an agreement under Subsection (b) a notice that states that the department and the county have entered into the agreement and that copies of the agreement and all plans referred to by the agreement are available at one or more designated department offices.

Added by Acts 2007, 80th Leg., R.S., Ch. 1040, Sec. 1, eff.

September 1, 2007.

SUBCHAPTER I. FUNDS AND EXPENDITURES

Sec. 201.701. FUNDS FOR EMERGENCY MEDICAL SERVICES.

(a) If the department receives state or federal highway safety funds that may be used for emergency medical services, the department shall:

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

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

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

(c) This section does not affect any responsibility of the department for oversight of state or federal highway safety funds. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

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

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

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

(5) allocate the responsibility for performing the duties prescribed by this section among persons in the department's headquarters and regional offices.

(b) The goals under Subsection (a)(1) must approximate the federal requirement for federal money used for highway construction and maintenance consistent with other applicable state and federal law.

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

(d) This section does not exempt the department from competitive bidding requirements provided by other law. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

(c) The expenditure of state money is limited to the cost of construction and engineering, overhead, and other costs on which the application of federal money is prohibited or impractical. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

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

(b) During a fiscal year the department shall spend for all contracts under this section not less than 35 percent of the total amount it spends for vehicle repair and maintenance in that year.

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

(d) In this section:

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

(2) "Passenger car" has the meaning assigned that term by Section 502.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 600, Sec. 1, eff. June 18, 1999.

Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From appropriated funds, the department shall assist counties with materials to repair and maintain county roads. The department shall:

(1) provide that the total annual value of assistance under this section is:

(A) at least \$12 million per year for fiscal years 1998 and 1999; and

(B) at least \$6 million per year for a fiscal year other than 1998 or 1999;

(2) make maximum usage of surplus materials on hand;

(3) develop rules and procedures to implement this section and to provide for the distribution of the assistance with preference given to counties with an above average number of overweight trucks receiving weight tolerance permits based on the previous year's permit totals; and

(4) undertake cooperative and joint procurement of road materials with counties under procedures of the comptroller. Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.41, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937, Sec. 1.110, eff. September 1, 2007.

Sec. 201.707. AGREEMENTS FOR SERVICES ON REGIONAL TOLLWAY AUTHORITY PROJECTS. Notwithstanding Section 201.703(c), the department and a regional tollway authority governed by Chapter 366 may enter into an agreement for the provision by the department, for fair and reasonable compensation, of services on the regional tollway authority's turnpike projects, including but not limited to courtesy patrols.

Added by Acts 1999, 76th Leg., ch. 576, Sec. 2, eff. Sept. 1, 1999.

Sec. 201.710. PLANNING AND FUNDING OF PORTS OF ENTRY.

(a) In this section:

(1) "Port of entry" means a place designated by executive order of the president of the United States, by order of the United States secretary of the treasury, or by Act of the United States Congress at which a customs officer is authorized to accept entries of merchandise to collect duties, and to enforce the various provisions of the customs and navigation laws.

(2) "Project related to a port of entry" means a transportation project on the state highway system related to access to a port of entry in this state.

(b) This section applies only to a port of entry on the border with the United Mexican States. This section does not apply to a port of entry at an airport.

(c) The department shall include projects related to ports of entry in its unified transportation program or any successor to that program.

(d) A metropolitan planning organization that has a port of entry within its jurisdiction shall include projects related to ports of entry in its transportation improvement plan.

(e) In allocating money to projects, the department shall fund projects related to ports of entry from money other than North American Free Trade Agreement discretionary funds.

Added by Acts 2001, 77th Leg., ch. 1226, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER J. INFORMATION FURNISHED BY DEPARTMENT

Sec. 201.801. INFORMATION ABOUT DEPARTMENT; COMPLAINTS.

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

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

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

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

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

(c) The department shall:

(1) keep an information file about each written complaint filed with the department that the department has the authority to resolve; and

(2) provide the person who filed the complaint, and each person or entity that is the subject of the complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

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

(e) With regard to each complaint filed with the department, the department shall keep the following information:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) a record of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) if the department takes no action on the complaint, an explanation of the reasons that no action was taken.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.12, eff. Sept. 1, 1997.

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

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

(c) The department shall comply with each applicable law of the United States or this state that relates to program or facility accessibility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.13, eff. Sept. 1, 1997.

Sec. 201.803. INFORMATION FOR ROAD CONSTRUCTION AND MAINTENANCE. (a) The department shall collect information and compile statistics about the mileage, character, and condition of public roads in each county and the cost of construction of the classes of roads in the county.

