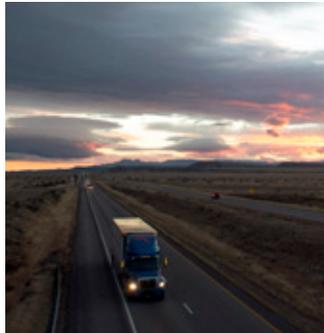
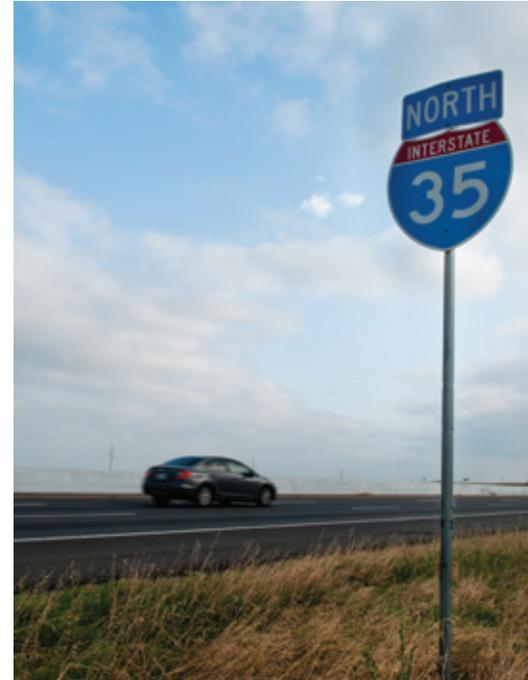
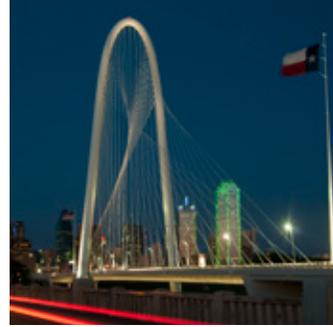


85th Legislature 2017

Pave It Forward

Summary of Enacted Legislation



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Texas Transportation Commission

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Chair



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Message from TxDOT Executive Director

We are pleased to provide you with the Texas Department of Transportation's (TxDOT) 2017 legislative summary. This publication provides an overview of key bills passed during the 85th (Regular) 2017 Texas Legislative Session that impact the state transportation system as well as TxDOT's daily operations.

First, I want to recognize the dedication and teamwork of TxDOT staff members. Also, my sincere thanks goes to the members of the Texas Legislature and their staff; Governor Abbott and his staff; the Texas Transportation Commission; the Texas Sunset Advisory Commission and Sunset staff; transportation stakeholders, and the public for their work throughout the Sunset review and legislative session. This collaboration is vital to TxDOT's ability to deliver a safe, reliable and integrated transportation system for the state.

A major highlight of the 2017 legislative session was the passage of TxDOT's Sunset bill, Senate Bill (SB) 312, which extended TxDOT's operations through 2029. SB 312 also expanded on previous legislative and management efforts to further the use of performance-based transportation planning and the improvement of contract management practices. SB 312's passage is a sign of confidence in the dedicated work of TxDOT's employees across the state to deliver needed transportation projects. We look forward to working with all stakeholders as we implement this key legislation over the next two years.

Other significant highlights of the session include legislation to:

- Prohibit texting while driving statewide
- Allow for the advanced acquisition of property to shorten highway project delivery timelines
- Enhance TxDOT's transit State Safety Oversight program
- Fund road projects that improve seaport access

Please contact TxDOT's State Legislative Affairs Section of our Government Affairs Division if you would like more information on any content in this publication or for any other transportation issues.

Thank you for doing your part to make our transportation system safer by obeying all traffic laws and operating your vehicle in a safe and responsible manner. I look forward to TxDOT's successful implementation and execution of the legislation summarized in this publication.

Respectfully,



James M. Bass
Executive Director, TxDOT

Texas Department of Transportation

VALUES:

People

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

Accountability

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

Trust

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

Honesty

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

VISION:

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

MISSION:

Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

GOALS AND OBJECTIVES:

- **Deliver the Right Projects** – Implement effective planning and forecasting processes that deliver the right projects ontime and on-budget.
- **Focus on the Customer** – People are at the center of everything we do.
- **Foster Stewardship** – Ensure efficient use of state resources.
- **Optimize System Performance** – Develop and operate an integrated transportation system that provides reliable and accessible mobility, and enables economic growth.
- **Preserve our Assets** – Deliver preventive maintenance for TxDOT's system and capital assets to protect our investments.
- **Promote Safety** – Champion a culture of safety.
- **Value our Employees** – Respect and care for the well-being and development of our employees.



Introduction

This publication serves as a guide to legislation enacted during the 85th (Regular) 2017 Texas Legislative Session that affects TxDOT, including legislation related to the state transportation system and TxDOT's operations and procedures as a state agency.

The 85th Legislature filed more than 7,000 bills and joint resolutions. Of these, TxDOT staff monitored approximately 880 bills that had the potential to directly affect the agency or impact transportation policy in Texas. Throughout the session, members of TxDOT's administration and staff served as expert witnesses in legislative hearings and worked with lawmakers to inform them about the possible impacts of proposed legislation.

In this session's tight fiscal climate, the Texas Legislature and Governor Greg Abbott prioritized the effective use of newly available transportation funding. In November 2015, Texas voters passed Proposition 7, a ballot measure that dedicated a portion of state sales taxes to the State Highway Fund for transportation projects. Along with 2014's Proposition 1, which directed a portion of oil and gas taxes to the highway fund, these recent ballot measures have enabled TxDOT to plan for approximately \$70 billion in new transportation projects over the next 10 years.

Some of the Texas Legislature's other priority issues affecting TxDOT included state contracting, distracted driving, toll road operations and automated vehicles. Legislation addressing these topics and more are summarized within this publication.

Prior to the legislative session, in July 2016, Governor Abbott appointed Laura Ryan of Houston to the Texas Transportation Commission (Commission), which is the five-member body that oversees the statewide activities of TxDOT. Commissioner Ryan, who replaced Jeff Moseley on the Commission, was unanimously confirmed by the Texas Senate in March 2017.

Featured Legislation

General Appropriations Act & TxDOT's Budget

SB 1

Author: Senator Jane Nelson (R–Flower Mound)

Sponsor: Representative John Zerwas (R–Richmond)

Summary

Senate Bill 1 (SB 1), the General Appropriations Act (GAA), appropriates \$216.8 billion from all fund sources for the Fiscal Years (FY) 2018-2019. The biennial state budget represents a 0.2 percent increase over the \$216.4 billion budgeted in FY 2016-2017. General Revenue (GR) funding decreased by \$1.3 billion, or 1.2 percent, and General Revenue-Dedicated (GR-D) funding decreased by \$2.9 billion.¹

Impact on TxDOT

Total appropriations for TxDOT's FY 2018-2019 budget equal \$26.6 billion. Table 1 and 2 compares budget appropriation totals and methods of finance from FY 2016-2017 to FY 2018-2019. TxDOT's total appropriations increased by approximately \$3.5 billion. The greatest factor contributing to the growth

in TxDOT's budget is an estimated \$2.9 billion in Proposition 7 funds.² Approximately \$400 million of Proposition 7 funds are currently appropriated in the budget to pay debt service on Proposition 12 bonds. The Proposition 7 line item in Table 1 reflects the amount of Proposition 7 funds that are currently appropriated to project development and delivery. An additional \$200 million will need to be transferred to pay the remaining Proposition 12 debt service. Proposition 7 funds will support non-tolled, public roadway projects as well as replace GR funding for Highway Improvement General Obligation (Proposition 12) bond debt service. Proposition 7 funding, authority and the timing of deposits will be discussed later in this summary.

Federal funds represent over one-third of TxDOT's budget. Federal funding estimates increased by \$2.1 billion over FY 2016-2017, while bond proceeds from State Highway Fund (SHF) bonds (Proposition 14), Texas Mobility Fund (TMF) bonds and Proposition 12 bonds decreased by approximately \$1.4 billion.

Table 1: Comparison of TxDOT's Budget in Current and Upcoming GAAs

Methods of Finance	FY 2016-2017 GAA	FY 2018-2019 GAA	Difference
Projects Begun Prior to the Biennium	\$ 4,129,219,823	\$ 3,230,625,379	\$ (898,594,444)
Maintain and Replace Existing System	\$ 8,892,969,890	\$ 9,864,078,326	\$ 971,108,436
Proposition 1	\$ 2,413,667,000	\$ 2,509,917,140	\$ 96,250,140
Proposition 7	-	\$ 2,527,698,000	\$ 2,527,698,000
Pay Back Borrowed Funds	\$ 2,223,421,860	\$ 2,084,221,869	\$ (139,199,991)
New Projects From Borrowed Funds	\$ 183,418,106		\$ (183,418,106)
New Projects From Cash	\$ 753,947,801	\$ 999,098,557	\$ 245,150,756
Project Development	\$ 2,641,754,726	\$ 3,967,044,830	\$ 1,325,290,104
Other Modes and Services	\$ 560,639,727	\$ 566,716,205	\$ 6,076,478
Administration and Support	\$ 517,026,075	\$ 573,326,727	\$ 56,300,652
Toll Subaccount Projects	\$ 738,787,870	\$ 272,312,714	\$ (466,475,156)
TxDOT Total Appropriations	\$ 23,054,852,878	\$ 26,595,039,747	\$ 3,540,186,869

¹ Legislative Budget Board. Summary of Conference Committee Report for SB 1. May 27, 2017.

² Texas voters overwhelmingly approved a constitutional amendment which created Proposition 7 funds in November 2015. The Texas Constitution directs a portion of the state general sales and use tax (beginning in FY 2018-2019) and motor vehicle sales and rental tax revenues (beginning in FY 2020) to the State Highway Fund.

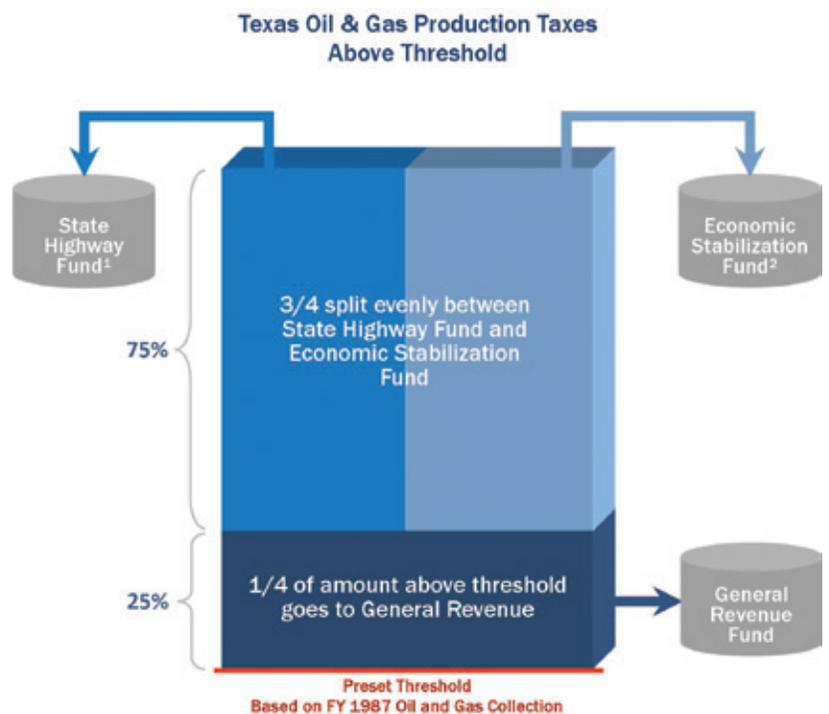
Table 2: Comparison of TxDOT’s Methods of Finance in Current and Upcoming GAAs

Methods of Finance	FY 2016-2017 GAA	FY 2018-2019 GAA	Difference
General Revenue Funds (GR)	\$ 505,840,202	\$ 2,416,118	\$ (503,424,084)
Insurance Maintenance Tax Fees	\$ 1,500,000	\$ 1,460,436	\$ (39,564)
Federal Funds	\$ 8,367,826,056	\$ 10,486,623,027	\$ 2,118,796,971
State Highway Fund – Estimated	\$ 7,399,791,157	\$ 7,943,433,649	\$ 543,642,492
State Highway Fund Debt Service	\$ 808,148,881	\$ 811,996,932	\$ 3,848,051
Proposition 1	\$ 2,413,667,000	\$ 2,509,917,140	\$ 96,250,140
Proposition 7	-	\$ 2,905,400,000	\$ 2,905,400,000
State Highway Fund – Surplus/CDA Fees	\$ 738,787,870	\$ 272,312,714	\$ (466,475,156)
Bond Proceeds	\$ 2,021,647,521	\$ 634,964,849	\$ (1,386,682,672)
Texas Mobility Fund – Estimated	-	\$ 240,067,295	\$ 240,067,295
Texas Mobility Fund – Debt Service	\$ 788,644,181	\$ 777,447,587	\$ (11,196,594)
Interagency Contracts	\$ 9,000,000	\$ 9,000,000	-
TxDOT Total Appropriations	\$ 23,054,852,868	\$ 26,595,039,747	\$ 3,540,186,879

Proposition 1

Proposition 1 funds are derived from a portion of oil and gas severance taxes, which voters approved in FY 2014. Pursuant to Section 49-g (c), Article III, Texas Constitution, the funds may be used for “constructing, maintaining, and acquiring rights-of-way for public roadways other than toll roads.” Proposition 1 appropriations include estimated unexpended balances from FY 2016-2017 as well as new appropriations for estimated FY 2018-2019 revenues.