(b) The department shall investigate and determine the methods of road construction best adapted to different sections of the state.

(c) The department shall establish standards for the construction and maintenance of highways, bridges, and ferries, considering natural conditions and the character and adaptability of road building material in the counties of the state.

(d) The department may be consulted, at all reasonable times, by county and municipal officials for any information or assistance the department can give concerning the highways in the county or municipality. The department shall provide the requested information.

(e) The department may request from county and municipal officials any information necessary for the performance of the department's duties under this section.

(f) Before any proceeds from the sale of bonds or other legal obligations issued by a county or a subdivision or defined

district of a county are spent for road construction by the commissioners court of the county or under its direction, the commissioners court shall obtain from the department information and advice on the general plans and specifications for the road construction to be undertaken. On request of a county commissioners court, the department shall consider and advise the commissioners court on those plans and specifications.  
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.8035. INSPECTION OF COUNTY AND MUNICIPAL BRIDGES.

(a) If the department inspects a bridge under the jurisdiction of a county or a municipality and determines that the bridge qualifies for a lower load rating under 23 C.F.R. Part 650, Subpart C, than is currently permitted, the department shall notify the commissioners court of the county or the governing body of the municipality.

(b) A commissioners court or governing body that is notified under Subsection (a) shall post notices on the road or highway approaching the bridge that state the maximum load permitted on the bridge. The notices must be posted at locations that enable affected drivers to detour to avoid the restricted bridge.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.09(a), eff. Sept. 1, 1997.

Sec. 201.804. SUBMISSION OF BRIDGE DESIGN PLANS TO DEPARTMENT. (a) This section applies to any governmental entity of this state that is authorized by law to construct or maintain a public road and that:

- (1) constructs or rehabilitates a bridge;
- (2) proposes to assume responsibility for a bridge constructed or rehabilitated by another person; or
- (3) issues a permit for the construction or rehabilitation of a bridge by another person.

(b) Before the 31st day after the date the construction or rehabilitation of the bridge is completed, the governmental entity shall submit to the department a copy of the final structural design plans for the bridge.

(c) The department shall use information submitted under Subsection (b) as necessary in seeking to comply with 23 C.F.R. Part 650, Subpart C.

Added by Acts 1999, 76th Leg., ch. 831, Sec. 1, eff. June 18, 1999.

Text of section as added by Acts 2007, 80th Leg., R.S., Ch. 494, Sec. 1

For text of section as added by Acts 2007, 80th Leg., R.S., Ch. 1407, Sec. 1, see other Sec. 201.805.

Sec. 201.805. REPORTS AND INFORMATION. (a) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database a statistical comparison of department districts and the following information, calculated on a per capita basis considering the most recent census data and listed for each county and for the state for each fiscal year:

- (1) the number of square miles;
- (2) the number of vehicles registered;
- (3) the population;
- (4) daily vehicle miles;
- (5) the number of centerline miles and lane miles;
- (6) construction, maintenance, and contracted routine and preventive maintenance expenditures;
- (7) combined construction, maintenance, and contracted routine and preventive maintenance expenditures;
- (8) the number of district and division office construction and maintenance employees;
- (9) information regarding grant programs, including:
  - (A) Automobile Theft Prevention Authority grants;
  - (B) Routine Airport Maintenance Program grants;
  - (C) Public Transportation Grant Program grants;
  - (D) Medical Transportation Program grants; and
  - (E) aviation grants or aviation capital improvement grants;
- (10) approved State Infrastructure Bank loans;
- (11) Texas Traffic Safety Program grants and expenditures;
- (12) the dollar amount of any pass-through toll agreements;
- (13) the percentage of highway construction projects

completed on time;

(14) the percentage of highway construction projects that cost:

(A) more than the contract amount; and

(B) less than the contract amount; and

(15) a description of real property acquired by the department through the exercise of eminent domain, including the acreage of the property and the location of the property.

(b) The department shall include information from all department contracts in the statistical comparison and information reports required under Subsection (a).

(c) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database the following information for each fiscal year:

(1) the amount of money in the Texas Mobility Fund itemized by the source of the money; and

(2) the amount of money received by the department:

(A) itemized by the source of the money; and

(B) compared to the amount of money appropriated by the legislature to the department in the General Appropriations Act.

(d) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database a list of each contract the department has with:

(1) a person required to register as a lobbyist under Chapter 305, Government Code;

(2) a public relations firm; or

(3) a government consultant.

Added by Acts 2007, 80th Leg., R.S., Ch. 494, Sec. 1, eff. September 1, 2007.

Text of section as added by Acts 2007, 80th Leg., R.S., Ch. 1407, Sec. 1

For text of section as added by Acts 2007, 80th Leg., R.S., Ch. 494, Sec. 1, see other Sec. 201.805.

Sec. 201.805. ACCIDENT REPORTS. (a) The department shall:

(1) tabulate and analyze the vehicle accident reports it receives;

(2) annually or more frequently publish statistical information derived from the accident reports as to the number, cause, and location of highway accidents, including information regarding the number of accidents involving injury to, death of, or property damage to a bicyclist or pedestrian; and

(3) not later than December 15 of each even-numbered year provide to the governor and the legislature:

(A) an abstract of the statistical information for the biennium ending on the preceding August 31; and

(B) a report with the department's conclusions, findings, and recommendations for decreasing highway accidents and increasing highway safety.

(b) The department shall provide electronic access to the system containing the accident reports so that the Department of Public Safety can perform its duties, including the duty to make timely entries on driver records.

Added by Acts 2007, 80th Leg., R.S., Ch. 1407, Sec. 1, eff. September 1, 2007.

#### SUBCHAPTER K. ROAD AND HIGHWAY USE; SIGNS

Sec. 201.901. PROHIBITING USE OF HIGHWAY OR ROAD. (a) The commission may prohibit the use of any part of a highway or road under the control of the department by any vehicle that will unduly damage the highway or road when:

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

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

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

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

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

(e) The county judge shall hear testimony offered by the parties. On conclusion of the hearing, the county judge shall sustain, revoke, or modify the commission's decision on the restriction. The county judge's judgment is final as to the issues raised.

(f) A person who violates a prohibition established under this section before or after it is approved by the county judge under Subsection (e) commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

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

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

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

- (1) the specific duties of the statewide bicycle coordinator and the regional bicycle coordinators;
- (2) obtaining comments from bicyclists on:
  - (A) a highway project that might affect bicycle use;
  - (B) the use of a highway for bicycling events;
  - (C) department policies affecting bicycle use of state highways;

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

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

(d) A rule adopted under this section may not be inconsistent with Chapter 551.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.9025. TEXAS BICYCLE TOURISM TRAILS. (a) The Texas Department of Transportation Bicycle Advisory Committee shall advise and make recommendations to the commission on the development of bicycle tourism trails in this state. Recommendations on bicycle tourism trails developed under this section:

(1) shall be made in consultation with the Parks and Wildlife Commission and the Texas Economic Development and Tourism Office;

(2) shall reflect the geography, scenery, history, and cultural diversity of this state;

(3) shall maximize federal and private sources of funding for the designation, construction, improvement, maintenance, and signage of the trails and the promotion of bicycle tourism; and

(4) may include multiuse trails to accommodate equestrians, pedestrians, and other nonmotorized trail users when practicable.

(b) The department may contract with a statewide bicycle nonprofit organization for assistance in identifying, developing, promoting, or coordinating agreements and participation among political subdivisions of this state to advance bicycle tourism trails.

Added by Acts 2005, 79th Leg., Ch. 161, Sec. 1, eff. September 1, 2005.

Sec. 201.903. CLASSIFICATION, DESIGNATION, AND MARKING OF HIGHWAYS. (a) The department may classify, designate, and mark

state highways in this state.

(b) The department may provide a uniform system of marking and signing state highways under the control of the state. The system must correlate with and, to the extent possible, conform to the system adopted in other states.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.904. SPEED SIGNS. The department shall erect and maintain on the highways and roads of this state appropriate signs that show the maximum lawful speed for commercial motor vehicles, truck tractors, truck trailers, truck semitrailers, and motor vehicles engaged in the business of transporting passengers for compensation or hire (buses).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.905. TRAFFIC SAFETY SIGNS. (a) The department may implement a traffic safety program that includes posting signs along the roadside at the 500 sites with the highest number of traffic fatalities. The signs shall be designed by the department and may contain the following information:

(1) the number of fatalities that occurred at that location in the last 10 years;

(2) the importance of driving safely and wearing seat belts;

(3) the importance of not drinking and driving; and

(4) any other information the department determines is necessary to promote safe driving.

(b) A program under this section may also include literature distributed to the public by the department.