Estimated unexpended balances from Proposition 1 funds in FY 2016-2017 total \$1.21 billion, with \$722.2 million appropriated in FY 2018 and \$485.7 million in FY 2019. Estimated new revenues of Proposition 1 funds in FY 2018 total approximately \$563 million in FY 2018 and \$739 million in FY 2019.³ Total Proposition 1 appropriations equal approximately \$2.5 billion for FY 2018-2019.



1. Actual amounts deposited in the State Highway Fund may vary based on the minimum balance of the Economic Stabilization Fund set by the Legislature
2. Economic Stabilization Fund also commonly known as the Rainy Day Fund

Proposition 1

³ Texas Comptroller of Public Accounts. Biennial Revenue Estimate 2018-2019. (January 9, 2017, p. 31).

Proposition 7

Proposition 7 funds will be deposited into the SHF pursuant to Section 7-c, Article VIII, Texas Constitution. Of the estimated \$2.9 billion in appropriated Proposition 7 funds, approximately \$613.4 million is needed to pay for debt service on Proposition 12 bonds in FY 2018-2019.⁴ Any remaining Proposition 7 funds may be expended to “construct, maintain, or acquire of rights-of-way for public roadways other than toll roads.” Rider 42 of TxDOT’s bill pattern directs the expenditure of Proposition 7 appropriations. See “Rider Changes” on page 11 for more detail.

Full-time Equivalents

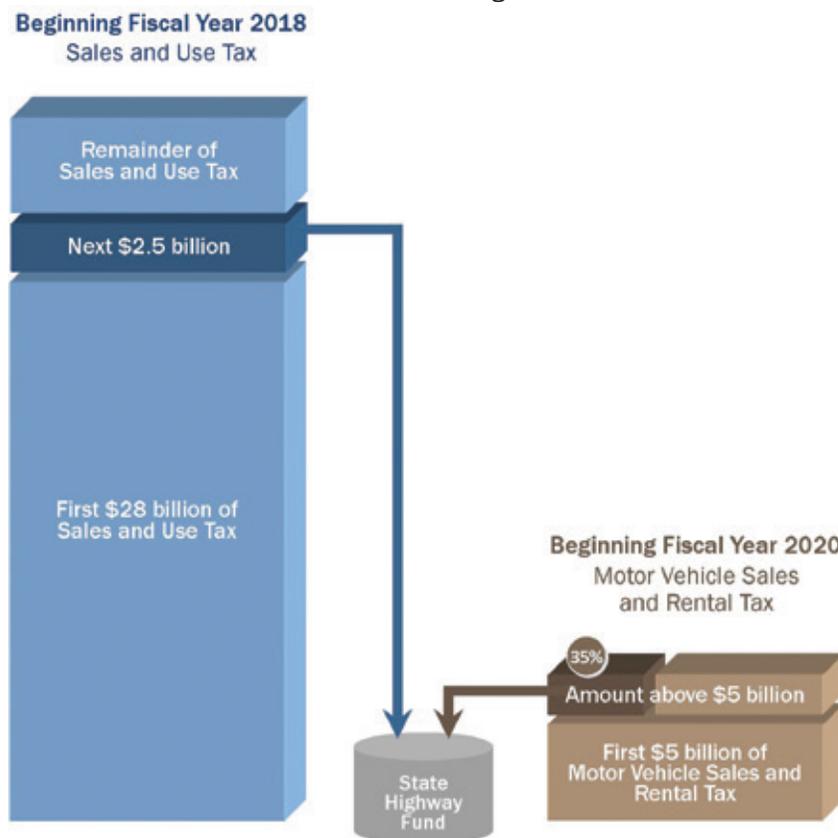
SB 1 increases TxDOT’s full-time equivalents (FTE) from 11,900 to 12,213.5, an increase of 313.5 FTEs.

Capital Budget Changes

SB 1 either partially or fully funds several of TxDOT’s priority budget requests for capital projects in FY 2018-2019. All of the projects below use SHF dollars, which are independent from GR funds and therefore do not contribute any “cost” to the state budget.

TxDOT received authority to spend up to \$30 million of SHF towards the acquisition of land and other real property, site preparation, architectural services and other preconstruction development activities to consolidate its Riverside and Camp Hubbard campuses in Austin.

In order to continue the deferred maintenance project schedule initiated in the 84th Legislature (Regular Session, 2015), SB 1 appropriates \$50 million in SHF dollars, which will allow TxDOT to maintain approximately 60 building projects throughout the state.



Note: Amounts that are not otherwise indicated are deposited to the General Revenue Fund

Proposition 7

4 Figure does not include Build America Bond subsidies.

Modernize Portfolio, Project and Workflow Management (MPPM) is a high-priority computer system that will replace TxDOT's outdated transportation project planning software. SB 1 fully funds TxDOT's request of \$33.5 million in SHF for this computer system.

Enterprise Information Management (EIM) is a system of business processes, governance policies, disciplines and technologies that will greatly enhance the management of information created from TxDOT's many sources of data and content. SB 1 appropriates \$27.6 million in SHF for EIM.

Centralized Accounting and Payroll and Personnel System (CAPPS) funding in the FY 2018-2019 budget totals approximately \$23.3 million in SHF dollars. An estimated \$15.6 million of this amount will cover maintenance, support functions and licensing costs. The remaining \$7.7 million is for software upgrades and improvements, including additional security.

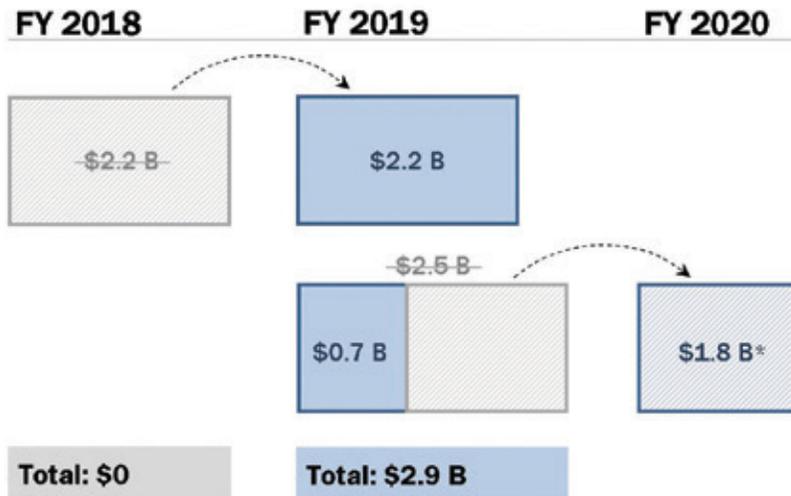
Rider Changes

SB 1 includes several new and amended riders. The following riders were either added or amended in the 85th Legislature (Regular Session, 2017):

- Rider 41, *Proposition 1 Appropriations*, eliminates the prescribed FY 2016-2017 distribution of Proposition 1 funds throughout the GAA strategies and allows TxDOT to distribute new Proposition 1 funds among necessary project development and delivery strategies. However, unexpended balances from FY 2016-2017 will continue to be expended according to the direction of that biennium. Under Rider 44 in the FY 2016-2017 GAA, 45 percent of the funds are directed to mobility and added capacity projects in urban areas, 25 percent is for projects that improve regional connectivity along strategic corridors in rural areas of the state, 20 percent goes to statewide maintenance and preservation projects and the remaining 10 percent is distributed to roadway safety and maintenance projects related to areas of the state affected by increased oil and gas production activity.
- Rider 42, *Proposition 7 Appropriations*, prescribes the amount and allocation of Proposition 7 funds for FY 2018-19 between TxDOT budget strategies A.1.7 *Proposition 7, 2015* and F.1.1 *General Obligation Bonds – Debt Service*. The 2018-19 GAA directs the Texas Comptroller of Public Accounts (comptroller) to deposit Proposition 7 funds beginning in FY 2019, even though Proposition 12 debt service obligations become due in FY 2018. As a result, Rider 42 added a provision (pursuant to Rider 17 Bond Programs) that allows GR to be spent in the event Proposition 7 funds are unavailable or insufficient. The use of GR is allowed under the assumption that Proposition 7 will reimburse GR. The transfer of Proposition 7 and GR, along with the reimbursement of GR, will be coordinated between TxDOT and the comptroller.
- Rider 42(a) of the FY 2018-2019 GAA outlines the initial distribution of Proposition 7 funds between the Proposition 12 debt service strategy, F.1.1 and Strategy A.1.7, of the Project Development and Delivery Goal. This distribution is represented in TxDOT's budget strategies as well.

SB 1 delays the full FY 2018 deposit of an estimated \$2.2 billion in Proposition 7 funds until the first month of FY 2019 (September 2018). In addition to the first deposit of FY 2018 Proposition 7 funds in FY 2019, SB 1 appropriates an additional \$700 million of the anticipated \$2.5 billion FY 2019 funds in the same year. Therefore, a total of \$2.9 billion in Proposition 7 funds is appropriated in FY 2019. There is no appropriation of Proposition 7 funds for A.1.7 or F.1.1 in FY 2018.

TxDOT must pay approximately \$308.8 million in Proposition 12 debt service in FY 2018. The first FY 2018 payment of Proposition 12 debt service will become due in October 2017 and the second payment in April 2018. Rider 42(b) of the FY 2018-2019 GAA allows TxDOT to temporarily expend GR funds on Proposition 12 bond debt service in the event that the bond debt service becomes due at a



*Estimated amount. Total to be appropriated in FY 2020 has not yet been determined.

Rider 42, Proposition 7

time when Proposition 7 funds are insufficient or unavailable. Once TxDOT receives the first deposit of Proposition 7 funds, it will then repay the state GR fund with Proposition 7 funds. In summation, the delayed transfer of FY 2018 Proposition 7 funds will require the expenditure of GR funds for FY 2018 Proposition 12 debt service and will then be repaid in FY 2019 after the Proposition 7 revenue is received.

- Rider 42(c) of SB 1, FY 2018-2019 allows TxDOT to make necessary transfers of Proposition 7 funds—of any amount—to Strategy F.1.1, General Obligation Bonds (Proposition 12 debt service). It also allows TxDOT to transfer Proposition 7 funds from the debt service strategy back to Strategy A.1.7 for use in the Project Development and Delivery Goal if any excess Proposition 7 funds remain after the Proposition 12 debt service has been paid.
- Rider 44, *Austin Campus Consolidation*, of TxDOT's bill pattern provides additional direction to the capital budget authority described in Rider 2. Rider 44 provides capital budget authority of up to \$30 million for the "Acquisition of Land and Other Real Property" or the "Construction of Buildings and Facilities"

for the preparation of TxDOT's campus consolidation project in Austin, Texas.

- Rider 45, *Port Access Improvements*, directs up to \$20 million in each FY to be spent on the state's public roadway projects as selected by the Port Authority Advisory Committee and approved by the Texas Transportation Commission to improve access to Texas ports.
- Rider 46, *Toll Vendor Contracts*, requires TxDOT to consider contract incentives encouraging the accurate assessment and billing of toll fees.
- Rider 47, *Limitation on Expenditures for High-Speed Rail*, prohibits the expenditure of TxDOT appropriations on high-speed rail projects operated by a private entity except to fulfill its duties regarding federal oversight requirements and state laws. Rider 47 includes a reporting requirement every six months that summarizes TxDOT staff hours and expenses related to these oversight duties. The report shall be distributed to members of the legislature whose districts include potential high-speed rail projects that are operated by private entities. The report must also be distributed to the chairs of relevant policy committees in the Texas House of Representatives and the Texas Senate.

- Rider 48, *Aviation Fleet Replacement*, appropriates up to \$20 million in total funds from the sale of TxDOT's real property, amounts received from the sale of aircraft controlled and operated by TxDOT and additional non-constitutionally dedicated SHF dollars to the purchase of replacement aircraft.
- Rider 49, *Appropriation: Lease/Purchase of Intelligent Transportation System*, requires TxDOT to finance through the issuance of lease revenue obligations up to \$32 million an Intelligent Transportation System on two international bridges in El Paso.
- Section 7.12, *Notification of Certain Purchase or Contract Awards, Amendments, and Extensions*, TxDOT would be required to report contracts that exceed, or may reasonably exceed (1) \$10 million in value or (2) emergency contracts greater than \$1 million in value. Under Section 7.12 (d)(1)(A), TxDOT must report the nature, term, amount and the vendor(s) awarded in the contract.
- Section 17.10, *Contract Cost Containment*, provides guidelines for agencies to implement cost-effective strategies for maximizing state funds. Most TxDOT districts and divisions are exempt from subsection (b), which requires an agency to seek competitive bids on contracts in a more restrictive timeframe than TxDOT's current requirements. The section also requires TxDOT to return \$48,250 of GR to the state.
- Part 9, Article IX contains several new sections that create requirements related to information resource technologies. The new sections address the purchase of new technology; cloud computing and services; quality assurance review of major projects; technology replacement standards and cybersecurity.