Added by Acts 1997, 75th Leg., ch. 1214, Sec. 1, eff. Sept. 1, 1997.

Sec. 201.906. MULTIMODAL ROAD USE. (a) The department shall conduct a comprehensive analysis of the multimodal use of roads and highways in the state highway system. The analysis shall include the collection of data on users' concerns about road conditions and actual and potential use patterns of roads or highways.

(b) After the analysis required by Subsection (a) is completed, the department shall initiate and coordinate a campaign to help increase public awareness of traffic safety issues.

(c) The department shall initiate a program of continuing community involvement sessions to help other state agencies, local decision-makers, interest groups, and the general public improve the state's comprehensive transportation system to include all modes of transportation.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.14, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1171, Sec. 1.14, eff. Sept. 1, 1997. Renumbered from Sec. 201.905 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(94), eff. Sept. 1, 1999.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 281, Sec. 2.09

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 1086, Sec. 1, see other Sec. 201.907.

Sec. 201.907. CONTRACT FOR ENFORCEMENT. The department or a public or private entity contracted to operate a toll project may contract with an agency of this state or a local governmental entity for the services of peace officers employed by the agency or entity to enforce laws related to:

(1) the regulation and control of vehicular traffic on a state highway; and

(2) the payment of the proper toll on a toll project.

Added by Acts 2005, 79th Leg., Ch. 281, Sec. 2.09, eff. June 14, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 1086, Sec. 1

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 281, Sec. 2.09, see other Sec. 201.907.

Sec. 201.907. REMOVING OR COVERING SIGNS IN CONSTRUCTION OR MAINTENANCE WORK ZONE. (a) In this section, "construction or maintenance work zone" has the meaning assigned by Section 472.022.

(b) The department shall remove or cover or require the removal or covering of a sign that restricts the speed limit in a construction or maintenance work zone during any period when no hazard exists that dictates the need for a restricted speed limit.

Added by Acts 2005, 79th Leg., Ch. 1086, Sec. 1, eff. June 18, 2005.

Sec. 201.909. MEMORIAL SIGN PROGRAM. (a) In this section, "victim" means a person killed in a highway accident involving alcohol or a controlled substance, excluding an operator who was

under the influence of alcohol or a controlled substance.

(b) The commission by rule shall establish and administer a memorial sign program to publicly memorialize the victims of alcohol or controlled substance-related vehicle accidents.

(c) A sign designed and posted under this section shall include:

(1) the phrase "Please Don't Drink and Drive";

(2) the phrase "In Memory Of" and the name of the victim in accordance with the commission rule in whose memory the sign is placed; and

(3) the date of the accident that resulted in the victim's death.

(d) A person may request that a sign be posted under this section by:

(1) making an application to the department on a form prescribed by the department; and

(2) submitting a fee to the department in an amount determined by the department to help defray the costs of posting the memorial sign.

(e) If the application meets the department's requirements and the applicant pays the memorial sign fee, the department shall erect a sign. A sign posted under this section may remain posted for one year. At the end of the one-year period the department may release the sign to the applicant. The department is not required to release a sign that has been damaged.

(f) A sign posted under this section that is damaged shall be removed by the department. Except as provided in Subsection (g), the department may post a new sign if it has been less than one year from the posting of the original sign and a person:

(1) submits a written request to the department to replace the sign; and

(2) submits a replacement fee in the amount provided under Subsection (d)(2).

(g) During the one-year posting period the department shall replace a sign posted under this section that is damaged because of the department's negligence.

(h) The commission shall adopt rules to implement this section.

(i) This section does not authorize the department to remove an existing privately funded memorial that conforms to state law and department rules. A privately funded memorial may remain indefinitely as long as it conforms to state law and department rules.

Added by Acts 2007, 80th Leg., R.S., Ch. 907, Sec. 1, eff. June 15, 2007.

#### SUBCHAPTER L. ELECTRONIC ISSUANCE OF LICENSES

Sec. 201.931. DEFINITIONS. In this subchapter:

(1) "Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

(2) "License" includes:

(A) a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations;

(B) a motor carrier registration issued under Chapter 643;

(C) a vehicle storage facility license issued under Chapter 2303, Occupations Code;

(D) a license or permit for outdoor advertising issued under Chapter 391 or 394;

(E) a salvage vehicle dealer or agent license issued under Chapter 2302, Occupations Code;

(F) specially designated or specialized license plates issued under Subchapters E and F, Chapter 502; and

(G) an apportioned registration issued according to the International Registration Plan under Section 502.054.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.819, eff. Sept. 1, 2003.