Article IX – General Provisions

Article IX of SB 1 includes new instructions to all state agencies concerning reporting and the administration of state property and funds. The sections of greatest consequence to TxDOT are related to contracting procedures and the associated reporting requirements to state leadership, the legislature, the Legislative Budget Board (LBB) and others about TxDOT's contracts. The following Article IX sections were either added or amended in SB 1 and will create a significant increase in TxDOT reporting:

- Section 7.04, *Contract Notification: Amounts Greater than \$50,000*, requires TxDOT to report any contractual modifications that would increase the total cost of the contract to an amount that exceeds \$50,000. State agency contracts which increase a contract above \$50,000 must be reported to the LBB within 30 days of awarding the contract or modification to the contract. Additional reporting is required under Section 7.04 if the contract modification exceeds the total value of the initial contract award by 10 percent. These notifications must be submitted to state leadership no later than 30 days after the change or discovery of the change.

Effective Date: September 1, 2017

TxDOT Sunset Legislation

SB 312

Author: Senator Robert Nichols (R–Jacksonville)

Sponsor: Representative Larry Gonzales
(R–Round Rock)

Background

The Sunset review process is the regular assessment by the Texas Sunset Advisory Commission (Sunset Commission) of the continuing need for a state agency or program to exist. While standard legislative oversight is concerned with agency compliance with legislative policies, the Sunset review process asks a more basic question: are the agency's functions still needed, and if so, how can the agency work better? As stated on the Sunset Commission's website, "the process creates a unique opportunity and powerful incentive for the Legislature and stakeholders to look comprehensively at each agency and make improvements to its mission and operations." About 130 state agencies are subject to the Texas Sunset Act. An agency's enabling law typically specifies a date on which the agency is abolished, unless continued by Sunset legislation. Agencies typically undergo review once every 12 years, and about 20 to 30 agencies go through the Sunset process each legislative session. The 12-member Sunset Commission consists of five members of the Senate, five members of the House of Representatives, and two public members—one appointed by the Lieutenant Governor and the other appointed by the Speaker of the House of Representatives. The Sunset Commission appoints a director who employs staff to carry out the Sunset Commission's day-to-day operations and legislative responsibilities.

Over the past decade, TxDOT has undergone the Sunset review process three times—in 2009, 2011

and 2017. Each time, the Sunset Commission conducted a comprehensive review of TxDOT's operations and published recommended improvements. The recommendations that called for changes to state law were then incorporated into the Legislature's TxDOT Sunset bills. In 2017 (85th Regular Session), the Legislature enacted SB 312, the TxDOT Sunset legislation. Additionally, the Sunset Commission adopted 30 management directives for TxDOT to implement to improve agency operations.⁵ Pursuant to Section 325.008, Texas Government Code, Sunset staff will be required to report back to the Legislature before January of 2019 on TxDOT's progress of implementing SB 312 and all management directives. As of the publication of this document, TxDOT has made considerable progress on implementing adopted Sunset Commission management directives and has started implementing numerous provisions of SB 312.

Statutory Changes Adopted by the Sunset Commission

Extension of TxDOT's Statutory Authority

SB 312 continues TxDOT operations for 12 years, setting September 1, 2029, as TxDOT's next Sunset date.

Transportation Planning and Project Development Strategies, Goals, and Targets in the Long-Range Plan

SB 312 requires the statewide long-range transportation plan to contain clearly defined system strategies and other related performance measures. The bill requires TxDOT to also consider these new elements in the selection of transportation projects.

Support for Goals in Transportation Plans and Policy Efforts

SB 312 requires TxDOT to include, in each transportation plan or policy effort, the transportation system strategies, goals and measurable targets, and other related performance measures established under Section 201.601(a-1)

⁵ See Exhibit A. TxDOT, Sunset Commission Adopted Management Actions (non-statutory).

(1), Texas Transportation Code.⁶ TxDOT must also specify how the plan or policy effort supports the specific goals established under that section.

Effect of Funding on Goal Achievement in the Statewide Long-Range Transportation Plan

SB 312 requires TxDOT to conduct a comprehensive analysis of the effect of funding allocations and project selection decisions on accomplishing the goals in the statewide long-range transportation plan. The bill further requires TxDOT to publish the methodology and results of that analysis on its website and make the information available to all Metropolitan Planning Organizations (MPOs), the public and the Texas Transportation Commission (Commission) to inform funding deliberations for the Unified Transportation Program (UTP). The analysis must also be updated each year as part of the annual UTP update.

Public Involvement and Transparency for Unified Transportation Program Changes

SB 312 requires the Commission to develop a comprehensive policy and adopt rules related to TxDOT's public involvement strategy and transparency in the UTP development process. The Commission must collaborate with stakeholders in developing the policy. The bill further requires that any change to the UTP to be documented in a public report made available on TxDOT's website and provided to the Commission in a public meeting.

Commission Prioritization and Approval of Projects in the Unified Transportation Program

SB 312 requires the Commission to prioritize and

approve projects in the UTP before projects may receive any financial assistance. After conducting the initial evaluation based on each project's strategic need and potential contribution toward meeting transportation goals, the Commission may conduct a secondary evaluation based on other factors such as funding availability and project readiness. SB 312 requires the Commission, when prioritizing and approving projects in the UTP, to first evaluate projects based on strategic need and potential contribution toward achieving transportation goals before using any secondary evaluation based on other factors, such as funding availability and project readiness.

Review of TxDOT District Project Development Processes

SB 312 requires TxDOT to develop performance measures for key steps in the project development process for projects included in each of TxDOT's 25 District (district) project portfolios and to use those measures to track and report whether districts are attaining an appropriate mix of projects and meeting construction letting ("contract awarding") targets. The bill requires a regular review of district project development activities and requires the Commission to develop rules governing the process, including how stakeholders can become involved in the planning, review and monitoring process. SB 312 additionally requires a regular report on the results of the district project development review and specifies that the district project portfolios must cover a period of at least four years.

⁶ Tex. Transp. Code § 201.601.

(a) The department shall develop a statewide transportation plan covering a period of 24 years 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.

(a-1) The plan must: (1) contain specific, long-term transportation goals for the state and measurable targets for each goal; (2) identify priority corridors, projects, or areas of the state that are of particular concern to the department in meeting the goals established under Subdivision (1); and (3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from:

(A) other state agencies;
(B) political subdivisions;
(C) local transportation entities; and
(D) the general public.

(b) As appropriate, the department and the entities listed in Subsection (a-1) (3) 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 department shall consider the goals and measurable targets established under Subsection (a-1) (1) in selecting transportation projects.

(e) The department annually shall provide to the Lieutenant Governor, the Speaker of the House of Representatives, and the chair of the standing committee of each chamber of the Legislature with primary jurisdiction over transportation issues an analysis of the department's progress in attaining the goals under Subsection (a-1)(1). The department shall make the information under this subsection available on its Internet website.

(f) The department shall update the plan every four years or more frequently as necessary.

Metropolitan Planning Organizations & Performance-Based Planning and Project Selection

SB 312 requires the Commission to adopt rules requiring TxDOT and MPOs in the state to align their state and federal funding forecasts and project recommendation criteria. The bill also requires the rules to govern the timelines and review process for the 10-year transportation plans, the TxDOT process for allowing MPOs access to relevant information for statewide transportation planning purposes, and the process for TxDOT collaboration with MPOs to regularly evaluate the data needed for a performance-based transportation planning and project selection system. SB 312 also requires the involvement of a stakeholder group in the development of these rules.

Five-year Update to Long-Term Passenger Rail Plan

SB 312 requires TxDOT to update its long-term passenger rail plan every five years, rather than annually, to align with federal requirements. However, the bill also requires additional analysis regarding the impact of proposed passenger rail lines on highway issues.

Enhanced Communications

Public Dashboard of Strategies, Goals, Targets and Performance Measures

SB 312 requires TxDOT to develop and display on its website a dashboard that communicates to the public the transportation system strategies, goals, measurable targets and other related performance measures, as well as TxDOT's progress in meeting those items, including trends over time. The bill also requires TxDOT to publish the methodology used to determine TxDOT's progress in relation to the items on the dashboard.

Statewide Transportation Progress Report

SB 312 requires prompt publication on the TxDOT website of the statewide transportation progress report, which statute already requires TxDOT to produce. The report must include the analysis of funding decisions and project selections on accomplishing the goals in the statewide long-range transportation plan.

Publication of Annual Funding and Cash Flow Forecasts

SB 312 requires TxDOT to publish its annual funding and cash flow forecasts on TxDOT's website.

Review of and Improvement to Project Information Reporting System

SB 312 requires TxDOT to conduct a comprehensive review of the project information reporting system (Project Tracker) and, using input from internal and external users of the system, develop a plan to implement improvements to the system. In addition, the bill requires rules to establish a regular review process for the system.

Crash Reporting

SB 312 removes the requirement that a driver submit a crash report (CR-2) if the crash is not investigated and reported by law enforcement and also requires law enforcement to submit their crash reports (CR-3) to TxDOT electronically.

State Aircraft Fleet Usage

Clean-Up References to Outdated State Aircraft Pooling Board

SB 312 amends various sections of the Texas Government Code to substitute references to TxDOT and the Commission for current statutory references to the non-operational State Aircraft Pooling Board.

More Robust Analysis in the Long-Range Plan for the State Aircraft Pool

SB 312 requires TxDOT to include in its long-range plan for the pool of aircraft an assessment of the remaining useful life of each aircraft, a proposed schedule for aircraft replacement, a range of alternatives and scenarios for the composition of the aircraft pool, an analysis of current aircraft pool usage, the status of maintenance time and costs and projected future trends, and an analysis of different methods for meeting the state agency air transportation needs, including the potential use of contracts for private charter aircraft services.

Aircraft Fleet Replacement Via Capital Cost Recovery

SB 312 allows TxDOT to adopt rates for interagency

aircraft services that are sufficient to recover direct costs for services provided and the capital costs of replacing aircraft in the pool.

Affidavit Prior to Use of State Aircraft

SB 312 requires state employees and state agency directors to sign and approve an appropriate, legal certification or affidavit form prior to state agency use of the state pool of aircraft.

Contracting Improvements

Contracting Rules to Address Unsatisfactory Progress by Contractors

SB 312 requires TxDOT to develop new contract provisions for low-bid construction, maintenance and building contracts to address unsatisfactory progress on the part of contractors. The bill requires TxDOT to establish by rule the circumstances under which a particular contract remedy or sanction would be applied, rather than relying on the judgment of the contract manager. SB 312 further requires TxDOT to begin evaluating contractors and establish an appeal process for contractors who believe their ratings are unfair. The bill provides specific direction regarding the calculation and imposition of liquidated damages and requires TxDOT adopt additional contractor penalties for delayed highway projects. The bill also requires TxDOT to consider the number of work days in the contract and factors beyond the contractor's control before assessing a contractor penalty.

Additional Statutory Changes Added as Amendments

Contracting

SB 312 prohibits TxDOT from awarding a highway construction, maintenance or highway improvement project contract unless the contractor and any subcontractor register with and participate in the E-Verify program to validate employee information. The contractor and subcontractor(s) must continue to participate in the program during the term of the contract. The bill requires TxDOT to develop procedures for the administration and enforcement of these requirements no later than October 1, 2017. The provisions apply only to contracts bid on or after September 1, 2017.

Transportation Planning & Project Development

Publication on TxDOT.gov of All Highway Crash Statistical Reports

SB 312 requires TxDOT to annually publish on its website all highway crash statistical reports, including information related to bicyclists, pedestrians and bridges.

Expanded Requirements for Public Hearings on Highway Projects

SB 312 requires TxDOT to conduct a public hearing when a highway construction project substantially changes the layout or function of the roadway, including the addition of managed, high occupancy vehicle, bicycle, bus or transit lanes.

Communication on Highway Closures

SB 312 requires TxDOT, before a highway improvement contract is signed, to communicate in person, by telephone, by e-mail or by other direct method of communication with public officials in municipalities affected by closures during: (1) periods of increased travel on the state highway system, including major state and federal holidays and school holidays; and (2) periods of high commercial activity in the state, including sales tax holidays. This section of the bill also requires that a highway improvement contract that requires the closing of a highway during periods of increased travel or of high commercial activity (as described above), must include a provision identifying the

days on which the highway may not be closed. The section also requires TxDOT to submit an annual report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and each member of the Legislature detailing all highway closures as described above and the estimated economic impact of those closures.

Report on Completed Highway Projects

SB 312 requires TxDOT to semiannually publish on its website a report on all highway projects, listed by district, that have been completed. The report must, for each project on the list: (1) specify whether the project was completed on schedule, ahead of schedule, or behind schedule; and (2) specify whether the project was completed on budget, under budget or over budget. The report must include any change orders authorized for each listed project.

Tolling

Repayment of Financial Assistance for Toll Projects

SB 312 requires that any financial assistance that is provided by TxDOT or the Commission to a public or private entity to pay the costs of a toll facility must be repaid to TxDOT. This requirement prohibits toll equity grants. The provisions apply to a loan, grant or other contribution made by TxDOT or the Commission on or after September 1, 2017. All previous grants will be grandfathered with no requirement to pay back those funds.

The provisions of the repayment requirement specifically exempt: (1) funds held in a subaccount created under Section 228.012, Texas Transportation Code, (Toll Project Subaccounts)⁷ or (2) funds contributed by the TxDOT or the Commission in the future, for a project for which the toll project entity commenced the environmental review process for the project on or before January 1, 2014.

The bill further requires TxDOT to allocate to each district the amount of money repaid to TxDOT from any loan in the previous year that is attributable to projects located in the district. This money must be used for transportation projects located in that district. If a transportation project that was the subject of loan repayment to TxDOT is located in more than one TxDOT district, TxDOT may reasonably allocate the repayments from that project between the districts in which the project is located. Also, while not specifically exempted from these new payback requirements, the new payback requirements do not apply to loans made by the State Infrastructure Bank.

Limitations on Toll Lanes and Toll Conversions

SB 312 removes an existing section of state law that allows TxDOT to operate high-occupancy vehicle (HOV) lanes as toll lanes under certain circumstances. Currently, TxDOT is allowed to make this type of conversion if: (1) the HOV lane was open to traffic on or before May 1, 2005; and (2)

⁷ Tex. Transp. Code § 228.012.

- (a) The department shall create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement and the surplus revenue of a toll project or system. The department shall create subaccounts in the account for each project, system, or region. Interest earned on money in a subaccount shall be deposited to the credit of that subaccount.
- (b) The department shall hold money in a subaccount in trust for the benefit of the region in which a project or system is located and may assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the region is located for projects approved by the department. At the time the project is approved by the department money shall be allocated and distributed to projects authorized by Section 228.0055 or Section 228.006, as applicable.
- (c) Not later than January 1 of each odd-numbered year, the department shall submit to the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy a report on cash balances in the subaccounts created under this section and expenditures made with money in those subaccounts. The report must be in the form prescribed by the Legislative Budget Board.
- (d) The commission or the department may not: (1) revise the formula as provided in the department's unified transportation program or a successor document in a manner that results in a decrease of a department district's allocation because of the deposit of a payment into a project subaccount; or (2) take any other action that would reduce funding allocated to a department district because of the deposit of a payment into a project subaccount.

the entity operating the converted HOV lane allows vehicles with multiple passengers to use the lane without paying a toll.⁸

SB 312 prevents TxDOT from adding a tolling component after September 1, 2017, to any currently operating non-tolled HOV lanes, unless the project meets at least one of the remaining four “exceptions” found in Section 228.201 (1-4), Texas Transportation Code.⁹ The new limitations imposed by SB 312 do not apply to a highway or segment of a highway being operated as a toll project by TxDOT or an entity under contract with TxDOT before September 1, 2017, or to a project included in the state’s air quality state implementation plan before September 1, 2017.

SB 312 also requires TxDOT to consider only existing general purpose lanes, and not frontage road lanes, when determining compliance with the requirements of Subsection 228.201(a)(3).¹⁰ This section applies only to a highway reconstruction that is begun on or after September 1, 2017. A reconstruction begun before the effective date of this act is governed by the law in effect when the reconstruction began, and the former law is continued in effect for that purpose.

Camino Colombia (SH 255)

SB 312 prohibits TxDOT from operating any part of SH 255 in Webb County as a toll project. Currently, SH 255, also known as Camino Columbia, is an all-electronic toll road in Webb County that stretches 22 miles from the Colombia-Solidarity International Bridge to I-35 north of Laredo. The bill requires TxDOT to remove toll operations from this road.

Cesar Chavez Freeway

SB 312 requires TxDOT to maintain the Cesar

Chavez Freeway in El Paso as part of the state highway system without tolls, if the Camino Real Regional Mobility Authority (CRRMA) approves the removal of toll operations from the portion of the Cesar Chavez Freeway that is currently tolled. If CRRMA takes this action, any money advanced by TxDOT to CRRMA for the construction or maintenance of the Cesar Chavez Freeway toll project that remains unexpended will instead be used for the construction of the Loop 375 Border Highway West Project in El Paso County from Race Track Drive to U.S. Highway 54 and added to CRRMA’s obligation for that project under terms agreeable to TxDOT.

Toll Collection, Enforcement and Pay-By-Mail Processes

SB 312 makes numerous changes to TxDOT’s toll collection, enforcement and pay-by-mail processes. The bill allows the customer to send a written request for a review of the toll assessments contained in an invoice; limits the amount of the administrative fee to \$6 per unpaid invoice, with a maximum of \$48 in a 12-month period; and limits the current \$250 Class C Misdemeanor to one charge per year for a customer that has two or more unpaid invoices. The changes in law to toll collections, enforcement and Pay-By-Mail processes made in SB 312 only apply to TxDOT operated toll roads.

SB 312 also allows TxDOT to provide pay-by-mail toll customers the option to receive invoices electronically. Current law requires TxDOT to send paper invoices for all pay-by-mail toll transactions (customers who choose not to use electronic TxTag toll services).

⁸ Tex. Transp. Code § 228.201.

(a) The department may not operate a nontolled state highway or a segment of a nontolled state highway as a toll project, and may not transfer a highway or segment to another entity for operation as a toll project, unless: (1) the commission by order designated the highway or segment as a toll project before the contract to construct the highway or segment was awarded; (2) the project was designated as a toll project in a plan or program of a metropolitan planning organization on or before September 1, 2005; (3) the highway or segment is reconstructed so that the number of nontolled lanes on the highway or segment is greater than or equal to the number in existence before the reconstruction; (4) a facility is constructed adjacent to the highway or segment so that the number of nontolled lanes on the converted highway or segment and the adjacent facility together is greater than or equal to the number in existence on the converted highway or segment before the conversion; or (5) subject to Subsection (b), the highway or segment was open to traffic as a high-occupancy vehicle lane on May 1, 2005.

(b) The department may operate or transfer a high-occupancy vehicle lane under Subsection (a) (5) as a tolled lane only if the department or other entity operating the lane allows vehicles occupied by a specified number of passengers to use the lane without paying a toll.

⁹ Id.

¹⁰ Id.

Regulation of Outdoor Signs

Sign Height Allowance

SB 312 allows certain regulated outdoor signs that existed before March 1, 2017, to have a height of up to 85 feet, excluding a cutout that extends above the rectangular border of the sign, measured: (1) from the grade level of the centerline of the main-traveled way, not including a frontage road of a controlled access highway, closest to the sign at a point perpendicular to the sign location; or (2) if the main-traveled way is below grade, from the base of the sign structure (Chapter 391, Primary Systems and Certain Roads, Texas Transportation Code). This section of the bill applies only to a sign existing on March 1, 2017, that was erected before that date. This section “grandfathers” such signs and allows a person to rebuild a sign by the section without obtaining a new or amended permit from TxDOT, provided that the sign is rebuilt at the same location where the sign existed on March 1, 2017, and at a height that does not exceed the height of the sign on that date.

Electronic Sign Exception for Laredo

SB 312 prohibits TxDOT, in regulating outdoor advertising located in the corporate boundaries of a municipality with a population of more than 200,000 in a county on the Texas-Mexico border with a population of less than 300,000 from requiring an electronic sign owned by the municipality to be more than 500 feet from another sign. This section of the bill applies only to Laredo.

Highway Naming Designations

Multiple amendments to SB 312 designated honorary or memorial names for certain state roadways. See page 68 for a complete list of highway designations.

Exhibit A.

TxDOT, Sunset Commission Adopted Management Actions (non-statutory):

Issue 1.

TxDOT's progress toward a more transparent, performance-based transportation planning process is far from complete.

Recommendation 1.8 — Require TxDOT to regularly evaluate and make improvements to the online project tracker system and adopt related rules. Also direct TxDOT to develop materials to increase awareness and use of the online project tracker tool for local elected officials.

Recommendation 1.9 — request the House Committee on Transportation and the Senate Committee on Transportation to provide necessary oversight of the state's significant transportation investment and TxDOT's progress toward performance-based planning. As a related management action, direct TxDOT to provide detailed status reports and any other information requested by the committees.

Issue 2.

TxDOT must quickly finalize ongoing project development fixes to eliminate backlogs and prepare for the future.

Recommendation 2.2 — TxDOT should provide regular analysis and monitoring reports to the Transportation Commission about the department's efforts to correct issues with underperformance in key budget measures, letting controls, and right-of-way backlogs.

Recommendation 2.3 — TxDOT should develop a more risk-based, cross-functional focus to its internal project development activities.

Recommendation 2.4 — Direct TxDOT to regularly report on its progress implementing the Modernize Portfolio and Project Management system to ensure visibility and oversight of this important but high-risk project.

Recommendation 2.5 — TxDOT should make efforts to improve proactive external stakeholder outreach to avoid conflicts with future planned transportation projects.

Issue 3.

TxDOT lacks critical contract oversight tools to efficiently spend billions in taxpayer dollars and better deliver construction projects on time.

Traditional Low-Bid Highway Contracts

Recommendation 3.4 — Direct TxDOT to develop clear criteria for applying sanctions.

Recommendation 3.5 — Direct TxDOT to develop and implement a process for regular, centralized monitoring of construction contract delays.

Recommendation 3.6 — Direct TxDOT to develop criteria for applying project incentives such as milestone incentives and A+B bidding.

Recommendation 3.7 — Direct TxDOT to update production rate information for estimating project timelines and establish a schedule for regular revisions.

Professional Engineering Contracts

Recommendation 3.8 — Direct TxDOT to provide guidance for district management of construction engineering inspectors, including how to perform staffing analyses and manage these expanding contracts.

Recommendation 3.9 — Direct TxDOT to better monitor and enforce the existing requirement that professional service project managers complete engineering contractor evaluations.

Recommendation 3.10 — Direct TxDOT to improve the availability of comparative information needed for districts to effectively negotiate the scope of work for professional engineering contracts.

Oversight and Support of Newly Decentralized Functions

Recommendation 3.11 — Direct TxDOT to develop additional training and monitoring processes to oversee districts' management of large, complex contracts, such as design-build.

Recommendation 3.12 — Direct TxDOT to provide comprehensive guidance and monitoring for decentralized procurement of professional engineering services contracts.

Contract Review and Monitoring

Recommendation 3.13 — Direct TxDOT to develop a risk-based approach to centrally reviewing contracts.

Recommendation 3.14 — Direct TxDOT to update its signature authority based on risk, eliminating unnecessary delays while preserving the appropriate level of review.

Recommendation 3.15 — Direct TxDOT to develop and monitor performance measures for contract procurement.

Issue 4.

TxDOT has not taken proactive steps to improve contracting opportunities for disadvantaged businesses.

Recommendation 4.1 — Direct TxDOT to align its business opportunity goal setting with state and federal guidelines to more actively promote higher participation.

Recommendation 4.2 — Direct TxDOT to develop a standard process for addressing failure to meet business opportunity program goals.

Recommendation 4.3 — Direct TxDOT to actively recruit new businesses for certification and provide training on contracting with TxDOT.

Recommendation 4.4 — Direct TxDOT to improve central monitoring and support for its business opportunity programs.

Recommendation 4.5 — Direct TxDOT to evaluate the small business enterprise program and develop policies and rules to provide meaningful opportunities for small businesses.

Recommendation 4.6 — TxDOT should streamline certification to actively certify SBE eligible businesses and increase participation of businesses eligible for multiple programs.

Issue 5.

TxDOT's Process improvement efforts lack clear, measurable results.

Recommendation 5.1 — Direct TxDOT to centrally coordinate and track results of business process improvement efforts, including the use of private management consultant contracts.

Recommendation 5.2 — Direct TxDOT to consider implementing a rapid process improvement program similar to the Texas Workforce Commission model.

Issue 6.

TxDOT does not effectively oversee or support its 25 districts.

Recommendation 6.1 — Direct TxDOT to actively and consistently monitor, evaluate, and report district performance.

Recommendation 6.2 — Direct TxDOT to improve communication with and support of the districts.

Issue 7.

The State's aging aircraft fleet raises questions about its future and requires more accountability for its use.

Recommendation 7.4 — Direct TxDOT to track specific statutory justifications for state aircraft use.

Recommendation 7.5 — Direct TxDOT to adopt a clear internal policy governing the appropriate use of the state aircraft fleet by department staff and regularly monitor usage.

Issue 10.

The Department's Statute Does Not Reflect Standard Elements of Sunset Reviews.

Recommendation 10.3 — Direct TxDOT to more proactively implement and monitor its efforts to increase workforce diversity.



Appropriations & Transportation Funding

HB 2

Supplemental appropriations and adjustment authority regarding appropriations

Author: Representative John Zerwas (R–Richmond)
Sponsor: Senator Jane Nelson (R–Flower Mound)

Summary

HB 2 is the current biennium's (Fiscal Years (FY) 2016-2017) supplemental appropriations bill, which adjusts appropriations to state agencies to address revised revenue estimates and supplemental needs of the current biennium. Two provisions in HB 2 impact TxDOT's FY 2016-2017 budget.

Impact on TxDOT

Section 3 of HB 2 includes a \$14.19 million General Revenue Fund deduction from Proposition 12 Highway Improvement General Obligation Bonds debt service that was not needed for the current biennium's debt service obligations.

Section 23 of HB 2 makes adjustments to TxDOT's current capital budget authority by transferring \$3.5 million from *Acquisition of Capital Equipment and Items to Transportation Items* to pay for the acquisition of additional fleet equipment and vehicles this biennium.