Sec. 201.932. APPLICATION FOR AND ISSUANCE OF LICENSE.

(a) The commission may by rule provide for the filing of a license application and the issuance of a license by electronic means.

(b) The commission may limit applicant eligibility under Subsection (a) if the rules include reasonable eligibility criteria.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997.

Sec. 201.933. DIGITAL SIGNATURE. (a) A license application received by the department is considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the license in accordance with Subsection (b).

(b) The department may only accept a digital signature used to authenticate a license application under procedures that:

(1) comply with any applicable rules of another state agency having jurisdiction over department use or acceptance of a digital signature; and

(2) provide for consideration of factors that may affect a digital signature's reliability, including whether a digital signature is:

(A) unique to the person using it;

(B) capable of independent verification;

(C) under the sole control of the person using it; and

(D) transmitted in a manner that will make it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997.

Sec. 201.934. PAYMENT OF FEES. The commission may adopt rules regarding the method of payment of a fee for a license issued under this subchapter. The rules may authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the department. The rules may require the payment of a discount or service charge for a credit card payment in addition to the fee.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997.

SUBCHAPTER M. OBLIGATIONS FOR CERTAIN HIGHWAY AND MOBILITY PROJECTS

Sec. 201.941. DEFINITIONS. In this subchapter:

(1) "Comptroller's certification" means:

(A) as to long-term obligations, the certification made under Section 201.943(e); and

(B) as to short-term obligations, the certification made under Section 201.943(f).

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas Mobility Fund.

(4) "Long-term obligations" means an issue or series of obligations the latest scheduled maturity of which is more than five years.

(5) "Maximum obligation amount" means the maximum aggregate principal amount of long-term obligations and short-term obligations that the commission may issue from time to time after receipt of the applicable comptroller's certification.

(6) "Obligations" means bonds, notes, and other public securities.

(7) "Short-term obligations" means an issue or series of obligations the latest scheduled maturity of which is five years or less.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.942. ADMINISTRATION OF FUND. The comptroller shall hold the fund, and the commission, through the department, shall manage, invest, use, and administer the fund as provided by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.943. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES; LIMITATIONS. (a) Subject to Subsections (e), (f), and (g), the commission by order or resolution may issue obligations in the name and on behalf of the state and the department and may enter into credit agreements related to the obligations. The obligations may be issued in multiple series and issues from time to time in an aggregate amount not exceeding the maximum obligation amount. The obligations may be issued on and may have the terms and provisions the commission determines appropriate and in the interests of the state. The obligations may be issued as long-term obligations, short-term obligations, or both. The latest scheduled maturity of an issue or series of obligations may not exceed 30 years.

(b) Obligations must be secured by and payable from a pledge of and lien on all or part of the money in the fund. Obligations may be additionally secured by and payable from credit agreements. The commission may pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(c) The commission may create within the fund accounts, reserves, and subfunds for purposes the commission finds appropriate and necessary in connection with the issuance of obligations.

(d) Obligations may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, including any necessary design and acquisition of rights-of-way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state;

(3) to create debt service reserve accounts;

(4) to pay interest on obligations for a period of not longer than two years;

(5) to refund or cancel outstanding obligations; and

(6) to pay the commission's costs of issuance.

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, and the investment earnings on that money, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations during that year.

(f) Short-term obligations in the amount proposed by the commission may not be issued unless the comptroller, in a comptroller's certification:

(1) assumes that the short-term obligations will be refunded and refinanced to mature over a 20-year period with level principal requirements and bearing interest at then current market rates, as determined by the comptroller; and

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, and the investment earnings on that money, during each year of the assumed 20-year period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

(g) The commission may agree to further restrictions in connection with the issuance of obligations and may retain independent professional consultants to make projections in addition to, but not instead of, those of the comptroller if required as a prerequisite to the issuance of the obligations.

(h) The commission has all powers necessary or appropriate to carry out this subchapter and to implement Section 49-k, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(i) As required by Section 49-k(h), Article III, Texas Constitution, proceedings authorizing obligations and related credit agreements to be issued and executed under this subchapter shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this subchapter and other applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for

any cause.

(j) A comptroller's certification under this section must be based on economic data, forecasting methods, and projections that the comptroller determines are reliable.

(k) The holders of obligations and the counterparties to credit agreements have the rights granted in Section 49-k(j), Article III, Texas Constitution.