Effective Date: June 12, 2017

HB 1140

Allocation categories for state funding of public transportation

Author: Representative Charles “Doc” Anderson (R–Waco)

Sponsor: Senator Juan “Chuy” Hinojosa (D–McAllen)

Summary

Section 456.021, Texas Transportation Code, requires the Texas Transportation Commission (Commission) to distribute certain state public transportation funding to local entities in accordance with formulas developed by the Commission. The Commission currently allocates funding to three categories based on population: (1) urban area; (2) urbanized area; and (3) rural area. Section 456.001, Texas Transportation Code, defines an “urbanized area” (UZA) as one with a population greater than 50,000, as determined by the United States Census Bureau.

HB 1140 creates a fourth funding category for state-funded public transportation grants by splitting the current “urbanized area” into two categories: (1) large UZA, a population of 200,000 or more; and (2) small UZA, a population of more than 50,000 but less than 200,000.

Impact on TxDOT

Splitting the current UZA funding group into two groups will require TxDOT and the Commission to continue to distribute funds to enhance public transportation in urban areas with a population over 200,000 that are currently receiving state funds as well as to help cover costs of the newly-urbanized systems. The bill has no significant anticipated

operational or fiscal impact on TxDOT. However, HB 1140 will allow for the Commission to more equitably distribute limited public transportation funds to eligible recipients of the four categories.

Effective Date: September 1, 2017

HB 1930

Financial accounting and reporting requirements for this state and political subdivisions of this state

Author: Representative John Frullo (R–Lubbock)

Sponsor: Senator Charles Perry (R–Lubbock)

Summary

HB 1930 requires that state regulations concerning financial accounting be consistent with Generally Accepted Accounting Principles (GAAP) as established by the Governmental Accounting Standards Board (GASB). Previously, the state and municipalities could use statutory accounting principles to report Other Post-Employment Benefits on a pay-as-you-go basis, which is not consistent with GAAP requirements.

Impact on TxDOT

TxDOT currently follows GAAP and GASB requirements in the preparation of its standalone audited annual financial report. Therefore, HB 1930 is anticipated to have minimal operational impact on TxDOT.

Effective Date: June 15, 2017

HB 3765

Payment of certain miscellaneous claims and judgments against the state

Author: Representative Oscar Longoria (D–Mission)

Sponsor: Senator Juan “Chuy” Hinojosa (D–McAllen)

Summary

HB 3765 is known as the “Miscellaneous Claims Bill.” HB 3765 allows state agencies to pay bills for goods and services for which the claims (bills) were received after the expiration date of the appropriation in which the services or goods were

delivered or to pay or receive outstanding legal judgments against the agency. These claims have been adjudicated through the miscellaneous claims process and were approved by the Legislature for payment.

Impact on TxDOT

HB 3765 results in the following credits and debits to the State Highway Fund (SHF) for TxDOT:

- Refunds: \$5,638.92
- Payments: \$15,650,285.42

The net difference will be a payment of \$15,644,646.50 from the SHF.

Effective Date: September 1, 2017

SB 1831

Annual report on state programs not funded by appropriations

Author: Senator Dawn Buckingham (R–Lakeway)

Sponsor: Representative Giovanni Capriglione (R–Southlake)

Summary

SB 1831 requires the Comptroller of Public Accounts (comptroller) by December 31 of each year to prepare a report to the Legislature on state programs not funded directly by state appropriations. The report must include information related to each program that each state agency is statutorily required to implement for which no appropriation was made for the preceding state fiscal year, including the relevant statutory citation. State agencies must also provide the comptroller with the amount and source of money spent, if any, to implement any portion of the program during the preceding state fiscal year. State agencies must provide the comptroller with the required information by September 30 of each year. The initial report under this provision is due by December 31, 2017.

Impact on TxDOT

TxDOT participated in the Strategic Fiscal Review (SFR) process in Fiscal Year (FY) 2015, conducted by the Legislative Budget Board (LBB)

at the direction of the Speaker. Through the SFR process, TxDOT included TxDOT LBB budget strategy amounts by program level. Also, included was the legal citation that related to the funding or operation of each identified program. As part of the FY 2018-2019 Legislative Appropriation Request, TxDOT was required to provide the same program information to the LBB. Therefore, TxDOT anticipates minimal impact in working with the comptroller to provide the information required by SB 1831.

Effective Date: June 15, 2017

For more legislation on General Appropriations & TxDOT's Budget Issues, see SB 1 (page 8) & SB 312 (page 14)



Aviation

SB 1522

Composition of the Aviation Advisory Committee

Author: Senator Robert Nichols (R–Jacksonville)

Sponsor: Representative Ed Thompson
(R–Pearland)

Summary

The Aviation Advisory Committee (AAC) provides input to TxDOT and the Texas Transportation Commission (Commission) on aviation development programs and represents aviation stakeholders before TxDOT and the Commission. SB 1522 amends Section 21.003, Texas Transportation Code, to allow the Commission to determine, by rule, the number of members of the AAC and requires that a majority of the members have five years of successful experience as an aircraft pilot, an aircraft facilities manager or a fixed-base operator.

Impact on TxDOT

A more diverse AAC will likely enhance its effectiveness, while also representing a greater portion of the state’s aviation community. Granting the Commission the authority to set the number of AAC members by rule will also bring the AAC in line with how the membership of other Commission advisory committees are determined.

Effective Date: June 15, 2017

For more legislation on Aviation, see SB 312 (page 14)



Eminent Domain, Right of Way & Billboard Regulation

HB 2646

Advance acquisition for a transportation facility

Author: Representative Armando “Mando” Martinez (D–Weslaco)

Sponsor: Senator Juan “Chuy” Hinojosa (D–McAllen)

Summary

In 2015, the *Moving Ahead for Progress in the 21st Century Act* (MAP-21) broadened the ability of a state to receive federal funding for the acquisition of right-of-way prior to a final environmental clearance of a transportation project if the acquisition is made through negotiation and without the threat of condemnation. Sections 203.051 and 203.052, Texas Transportation Code, already grant the Texas Transportation Commission (Commission) the authority to acquire property that it determines to be “necessary or convenient” for a state highway to be constructed, reconstructed, maintained, widened, straightened or extended. However, before HB 2646’s enactment, state law did not explicitly provide the Commission with the authority to acquire property for a transportation project prior to the completion of the necessary environmental clearance.

HB 2646 amends Section 202.112, Texas Transportation Code, to broaden the Commission’s authority to acquire property for a transportation facility prior to environmental clearance. Acquiring property in advance of environmental clearance will help TxDOT shorten the time it takes to complete transportation project construction. This broadened authority continues to prohibit the use of condemnation for the acquisition of any such interest

in the property prior to the environmental clearance.

The bill additionally requires the Commission to dispose of property that TxDOT acquired through advanced acquisition but later determined to not be needed for a transportation facility. The Commission must first offer the property to the landowner from whom it was acquired. The offer price must be the lower of either the fair market value or the price the Commission paid for the property.

Impact on TxDOT

TxDOT anticipates a positive operational and fiscal impact with the reduction of right-of-way costs by purchasing property earlier in the process. An early purchase may also avoid the prospect of further development on the land, which in turn could avert an increase in the property’s value and the potential damages that TxDOT would otherwise have to pay to acquire the land at a later date.

Effective Date: June 15, 2017

SB 2006

Outdoor signs regulated by the Texas Department of Transportation

Author: Senator Kirk Watson (D–Austin)

Sponsor: Representative Geanie Morrison (R–Victoria)

Summary

The Texas Legislature passed the Texas Highway Beautification Act (HBA) in 1972, limiting the construction and placement of billboards to comply with the Federal Highway Beautification Act. Under Chapter 391, Texas Transportation Code (Highway

Beautification on Interstate and Primary Systems and Certain Roads), TxDOT has the authority to regulate certain outdoor advertising that was exempt from the HBA's general ban on signs. TxDOT's rules require that all regulated signs have a TxDOT-issued permit or be subject to a fine and removal. A recent court decision, *Auspro Enterprises, LP v. Texas Dep't of Transportation*, 506 S.W.3d 688 (Tex. App. 2016), held Subchapters B and C of Chapter 391, Texas Transportation Code, to be an unconstitutional regulation of free speech. In reaching its decision, the Texas Third Court of Appeals relied heavily on the United States Supreme Court decision in *Reed v. Town of Gilbert*, Ariz., 135 S. Ct. 2218 (2015). The issue before the Texas Third Court of Appeals was the display of political signs outside of the election period. The court found that it could not sever the unconstitutional portions of the HBA from the rest of the HBA. Consequently, it ruled the entirety of Chapter 391, Texas Transportation Code, unconstitutional.

SB 2006 addresses the Texas court's ruling by severing the protected free speech rights identified by the court while maintaining a regulatory framework for commercial activity. To achieve this aim, SB 2006 replaces the "outdoor advertising" framework with a "commercial sign" framework, limiting the state's regulation on outdoor advertising to only those signs that are leased, or for which payment of any type is received, for the display of any good, service, brand, slogan, message, product or company. This addresses the Texas court's ruling by focusing only on commercial signs and the sign structure instead of the content of message on the sign.

The bill defines a sign as any structure, display, light, device, figure, painting, drawing, message plaque, placard, poster, billboard, logo or symbol that is designed, intended or used to advertise or inform. Under SB 2006 the commercial sign framework continues in the same manner as previous law as it pertains to spacing, location and permit requirements.

Impact on TxDOT

The bill allows the Texas Transportation Commission (Commission) to regulate, by rule, the sign program. The Commission may act in accordance with the United States Department of Transportation to regulate the program. The Commission may purchase or acquire by eminent domain a commercial sign, paying just compensation. Under this bill, the Commission is authorized to continue to regulate commercial signs for such issues as location, size, spacing and lighting.

The Commission's responsibility to regulate the sign program is only on the interstate and primary highway systems, including state highways and farm-to-market roads. The Commission may set the amount of a license fee. The Commission may adopt rules to implement the program. The bill maintains the restriction to erect a commercial sign that is adjacent to and visible from certain roads.

Effective Date: June 15, 2017

For more legislation on Billboard Regulation, see SB 312 (page 14)



Facilities and State Property

SB 1349

Transfer of property from the Texas Department of Transportation

Author: Senator Kirk Watson (D–Austin)

Sponsor: Representative Joe Pickett (D–El Paso)

Summary

SB 1349 allows TxDOT to transfer all or part of the existing Camp Hubbard Campus property and buildings to the Texas Department of Motor Vehicles (TxDMV) and sell any remaining portions to the Texas Department of Banking, Department of Savings and Mortgage Lending, Office of Consumer Credit Commissioner or the Credit Union Department. Proceeds from any sale will be credited to the State Highway Fund.

Impact on TxDOT

TxDOT's current leases for its Riverside Campus buildings begin to expire in 2022 and the lease holders have indicated that they will not renew them. With the loss of the Riverside Campus, TxDOT will likely consolidate employees currently based at Camp Hubbard, Riverside and Centimeter Circle to a future Austin complex. In May 2017, the Texas Transportation Commission authorized TxDOT's Executive Director to purchase approximately 49 acres of land in southeast Austin for a future Austin complex consolidation. Assuming TxDOT is successful in obtaining a new site and constructing new facilities for the Austin complex consolidation, TxDOT will transfer the Camp Hubbard property as needed to TxDMV and sell any remaining property as allowed.

Effective Date: May 28, 2017



Human Resources

HB 88

Unlawful employment practice by an employer whose leave policy does not permit an employee to use leave to care for the employee's foster child

Author: Representative Armando "Mando" Martinez (D–Weslaco)

Sponsor: Senator Juan "Chuy" Hinojosa (D–McAllen)

Summary

HB 88 amends Subchapter B, Chapter 21, Texas Labor Code, to require employers to allow employees to use sick leave to care for sick foster children in the same way they are allowed to use sick leave to care for biological or adopted children residing in the household of the employee. A violation of this law is an unlawful employment practice by the employer.

Impact on TxDOT

TxDOT will need to update all policies and procedures to ensure that it is clear that an employee is entitled to take time off to care for a sick foster child. Since HB 88 refers to the undefined phrase "personal leave," additional interpretation by the Comptroller of Public Accounts or the Texas State Auditor's Office may be required to define the phrase.

Effective Date: September 1, 2017

SB 73

Leave policy and procedures for state employees

Author: Senator Jane Nelson (R–Flower Mound)

Sponsor: Representative Charlie Geren (R–Fort Worth)

Summary

SB 73 requires state agencies to adopt policies with clear and objective guidelines to inform employees under what circumstances an employee is authorized to use each type of leave allowed under current law. The bill requires an agency to post the policy on the agency's website in a location easily accessible to the agency's employees and the public.

SB 73 requires the administrative head of an agency to grant emergency leave to an employee if the employee requests the leave and the administrative head determines that the employee has shown good cause for taking the leave. The bill prohibits the administrative head from granting an emergency leave to an employee unless the administrative head believes in good faith that the employee being granted the emergency leave intends to return to the employee's position with the agency upon the expiration of the leave period. The bill does not require an employee to request emergency leave if the administrative head of the employing agency grants the emergency leave because the agency is closed due to weather conditions or in observance of a holiday.

SB 73 requires the administrative head of an agency to report to the Comptroller of Public Accounts, (comptroller) no later than October 1 of each year, the name and position of each employee of the agency who was granted more than 32 hours of emergency leave during the previous state fiscal year, the reason for which the employee was granted the emergency leave and the total number of hours of emergency leave granted to the employee in that state fiscal year.

SB 73 authorizes the administrative head of an agency to grant leave without a deduction in salary to a state employee who is the subject of an investigation being conducted by the agency or a victim of, or witness to, an act or event that is the subject of an investigation being conducted by the agency. The bill requires the agency to submit a report to the state auditor's office and the Legislative Budget Board (LBB), no later than the last day of each quarter of a state fiscal year that includes the name of each agency employee that is under investigation who has been granted 168 hours or more of leave during that fiscal quarter. The bill requires the report to include, for each employee, a brief statement as to the reason the employee remains on leave.

SB 73 authorizes a state employee, who is a veteran and eligible for health benefits under a program administered by the Veterans Health Administration, to be granted leave without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time to obtain medical or mental health care administered by the Veterans Health Administration, including physical rehabilitation. The leave granted is prohibited from exceeding 15 days each fiscal year. The bill authorizes the administrative head of an agency to annually grant additional days of leave as appropriate for the employee.

SB 73 requires the comptroller to adopt a uniform system for use by each state agency for the reporting of leave taken by the agency's employees. The bill requires the system to include standardized accounting for each type of leave.

Impact on TxDOT

SB 73 requires TxDOT to review and clarify leave policies. TxDOT will post the required leave policies to a visible location on its website. TxDOT will need to develop additional reports or queries to track employees and leave types and work with the comptroller on coding and reporting.

Effective Date: September 1, 2017



Information Technology

HB 8

Cybersecurity for state agency information resources

Author: Representative Giovanni Capriglione
(R–Southlake)

Sponsor: Senator Jane Nelson (R–Flower Mound)

Summary

HB 8 is a substantial piece of legislation that seeks to minimize state agencies vulnerability to cyber-attacks by creating an Information Sharing and Analysis Center, providing guidelines for cybersecurity training, requiring risk assessments and providing other best practice guidance for information technology usage and deployment across state government.

HB 8 requires, as part of an agency's Sunset review process, an assessment of the agency's cybersecurity practices using confidential information available from the Department of Information Resources (DIR) or any other appropriate state agency.

HB 8 amends the Open Meetings Act to allow a governmental body to conduct meetings in a closed session, not open to the general public, to deliberate:

- Security assessments or deployments relating to information resources technology.
- Network security.
- The deployment, or specific occasions for implementation, of security personnel.
- Critical infrastructure or security devices.

HB 8 also requires the redaction of information that

is otherwise confidential or excepted from public disclosure under the Public Information Act (PIA) when posting a contract on an Internet website under other state laws.

HB 8 requires DIR to establish an Information Sharing and Analysis Center (Center) to provide a forum for state agencies to share information regarding cybersecurity threats, best practices and remediation strategies. The bill requires DIR to appoint persons from appropriate state agencies to serve as representatives to the Center. The bill requires DIR to provide administrative support to the Center.

HB 8 requires DIR to provide guidelines to state agencies regarding the continuing education requirements for cybersecurity training that must be completed by all information resources employees of the agencies. HB 8 requires the information resources manager of a state agency to report a summary of the findings of the biennial report no later than October 15 of each even-numbered year, on the extent to which a computer, a computer program, a computer network, a computer system, a printer, an interface to a computer system, computer software or data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm.

HB 8 requires a state agency that owns, licenses or maintains computerized data that includes sensitive personal information or confidential information, in the event of a breach or suspected breach of system security or an unauthorized exposure of that information, to notify any person whose information was impacted and to notify DIR and the state

cybersecurity coordinator, no later than 48 hours after the discovery of the breach, suspected breach or unauthorized exposure.

HB 8 requires the state agency cybersecurity coordinator to establish and lead a Cybersecurity Council (Council) that includes public and private sector leaders and cybersecurity practitioners to collaborate on matters of cybersecurity concerning this state. The bill requires the Council to include:

1. One member appointed by the Governor;
2. One member of the Senate appointed by the Lieutenant Governor;
3. One member of the House appointed by the Speaker; and
4. Additional members appointed by the state cybersecurity coordinator, including representatives of institutions of higher education and private sector leaders.

The bill requires the Council to provide recommendations to the Legislature on any legislation necessary to implement cybersecurity best practices and remediation strategies for this state.

HB 8 requires the Council to consider the costs and benefits of establishing a computer readiness team to address cyberattacks occurring in the state during routine and emergency situations, establish criteria and priorities for addressing cybersecurity threats to critical state installations, consolidate and synthesize best practices to assist state agencies in understanding and implementing security measures that are most beneficial to this state and assess the knowledge, skills and capabilities of the existing information technology and cybersecurity workforce to mitigate and respond to cyber threats and develop recommendations for addressing immediate workforce deficiencies and ensuring a long-term pool of qualified applicants. The bill requires the Council to provide recommendations to the Legislature on any legislation necessary to implement cybersecurity best practices and remediation strategies for the state.

HB 8 requires each state agency to include in the agency's information security plan a written acknowledgment that the executive director or other head of the agency, the chief financial officer and each executive manager have been made aware of the risks revealed during the preparation of the agency's information security plan.

HB 8 requires each state agency, at least once every two years, to conduct an information security assessment of the agency's information resources systems, network systems, digital data storage systems, digital data security measures and information resources vulnerabilities. The bill requires a state agency to report the results of the assessment to DIR, the Governor, the Lieutenant Governor, and the Speaker no later than December 1 of the year in which a state agency conducts the assessment.

HB 8 requires each state agency, implementing an Internet website or mobile application that processes any sensitive personal information or confidential information, to submit a biennial data security plan to DIR no later than October 15 of each even-numbered year to establish planned beta testing for the website or application and subject the website or application to a vulnerability and penetration test and address any vulnerability identified in the test.

HB 8 requires a state agency to identify information security issues and develop a plan to prioritize the remediation and mitigation of those issues. The bill requires an agency to include in the plan:

- Procedures for reducing the agency's level of exposure with regard to information that alone or in conjunction with other information identifies an individual maintained on a legacy system of the agency.
- The best value approach for modernizing, replacing, renewing or disposing of a legacy system that maintains information critical to the agency's responsibilities.
- Analysis of the percentage of state agency personnel in information technology, cybersecurity, or other cyber-related positions

who currently hold the appropriate industry-recognized certifications as identified by the National Initiative for Cybersecurity Education.

- The level of preparedness of state agency cyber personnel and potential personnel who do not hold the appropriate industry-recognized certifications to successfully complete the industry-recognized certification examinations.
- A strategy for mitigating any workforce-related discrepancy in information technology, cybersecurity or other cyber-related positions with the appropriate training and industry-recognized certifications.

HB 8 provides that a state agency's network security information is confidential. HB 8 also establishes a house and senate Joint Select Committee on Cyber Security, comprised of members from the Texas Senate and the Texas House of Representatives, to study cybersecurity in this state, the information security plans of each state agency and the risks and vulnerabilities of state agency cybersecurity.

Impact on TxDOT

HB 8 will likely significantly impact TxDOT's information security efforts. TxDOT will have to update numerous policies, procedures and training materials to comply with the requirements of HB 8. While this will have fiscal and operational impacts on TxDOT, the scope of the impacts cannot be determined until after TxDOT, in conjunction with DIR, develops the rules, policies, training requirements and reports required by the bill. TxDOT will also be required to submit an information security assessment to DIR at least once every two years.

Effective Date: September 1, 2017

HB 3275

Monitoring of major information resources projects by the Department of Information Resources

Author: Representative Giovanni Capriglione
(R–Southlake)

Sponsor: Senator Donna Campbell
(R–New Braunfels)

Summary

HB 3275 requires the Department of Information Resources (DIR) to include in its annual report on major information resources projects the current status of each major information resources project for all state agencies. HB 3275 requires the quality assurance team (QAT), which is comprised of representatives from the Legislative Budget Office (LBB), the State Auditor's Office and DIR, to approve and review major information resources projects. The QAT is also required to monitor and report on performance indicators for each project, including schedule, cost, scope and quality for the entire life cycle of each major information resources project. The bill requires DIR, by rule, to develop the performance indicators the quality assurance team is required to monitor. HB 3275 requires DIR, in adopting rules, to consider applicable IT industry standards.

HB 3275 provides that if the QAT determines that a major information resources project is not likely to achieve the performance objectives for the project, the quality assurance team is required to place the project on a list for more intense monitoring by the quality assurance team. The bill requires the QAT to closely monitor monthly reports for each major information resources project and, based on criteria developed by DIR, determine whether to recommend to the executive director of DIR the need to initiate corrective action for the project.

HB 3275 requires DIR to create and maintain on DIR's website a user-friendly data visualization tool that provides an analysis and visual representation of the developed performance indicators for each major information resources project.

Impact on TxDOT

HB 3275 adds project oversight to TxDOT's major information resources projects. DIR will determine performance objectives for state agencies and the criteria that will be used for more intense monitoring and recommended corrective action.

Effective Date: January 1, 2018

SB 262

Purchasing by state agencies and local governments

Author: Senator Judith Zaffirini (D–Laredo)

Sponsor: Representative Ryan Guillen
(D–Rio Grande City)

Summary

SB 262 requires the Department of Information Resources (DIR) to monitor and verify information technology purchasing transaction reports of state agencies. The bill requires state agencies to comply with DIR's cooperative contracts (contracts that leverage state agencies' collective buying power by negotiating contracts for the bulk purchase of information technology commodities, such as computer hardware and software), for the purchase of automated information systems (AIS). SB 262 also requires DIR to periodically assess risk to the state in the purchase of commodity items.

Impact on TxDOT

Given TxDOT's current alignment with DIR best practices for purchasing, TxDOT is already in compliance with SB 262. Therefore, SB 262 is not anticipated to have a significant operational impact on TxDOT.

Effective Date: September 1, 2017

SB 532

Information collected about and purchases of information technology by governmental entities

Author: Senator Jane Nelson (R–Flower Mound)

Sponsor: Representative Giovanni Capriglione
(R–Southlake)

Summary

SB 532 amends the Public Information Act (PIA) to add that information collected, assembled or maintained by or for a governmental entity to prevent, detect, investigate or mitigate computer security incidents is classified as confidential under the PIA.

SB 532 requires the Department of Information Resources (DIR) to collect information from each state agency information on the status and condition of the agency's information technology infrastructure, including information regarding:

- The agency's information security program.
- An inventory of the agency's servers, mainframes, cloud services, and other information technology equipment.
- Identification of vendors that operate and manage the agency's information technology infrastructure.
- Any additional related information requested by DIR.

SB 532 requires DIR to a consolidated report of the information submitted by state agencies no later than August 31 of each even-numbered year submit to the Governor, the chair of the House Appropriations Committee, the chair of the Senate Finance Committee, the Speaker, the Lieutenant Governor and staff of the Legislative Budget Board (LBB). The report must include an analysis and assessment of each state agency's security and operational risks. A state agency found to be at higher security and operational risks must include a detailed analysis and estimate of the costs to implement the requirements for the agency to address the risks and related vulnerabilities.

SB 532 provides that, with the exception of information that is confidential under the PIA, the report is to be considered public information. The bill authorizes a governmental body to withhold confidential information under Chapter 552 or other state or federal law that is contained in the report released publicly without the necessity of requesting a decision from the Office of the Attorney General.

SB 532 requires that by March 31 of each even-numbered year, state agencies must complete a review of the operational aspects of the agency's information resources deployment following instructions developed by DIR. SB 532 requires a state agency to consider cloud computing service options, including any security benefits and cost savings associated with purchasing those service options from a commercial cloud computing service provider or a statewide technology center established by DIR when making purchases for a major information resources project. The bill requires DIR, no later than November 15 of each even-numbered year, to submit a report to the Governor, the Lieutenant Governor, and Speaker on the use of cloud computing service options by state agencies. The bill requires the report to include use cases that provided cost savings and other benefits, including security enhancements. SB 532 requires state agencies to cooperate with DIR in the creation of the report by providing timely and accurate information and any assistance required by DIR.

Impact on TxDOT

Without knowing the full scope of the portions of the SB 532 that requires state agencies to complete a review of the operational aspects of the agency's information resources deployment, the impact on TxDOT cannot be determined at this time. TxDOT will need to work with DIR during the rulemaking process to better assess the full operational and fiscal impacts. Provisions of SB 532 requiring the consideration of cloud services

will give TxDOT the ability to quickly obtain new and innovative technology in a more efficient manner. Cloud services will enable TxDOT to align with future state IT system architecture.

Effective Date: September 1, 2017

SB 564

Open meetings requirements to certain meetings of a governing body relating to information technology security practices

Author: Senator Donna Campbell
(R–New Braunfels)

Sponsor: Representative Giovanni Capriglione
(R–Southlake)

Summary

SB 564 allows a governmental entity to deliberate in closed-session meetings computer and network security issues relating to passwords, personal identification numbers, access codes, encryption or other components of the security system, not open to the general public.

Impact on TxDOT

SB 564 will allow TxDOT to improve its computer and network security efforts. TxDOT will adopt policies relating to open meetings requirements and TxDOT's computer and network security practices.