(l) Obligations may not be issued if the commission or the department requires that toll roads be included in a regional mobility plan in order for a local authority to receive an allocation from the fund.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281, Sec. 2.08, eff. June 14, 2005.

Sec. 201.944. PLEDGE OF STATE'S FULL FAITH AND CREDIT.

(a) The commission may guarantee on behalf of the state the payment of any obligations and credit agreements issued under Section 201.943 by pledging the full faith and credit of the state to the payment of the obligations and credit agreements in the event the revenue and money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, are insufficient for that purpose.

(b) The exercise of the authority granted by Subsection (a) does not modify or relieve the commission from complying with Section 201.943(e) or (f) and does not permit the issuance of aggregate obligations in an amount exceeding the maximum obligation amount.

(c) If the commission exercises the authority granted by Subsection (a), the constitutional appropriation contained in Section 49-k(g), Article III, Texas Constitution, shall be implemented and observed by all officers of the state during any period during which obligations and credit agreements are outstanding and unpaid.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.945. DEDICATION OF REVENUE TO FUND. Annually, the revenue of the state that is dedicated or appropriated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, shall be deposited to the fund in accordance with Section 49-k(f), Article III, Texas Constitution.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.946. INVESTMENT AND USES OF MONEY IN FUND.

(a) Money in the fund may be invested in the investments permitted by law for the investment of money on deposit in the state highway fund.

(b) As a part of its covenants and commitments made in connection with the issuance of obligations and the execution of credit agreements, the commission may limit the types of investments eligible for investment of money in the fund but may not expand the types of investments to include any investments that are not authorized by Subsection (a).

(c) Income received from the investment of money in the fund shall be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing obligations to protect the tax-exempt status of interest payable on the obligations under the Internal Revenue Code of 1986.

(d) To the extent money is on deposit in the fund in amounts that are in excess of the money required by the proceedings authorizing the obligations and credit agreements to be retained on deposit, the commission may use the money for any purpose for which obligations may be issued under this subchapter.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.947. STRATEGIC PLAN. The commission may not issue obligations under this subchapter before the department has developed a strategic plan that outlines how the money will be used and the benefit the state will derive from use of money in the fund.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

For expiration of Section 201.9471, see Subsection (c).

Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocate money to the Texas mobility fund, in state fiscal year 2006 the comptroller shall deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund.

(b) Notwithstanding Sections 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046, to the extent that those sections allocate money to the Texas mobility fund, in state fiscal year 2007 the comptroller shall deposit that money to the credit of the general revenue fund instead of to the credit of the Texas mobility fund.

(c) This section expires January 1, 2008.  
Added by Acts 2005, 79th Leg., Ch. 899, Sec. 8.01, eff. September 1, 2005.

SUBCHAPTER N. HIGHWAY TAX AND REVENUE ANTICIPATION NOTES

Sec. 201.961. DEFINITIONS. In this subchapter:

(1) "Committee" means the cash management committee described in Section 404.122, Government Code.

(2) "Credit agreement" has the meaning assigned by Section 1208.001, Government Code.

(3) "Notes" means tax and revenue anticipation notes issued under this subchapter. The term includes any obligation under a credit agreement.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.962. NOTES AUTHORIZED; COMMITTEE APPROVAL.

(a) In anticipation of a temporary cash flow shortfall in the state highway fund during any fiscal year, the commission, subject to the approval of the committee, may issue, sell, and deliver tax and revenue anticipation notes on behalf of the state.

(b) Before issuing the notes, the commission shall submit to the committee a state highway fund cash flow shortfall forecast containing a detailed report of estimated revenue and expenditures. Based on the forecast, the committee may approve the issuance of notes in an amount not to exceed the maximum temporary cash flow shortfall forecast.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.963. ISSUANCE OF NOTES. (a) The commission, consistent with the committee's determination under Section 201.962, may issue, sell, and deliver the notes.

(b) Notes issued under this subchapter are not debts of the state and may be used only to make up a temporary shortfall in the state highway fund's cash flow. All notes must mature and be paid in full during the fiscal biennium in which they were issued.

(c) Except as otherwise provided by this subsection, the proceeds of the notes shall be deposited in a special fund in the state treasury known as the highway tax and revenue anticipation note fund. Notwithstanding any other provision of law, depository interest shall be credited to the fund. The department shall transfer the net proceeds from the fund to the state highway fund as necessary to pay authorized expenditures. The comptroller may invest funds in the highway tax and revenue anticipation note fund as authorized under Section 404.024, Government Code. Proceeds of a credit agreement may be deposited as provided by the order authorizing the credit agreement.