Effective Date: September 1, 2017

SB 1910

State agency information security plans, information technology employees and online and mobile applications

Author: Senator Judith Zaffirini (D–Laredo)

Sponsor: Representative Giovanni Capriglione (R–Southlake)

Summary

SB 1910 requires the Department of Information Resources (DIR) to submit a report, no later than November 15 of each even-numbered year, to the Governor, the Lieutenant Governor, the Speaker and the standing committee of each chamber of the Legislature with primary jurisdiction over state government operations identifying preventive and recovery efforts the state can undertake to improve cybersecurity in this state. The report is required to include an assessment of the resources available to address the operational and financial impacts of a cybersecurity event, a review of existing statutes regarding cybersecurity and information resources technologies, recommendations for legislative action to increase the state's cybersecurity and protect against adverse impacts from a cybersecurity event, an evaluation of the costs and benefits of cybersecurity insurance and an evaluation of tertiary disaster recovery options. The bill authorizes DIR or a recipient of the report to redact or withhold information confidential under the Public Information Act (PIA) or other state or federal law that is contained in the report in response to a request under the PIA without the necessity of requesting a decision from the Office of the Attorney General.

SB 1910 authorizes DIR to request the Governor or Legislative Budget Board (LBB) to propose funding to manage the operational and financial impacts from the cybersecurity event if a cybersecurity event creates a need for emergency funding.

SB 1910 requires a state agency requesting to spend appropriated funds for a major information resource project to first conduct an execution

capability assessment to determine the agency's ability to implement the project, reduce the agency's financial risk in implementing the project and increase the probability of the agency's successful implementation of the project. The bill requires a state agency to submit a detailed report to DIR that identifies the agency's organizational strengths and any weaknesses that will be addressed before the agency initially spends appropriated funds for a major information resources project. The bill allows a state agency to contract with an independent third party to conduct the assessment and prepare the report.

SB 1910 requires each state agency to designate an information security officer who reports to the agency's executive-level management, has authority over information security for the entire agency, and has information security duties as his or her primary duties.

SB 1910 requires each state agency launching a website or mobile application that processes any sensitive personally identifiable or confidential information to submit a biennial data security plan to DIR no later than October 15 of each even-numbered year, to establish planned beta testing for websites or applications and subject the website or application to a vulnerability and penetration test and address any vulnerability identified in the test. The bill requires DIR to review each submitted data security plan and make any recommendations for changes to the plan to the state agency as soon as practicable after DIR reviews the plan.

Impact on TxDOT

The development of a Data Security Plan will depend largely on the implementation of TxDOT's Enterprise Information Management (EIM) program. Without EIM, TxDOT will not have the necessary data governance capabilities to develop the Data Security Plan required by this bill. TxDOT will work with DIR on reporting requirements and to better assess the full operational impacts on TxDOT.

Effective Date: September 1, 2017



Legal

HB 501

Financial statements filed by public officers and candidates, including the disclosure of certain contracts, agreements, services and compensation in and the amendment of those statements

Author: Representative Giovanni Capriglione (R–Southlake)

Sponsor: Senator Van Taylor (R–Plano)

Summary

HB 501 amends the Texas Government Code and the Texas Election Code relating to the disclosure of certain contracts, services and compensation in personal financial statements filed by public officers and candidates. HB 501 requires the public disclosure of a state officer to include any contracts for goods or services with a governmental entity if the aggregate cost exceeds \$10,000 in a year. The provisions apply to contracts of a corporation, firm, partnership, limited liability partnership, professional corporation, professional association, joint venture or other business association in which five percent or more of the outstanding ownership is held, acquired or sold by the individual and to contracts of the individual, their spouse, dependent child or any business entity of which the individual, their spouse or dependent child owns at least 50 percent or a person who contracts with a governmental entity if the individual or entity performs work arising out of the contract, subcontract or agreement between the person and the governmental entity for a fee.

Chapter 572, Texas Government Code, defines a “state officer” as an “elected officer, an appointed

officer, a salaried appointed officer, an appointed officer of a major state agency, or the executive head of a state agency.”

Impact on TxDOT

Texas Transportation Commission members and the TxDOT Executive Director are state officers and will need to adhere to the new financial disclosure statements that are required by HB 501.

Effective Date: January 8, 2019

HB 1290

Repeal of a state agency rule and a government growth impact statement before adoption of a new state agency rule

Author: Representative Kevin Roberts (R–Houston)

Sponsor: Senator Lois Kolkhorst (R–Brenham)

Summary

SB 1290 adds Section 2001.0045, Texas Government Code, to restrict a state agency from adopting a proposed rule for which the fiscal note of the proposed rule indicates that the rule imposes a cost on any regulated person, including another state agency, a special district and a local government, unless, on or before the effective date of the proposed rule, the state agency repeals a rule that currently imposes a cost on the person that is equal to or greater than the cost imposed on the person by the proposed rule or amends a rule to decrease the costs imposed on the person by an amount that is equal to or greater than the cost imposed on the person by the proposed rule. This restriction does not apply to a rule that is:

1. Related to state agency procurement;
2. Amended to reduce the burden or responsibilities imposed on regulated persons by the rule or
3. to decrease the person's cost of compliance with the rule;
4. Adopted in response to a natural disaster;
5. Necessary to receive a source of federal funds or comply to with federal law;
6. Necessary to protect water resources of this state;
7. Necessary to protect the health, safety and welfare of the residents of this state;
8. Adopted by the Department of Family and Protective Services, the Department of Motor Vehicles, Public Utility Commission, Texas Commission on Environmental Quality, or Texas Racing Commission;
9. Adopted by a self-directed semi-independent agency – Texas Real Estate Commission, Texas Department of Savings and Mortgage Lending, Texas Department of Banking, Texas Board of Public Accountancy, Texas Board of Architectural Examiners, Texas Board of Professional Engineers, Office of Consumer Credit Commissioner, and Texas Credit Union Department; or
10. Necessary to implement legislation, unless the Legislature specifically provides that Section 2001.0045, Texas Government Code, applies.

A state agency rule proposal that contains more than one rule in a single rulemaking action is considered one rule. These requirements apply to rules proposed on or after September 1, 2017.

SB 1290 also adds new Section 2001.0221, Texas Government Code, and requires a government growth impact statement for a proposed rule. The statement has to be prepared in accordance with rules adopted by the Comptroller of Public Accounts (comptroller) and must be a part of the preamble of the proposed rule. The statement must describe for the first five years that the rule will be in effect whether the rule creates new regulation or

government program or eliminates such a program and whether the rule requires an increase or decrease in employee positions, future legislative appropriations to the agency, and fees paid to the agency. Failure to comply with these requirements does not impair the legal effect of the rule. These requirements apply to rules proposed on or after November 1, 2017.

Impact on TxDOT

Because of exceptions (5) and (10) above, HB 1290 will have minimal impact on TxDOT. Most of TxDOT's rulemaking is required to implement legislation, to receive a source of federal funds or to comply to with federal law. TxDOT will need to wait for the comptroller to adopt rules for the growth impact statements and incorporate the process into TxDOT's rulemaking process.

Effective Date: September 1, 2017 (November 1, 2017, implementation date for new rules)

HB 1456

Judicial review of certain decisions under the Texas Workers' Compensation Act

Author: Representative John Smithee (R–Amarillo)

Sponsor: Senator Bryan Hughes (R–Mineola)

Summary

HB 1456 removes the requirement of the Texas Workers Compensation Act that a person charged and assessed an administrative penalty in a workers compensation claim forward the amount of the penalty to the Texas Department of Insurance Division of Workers' Compensation (division) for deposit in an escrow account or post with the division a bond for the amount of the penalty, effective until a judicial review of the determination is final. The bill also removes the current provision in law that requires the division, if the court determines that the penalty should not have been assessed or reduces the amount of the penalty, to remit the appropriate amount, plus accrued interest, if the administrative penalty was paid or release the bond.

Impact on TxDOT

HB 1456 is anticipated to have a minimal impact on TxDOT. Any penalty assessed against TxDOT by the division will no longer have to be paid into an escrow account before the case has been adjudicated.

Effective Date: May 26, 2017

HB 1463

Failure to comply with certain standards to accommodate persons with disabilities

Author: Representative John Smithee (R–Amarillo)

Sponsor: Senator Kel Seliger (R–Amarillo)

Summary

HB 1463 requires a person who plans to sue an entity for non-compliance with the Americans with Disabilities Act (ADA) to notify the entity at least 60 days before a suit is filed of the alleged ADA violation. The statute of limitations for filing an ADA lawsuit in Texas is currently 180 days from the date the facility was constructed. Under the bill, the entity will have an opportunity to correct alleged violations or explain that they are in compliance. A person could still sue the entity but will have to show that the entity did not rectify the alleged ADA violation. A court will then decide if violations were properly addressed and, if appropriate, dismiss the suit.

Impact on TxDOT

TxDOT will need to investigate claims of ADA non-compliance under notice requirement and set up procedures for providing responses to persons alleging ADA non-compliance.

Effective Date: September 1, 2017

HB 3107

Production of public information under the public information law

Author: Representative Trent Ashby (R–Lufkin)

Sponsor: Senator Robert Nichols (R–Jacksonville)

Summary

HB 3107 amends the Public Information Act (PIA) to prevent abuse of state public information law by revising the law relating to the production of public information, particularly with regard to requests that require a large amount of employee time. HB 3107:

- Clarifies when an open records requests may be considered withdrawn or combined.
- Changes time limits for responding to requests.
- Sets forth that requests do not have to be completed until a previous request by the same requestor which had an unpaid statement is either paid for or withdrawn.
- Clarifies which media entities may receive open records without payment.
- Modifies and expand the circumstances in which an individual may file a complaint with the Office of the Attorney General (OAG) after initially filing a complaint with a district or county attorney.

HB 3107 makes a public information request considered withdrawn if the requestor does not inspect or duplicate the information in the offices of the governmental body within 60 days of the information being made available or fails to pay the postage and any other applicable charges within 60 days of being informed of them. HB 3107 entitles a requestor to file a complaint with the OAG if a prosecutor has not taken action within 90 days on a complaint alleging a governmental body violated a section of the Public Information Act (PIA). HB 3107 also allows a governmental body to implement a rule that allows TxDOT to charge labor and overhead on requests of less than 50 pages once a monthly or yearly limit has been met by a requestor.

Impact on TxDOT

Impact on TxDOT open record request (ORR) operations will be minimal under these changes to the PIA. TxDOT will update ORR processes and implement accordingly.

Effective Date: September 1, 2017

HB 3433

Relating to the adoption by state agencies of rules affecting rural communities

Author: Representative Stan Lambert (R–Abilene)

Sponsor: Senator Charles Perry (R–Lubbock)

Summary

HB 3433 requires a state agency that is considering adoption of a rule that will have an adverse economic effect on a city with a population of less than 25,000 to reduce that effect, if possible. Before adopting such a rule, the agency must prepare an economic impact statement and a regulatory flexibility analysis for the proposed rule. In addition to filing the proposed rule with the Secretary of State, the agency must send it to affected legislative committees and, “if feasible,” to each member of the Legislature who represents a rural community adversely impacted by the proposed rule.

Impact on TxDOT

TxDOT will need to wait for the guidelines that will be prepared by the Office of the Attorney General to fully assess the impact. Adhering to these new requirements may add considerable time and some costs to the rule-making process.

Effective Date: September 1, 2017

SB 79

Relating to the production of public information available on a publicly accessible website

Author: Senator Jane Nelson (R–Flower Mound)

Sponsor: Representative Giovanni Capriglione (R–Southlake)

Summary

Section 552.221, Texas Government Code, currently allows political subdivisions like cities and counties to direct requestors of public information to a website if the information already exists online. SB 79 makes it clear that Section 552.221, Texas Government Code, applies to all governmental bodies, including TxDOT. SB 79 also requires the governmental entity to inform the requestor that the requestor may access the information by inspection or duplication or by receiving it through the mail.

Impact on TxDOT

In practice, TxDOT already refers requestors to TxDOT’s website for requested information, if publicly available online. TxDOT will now be required to include a statement, if directing a requestor to a public website for requested information, that the requestor may also access the information by inspection or duplication or by receiving it through the mail.

Effective Date: September 1, 2017



Local Transportation Issues

HB 2557

Development of certain local government transportation infrastructure projects

Author: Representative Rick Miller (R–Sugar Land)

Sponsor: Senator Lois Kolkhorst (R–Brenham)

Summary

HB 2557 amends Chapter 172, Texas Transportation Code, regarding rural rail transportation districts to allow such districts acting through a county Commissioners court or local government corporation to develop rail facilities as a public-private infrastructure project. HB 2257 allows the county to issue bonds for rail facilities secured by a pledge of revenue from the facilities. The bill is bracketed to Brazoria County and Fort Bend County.

The bill revises the definition of “rail facilities” to include an “intelligent transportation system,” defined as:

1. Innovative technological transportation systems, including elevated freight transportation facilities, near or within the state highway system or that connect ports to the state highway system;
2. Communications or information processing systems that improve the efficiency and security of freight movement, including on dedicated intelligent freight lanes; or
3. A transportation facility or system that increases truck freight efficiencies within an intermodal facility or hub.

Impact on TxDOT

HB 2557 is anticipated to have minimal impact on TxDOT. As appropriate, TxDOT will work with any rural rail transportation districts that develop new facilities.