(d) The commission may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371, Government Code, to the extent not inconsistent with this subchapter. The notes are not subject to review by the Bond Review Board but are subject to review and approval by the attorney general as provided by Chapter 1371, Government Code. On request, the comptroller may assist the commission with the issuance of notes under this subchapter.

(e) The commission is an authorized issuer under Chapter 1201, Government Code, and that chapter applies to notes authorized by this subchapter.

(f) Amounts in the highway tax and revenue anticipation note fund may be pledged to secure the payment of the notes and performance of obligations under credit agreements relating to the notes and may be used to pay issuance costs and required rebates to the federal government.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.964. FUND TRANSFERS; INTEREST; PAYMENT OF NOTES. (a) The department periodically shall transfer cash received in the state highway fund to the highway tax and revenue anticipation note fund to ensure the timely payment of the notes.

(b) On payment of all outstanding notes, rebates to the federal government, and costs of issuance, the department shall transfer to the state highway fund any amounts remaining in the highway tax and revenue anticipation note fund. If amounts credited to the highway tax and revenue anticipation note fund are

insufficient to pay principal, any premium, interest, issuance costs, and any required rebate to the federal government, amounts in the state highway fund are available for appropriation by the legislature to make those payments.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER O. RAIL RELOCATION AND IMPROVEMENT

Sec. 201.971. DEFINITIONS. In this subchapter:

(1) "Comptroller's certification" means:  
(A) as to long-term obligations, the certification made under Section 201.973(e); and  
(B) as to short-term obligations, the certification made under Section 201.973(f).

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas rail relocation and improvement fund.

(4) "Long-term obligations" means an issue or series of obligations the latest scheduled maturity of which is more than five years.

(5) "Maximum obligation amount" means the maximum aggregate principal amount of long-term obligations and short-term obligations that the commission may issue from time to time after receipt of the applicable comptroller's certification.

(6) "Obligations" means bonds, notes, and other public securities.

(7) "Rail facility" means real or personal property, or any interest in that property, that is determined to be necessary or convenient for the provision of a freight or passenger rail facility, including commuter rail, intercity rail, and high-speed rail. The term includes all property or interests necessary or convenient for the acquiring, providing, using, or equipping of a rail facility or system, including rights-of-way, trackwork, train controls, stations, and maintenance facilities.

(8) "Short-term obligations" means an issue or series of obligations the latest scheduled maturity of which is five years or less.

(9) "Station" means a passenger or freight service building, terminal, station, ticketing facility, waiting area, platform, concession, elevator, escalator, facility for handicapped access, access road, parking facility for passengers, baggage handling facility, or local maintenance facility, together with any interest in real property necessary or convenient for those items.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.972. ADMINISTRATION OF FUND. The comptroller shall hold the fund, and the commission, through the department, shall manage, invest, use, and administer the fund as provided by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.973. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES; LIMITATIONS. (a) Subject to Subsections (e), (f), and (g), the commission by order or resolution may issue obligations in the name and on behalf of the state and the department and may enter into credit agreements related to the obligations. The obligations may be issued in multiple series and issues from time to time in an aggregate amount not exceeding the maximum obligation amount. The obligations may be issued on and may have the terms and provisions the commission determines appropriate and in the interests of the state. The obligations may be issued as long-term obligations, short-term obligations, or both. The latest scheduled maturity of an issue or series of obligations may not exceed 30 years.

(b) Obligations must be secured by and payable from a pledge of and lien on all or part of the money in the fund, including the revenues of the state dedicated or appropriated for deposit to the fund. Obligations may be additionally secured by and payable from credit agreements. The commission may pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(c) The commission may create within the fund accounts, reserves, and subfunds for purposes the commission finds appropriate and necessary.

(c-1) If proceeds of obligations are to be used for a project located in the planning area of a metropolitan planning

organization, the project must first be approved by the policy board of the metropolitan planning organization.

(d) Obligations may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating, or expanding rail facilities owned or to be owned by the department, including any necessary design, in the manner and locations determined by the commission that according to conclusive findings of the commission have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the payment of part of the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating, or expanding publicly or privately owned rail facilities, including any necessary design, if the commission determines that the project will be in the best interests of the state in its major goal of improving the mobility of the residents of the state and will:

(A) relieve congestion on public highways;

(B) enhance public safety;

(C) improve air quality; or

(D) expand economic opportunity;

(3) to create debt service reserve accounts;

(4) to pay interest on obligations for a period of not longer than two years;

(5) to refund or cancel outstanding obligations; and

(6) to pay the commission's costs of issuance.

(d-1) The fund may also be used to provide a method of financing the construction of railroad underpasses and overpasses, if the construction is part of the relocation of a rail facility.

(d-2) Proceeds of obligations may not be used to relocate an existing rail line unless the governing bodies of a majority of the total number of counties and municipalities in which the relocated rail line will be located have first approved the relocation.

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, and the investment earnings on that money, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations during that year.

(f) Short-term obligations in the amount proposed by the commission may not be issued unless the comptroller, in a comptroller's certification:

(1) assumes that the short-term obligations will be refunded and refinanced to mature over a 20-year period with level debt service requirements and bearing interest at then current market rates, as determined by the comptroller; and

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, and the investment earnings on that money, during each year of the assumed 20-year period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

(g) The commission may agree to further restrictions in connection with the issuance of obligations and may retain independent professional consultants to make projections in addition to, but not instead of, those of the comptroller if required as a prerequisite to the issuance of the obligations.

(h) The commission has all powers necessary or appropriate to carry out this subchapter and to implement Section 49-o, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(i) As required by Section 49-o(g), Article III, Texas Constitution, proceedings authorizing obligations and related credit agreements to be issued and executed under this subchapter shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued

in accordance with this subchapter and other applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(j) A comptroller's certification under this section must be based on economic data, forecasting methods, and projections that the comptroller determines are reliable. In determining the principal and interest requirements on outstanding and proposed obligations, and subject to the express limitations of this subchapter and Section 49-o, Article III, Texas Constitution, the comptroller shall rely on the assumptions included in the resolutions authorizing the obligations for the computation of debt service.

(k) The holders of obligations and the counterparties to credit agreements have the rights granted in Section 49-o(i), Article III, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.974. PLEDGE OF STATE'S FULL FAITH AND CREDIT.

(a) The commission may guarantee on behalf of the state the payment of any obligations and credit agreements issued under Section 201.973 by pledging the full faith and credit of the state to the payment of the obligations and credit agreements in the event the revenue and money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, are insufficient for that purpose.

(b) The exercise of the authority granted by Subsection (a) does not modify or relieve the commission from complying with Section 201.973(e) or (f) and does not permit the issuance of aggregate obligations in an amount exceeding the maximum obligation amount.

(c) If the commission exercises the authority granted by Subsection (a), the constitutional appropriation contained in Section 49-o(f), Article III, Texas Constitution, shall be implemented and observed by all officers of the state during any period during which obligations and credit agreements are outstanding and unpaid.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.975. DEDICATION OF REVENUE TO FUND. Annually, the revenue of the state that is dedicated or appropriated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, shall be deposited to the fund in accordance with Section 49-o(e), Article III, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.976. INVESTMENT AND USES OF MONEY IN FUND.

(a) Money in the fund may be invested in the investments permitted by law for the investment of money on deposit in the state highway fund.

(b) As a part of its covenants and commitments made in connection with the issuance of obligations and the execution of credit agreements, the commission may limit the types of investments eligible for investment of money in the fund but may not expand the types of investments to include any investments that are not authorized by Subsection (a).

(c) Income received from the investment of money in the fund shall be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing obligations to protect the tax-exempt status of interest payable on the obligations under the Internal Revenue Code of 1986.

(d) To the extent money is on deposit in the fund in amounts that are in excess of the money required by the proceedings authorizing the obligations and credit agreements to be retained on deposit, the commission may use the money for any purpose for which obligations may be issued under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.977. STRATEGIC PLAN. The commission may not issue obligations under this subchapter before the department has developed a strategic plan that outlines how the money will be used and the benefit the state will derive from use of money in the fund.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.

Sec. 201.978. ACQUISITION AND DISPOSAL OF PROPERTY.

(a) The department may acquire by purchase property or an interest in property necessary or convenient for one or more of the purposes for which obligations may be issued under Section 201.973(d).

(b) Property acquired under Subsection (a) may be used for any transportation purpose.

(c) Notwithstanding Chapter 202, the department may sell or lease property acquired under Subsection (a) that is no longer needed for a transportation purpose. Revenue from a sale or lease shall be deposited in the fund.

Added by Acts 2005, 79th Leg., Ch. 1070, Sec. 1, eff. November 8, 2005.