Effective Date: June 15, 2017

HB 2725

Composition of the board of directors of a storm-water control and recapture planning authority in certain counties

Author: Representative Mary Gonzalez (D–El Paso)

Sponsor: Senator Jose Rodriguez (D–El Paso)

Summary

HB 2725 amends the composition of the storm-water control and recapture planning authority board of directors for El Paso County (authority) to allow each legislator whose legislative district is in the territory of the authority to appoint a person to the board of the authority and adds a board member from TxDOT to be appointed by the Texas Transportation Commission (Commission). The bill prohibits a person who holds another public office from serving as a director of an authority.

The authority, which was created in 2015 (HB 995, 84R, 2015), is required to coordinate and adopt a long-range master plan to facilitate the development and management of integrated storm-water control and recapture projects and facilities within the authority’s territory; apply for, accept and receive gifts, grants, loans and other money available from any source to perform its purposes; and assist certain entities represented on the board

of directors in carrying out an objective included in the authority's master plan. The authority is set to expire September 1, 2023.

Impact on TxDOT

The Commission will be required to appoint a board member that represents TxDOT.

Effective Date: June 15, 2017

SB 82

Prohibiting the temporary closure of segments of the state highway system on days that certain scheduled events are being held in certain municipalities

Author: Senator Jane Nelson (R–Flower Mound)

Sponsor: Representative Giovanni Capriglione (R–Southlake)

Summary

SB 82 requires TxDOT to prohibit contractors from temporarily closing a highway, including temporarily relocating or changing an entrance or exit ramp, in the City of Grapevine on the date of an “event” in the city, if the city gives notice to TxDOT no later than 180 days before the “event” is scheduled to begin.

Impact on TxDOT

All highway construction and maintenance projects in Grapevine may be impacted. Contract language for highway projects in Grapevine will need to include a special provision that references the potential for a prohibition on closures during events if notice is given.

Effective Date: September 1, 2017

SB 402

Notice provided to persons with disabilities regarding the eligibility of persons with disabilities to use certain public transportation services

Author: Senator Judith Zaffirini (D–Laredo)

Sponsor: Representative Alma Allen (D–Houston)

Summary

Federal law requires a public transportation provider to make paratransit services available on a limited

basis to visitors from another jurisdiction who can demonstrate paratransit eligibility in their home jurisdictions. SB 402 requires a public transportation provider that provides public transportation services for people with disabilities to notify individuals who are certified by the provider as eligible to use the provider's services that the individuals are entitled to use another provider's service for not more than 21 days without an additional application.

Impact on TxDOT

No direct impact on TxDOT is anticipated.

Effective Date: September 1, 2017

SB 1305

County Transportation Infrastructure Fund

Author: Senator Robert Nichols (R–Jacksonville)

Sponsor: Representative Drew Darby (R–San Angelo)

Summary

SB 1305 repeals Sections 222.1071, 222.1072 and 222.110(i), Texas Transportation Code, which authorize the formation of county energy transportation reinvestment zones (CETRZs). The bill also strikes language from current law that requires a county to establish a CETRZ as part of its participation in the County Transportation Infrastructure Fund (CTIF) grant program.

The Legislature created the CTIF and CETRZs in 2013 in response to the state's oil and gas production boom. A county was required to create a CETRZ to be eligible for a CTIF grant. The Office of the Attorney General concluded in Attorney General Opinions GA-0981 and KP-0004 that Texas Constitution Art. 8, Sec. 1(a), which requires taxation to be equal and uniform, would likely cause a court to conclude that a county may not use tax increment financing to fund transportation projects in a CETRZ or to operate a CETRZ to the extent that doing so uses a captured increment of ad valorem taxes to fund the CETRZ. SB 1305 avoids the constitutional issues by removing the authority to create or operate CETRZs as well as removing the requirement to create a CETRZ to obtain a CTIF grant from TxDOT.

Impact on TxDOT

While SB 1305 eliminates CETRZs, it leaves the CTIF intact. Senate Bill 1747 (83rd Legislature, Regular Session, 2013) established the CTIF grant program and authorized TxDOT to distribute \$224.5 million among eligible counties that applied for funding. TxDOT awarded all of this funding to applicant counties through agreements executed in 2014 and 2015. SB 1305 will not affect TxDOT's continuing administration of the grant program, including reimbursements to counties for eligible project costs. TxDOT has no oversight over a county's administration of CETRZs.

Effective Date: December 31, 2017

For more legislation on Local Transportation Issues, see SB 312 (page 14)



Oversize/Overweight Vehicles & Commercial Vehicles

HB 1355

Enforcement of commercial motor vehicle safety standards in certain municipalities

Author: Representative John Wray (R–Waxahachie)

Sponsor: Senator Brian Birdwell (R–Granbury)

Summary

Currently, some local police departments are not authorized to enforce commercial motor vehicle safety standards, which can inhibit local government efforts to maintain safe roadways. HB 1355 allows the City of Midlothian to apply for certification to enforce commercial motor vehicle safety laws.

Impact on TxDOT

HB 1355 has no direct operational impact on TxDOT because enforcement of motor carrier safety laws are administered by TxDPS. However, HB 1355 has the potential to help TxDOT achieve one of its primary goals of improving roadway safety.

Effective Date: September 1, 2017

HB 1570

Enforcement of commercial motor vehicle safety standards in certain municipalities

Author: Representative DeWayne Burns (R–Cleburne)

Sponsor: Senator Brian Birdwell (R–Granbury)

Summary

Currently, some local police departments are not authorized to enforce commercial motor

vehicle safety standards, which can inhibit local government efforts to maintain safe roadways. HB 1570 allows the City of Alvarado to apply for certification to enforce commercial motor vehicle safety laws.

Impact on TxDOT

HB 1570 has no direct operational impact on TxDOT because enforcement of motor carrier safety laws are administered by TxDPS. However, HB 1570 has the potential to help TxDOT achieve one of its primary goals of improving roadway safety.

Effective Date: September 1, 2017

HB 1793

Inspection commercial motor vehicles that are not domiciled in this state

Author: Representative Joe Pickett (D–El Paso)

Sponsor: Senator Kelly Hancock (R–North Richland Hills)

Summary

HB 1793 amends Section 548.203, Texas Transportation Code, to exempt commercial motor vehicles (CMV) from required state inspection if they are domiciled outside of Texas but are registered in Texas under the International Registration Plan and have been issued a certificate of inspection in compliance with federal motor carrier safety regulations.

Impact on TxDOT

There is no fiscal or operational impact on TxDOT. The bill replaces current inspection fees

by requiring CMVs, as described in Subsection 548.051(b), Texas Transportation Code, to be subject to any fees that would have applied to the vehicle if the vehicle were subject to the previous inspection requirements. A portion of the new fee will be deposited into the Texas Mobility Fund to replace the loss of revenue from the previously required inspection fees.

Effective Date: May 26, 2017

HB 2065

Fines collected by a county or municipality from the enforcement of commercial motor vehicle safety standards

Author: Representative Larry Phillips (R–Sherman)

Sponsor: Senator Kelly Hancock
(R–North Richland Hills)

Summary

HB 2065 amends Section 644.102, Texas Transportation Code, to require a municipality or county that retains a fine from the enforcement of commercial motor vehicle safety laws to file a report of all fines retained and actual expenses from the previous year with the Comptroller of Public Accounts (comptroller).

Currently, fees that are paid to a particular county or municipality under motor carrier safety violations and that exceed 110 percent of the actual or estimated expenses to enforce commercial motor vehicle safety laws are transferred to the credit of TxDOT and deposited into the State Highway Fund.

Failure to file the report will now result in the forfeiture of the fines collected for the year of the report. If a municipality or county fails to file the report, all fines retained will be deposited to the credit of TxDOT for that year.

Impact on TxDOT

TxDOT may receive funds if a county or municipality does not submit an annual report to the comptroller. The fiscal impact is dependent on the number of municipalities and counties that fail to submit an annual report to the comptroller.

HB 2065 may increase the cost of enforcement to be paid by the counties and municipalities. Any additional costs claimed by a county or municipality will reduce potential revenue received by TxDOT. HB 2065 is not anticipated to have a material fiscal or operational impact on TxDOT.

Effective Date: September 1, 2017

HB 2319

Operation of certain overweight vehicles on highways

Author: Representative Chris Paddie (R–Marshall)

Sponsor: Senator Brandon Creighton (R–Conroe)

Summary - Natural Gas

HB 2319 aligns Section 621.101, Texas Transportation Code, with a federal allowance added in the *Fixing America's Surface Transportation Act* (FAST Act) to allow a vehicle fueled primarily by natural gas to exceed current state weight limitations. The additional allowable weight may not exceed an amount that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system, provided that the gross vehicle weight does not exceed 82,000 pounds (23 U.S.C. § 127).

Summary - Intermodal Shipping Container

HB 2319 also amends Chapter 623, Texas Transportation Code, to create a permit for an “intermodal shipping container” that has a gross weight or axle weight that exceeds the limits allowed by law to be transported over a state highway or county or municipal road to be issued by the Texas Department of Motor Vehicles (TxDMV). The bill defines an intermodal shipping ocean container as “an enclosed, standardized, reusable container that is: (1) used to pack, ship, move, or transport cargo; and (2) designed to be carried on a semitrailer and loaded onto or unloaded from: (A) a ship or vessel for international transportation; or (B) a rail system for international transportation.”

Vehicles using the permit are restricted to routes: (1) in a county with a population of more than 90,000; (2) on highways in the state highway

system; and (3) not more than 5 miles from the border between Texas and Arkansas (these restrictions limit the permit routes to Bowie County, Texas).

Permit routes cannot include operation on load-restricted roads or bridges. HB 2319 only allows the TxDMV to issue a permit for certain truck-tractor and semitrailer combinations equipped with a roll stability support safety system, truck blind spot systems and a six-axle configuration for which the specified gross weight of the combination does not exceed 93,000 pounds.

HB 2319 requires TxDMV an initial permit fee of up to \$2,000. The proceeds of the permit will be deposited as follows: 90 percent to the State Highway Fund (SHF), 5 percent to the Bowie County Road and Bridge Fund and 5 percent to the TxDMV Fund. Beginning in 2022, on September 1 of each even-numbered year, TxDMV will be required to set the permit fee in an amount based on a reasonable estimate of the costs associated with the operation of the permitted vehicles over the authorized routes, including any increase in highway maintenance costs based on a study to be conducted by TxDOT. Permit fees deposited to the SHF may only be used for transportation projects in the TxDOT districts designated on the permit applications. HB 2319 also requires TxDOT to conduct a biennial study beginning in 2022 on vehicles operating under these permits that will examine the weight and configuration of vehicles involved in accidents, the types of vehicles, traffic volumes and variations, weigh-in-motion studies and road and bridge impacts.

Impact on TxDOT - Natural Gas

HB 2319 has an indeterminable fiscal impact on TxDOT. The additional maximum allowable gross vehicle weight (GVW) allowed to travel on the state highway system may lead to increased deterioration of highways and bridges, requiring more frequent repair and maintenance expenditures.

Impact on TxDOT - Intermodal Shipping Container

HB 2319 has an indeterminable fiscal impact on TxDOT. Ninety percent of the up to \$2,000 permit fee will be deposited to the SHF. Deposits will result

in a positive fiscal impact on the SHF. However, the maximum allowable GVW allowed to travel on designated routes on the state highway system may likely lead to increased deterioration of certain highways and bridges, requiring more frequent repair and maintenance expenditures. It couldn't be determined if the deposits from permit fees will offset all associated repair and maintenance expenditures. In addition to the indeterminable costs, TxDOT anticipates three bridges in Bowie County will need to be further evaluated, which will result in load postings at a cost of \$1,600 per bridge (\$400 for the engineering analysis and \$1,200 for the installation of two signs at each bridge). These evaluations may result in a one-time cost of about \$5,000.

TxDOT will work with TxDMV to implement routing procedures for these permits as well as data collection for the required studies. TxDOT cannot yet estimate the cost to implement the biennial studies required by the bill.

Effective Date: June 9, 2017

HB 4156

Issuance of a permit for the movement of oversize and overweight vehicles in certain counties

Author: Representative Dennis Bonnen
(R-Angleton)

Sponsor: Senator Lois Kolkhorst (R-Brenham)

Summary

Under current law the Port of Freeport (port) is authorized to issue permits for the movement of oversize or overweight (OS/OW) vehicles weighing 125,000 pounds or less on certain state highways located in certain counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf. HB 4156 adds portions of State Highway 35 between Old Ocean and Bay City to the current OS/OW corridor for which the port is authorized to issue permits.

Impact on TxDOT

Under to current law and TxDOT rules, \$80 per permit, less administrative costs, collected by the county for the permits are deposited in the State

Highway Fund. If the fees are not sufficient to reimburse TxDOT for the payment of all the costs of maintenance of the highways that are designated in the OS/OW corridor, the port is required to pay the deficiency. Therefore, the added roads will not have a fiscal impact on TxDOT. TxDOT will need to revise the contract with the port to allow the permit to be used on the newly authorized roads.

Effective Date: September 1, 2017

SB 1102

Weight limitations for natural gas motor vehicles

Author: Senator Brandon Creighton (R–Conroe)

Sponsor: Representative Chris Paddie (R–Marshall)

Summary

SB 1102 aligns Section 621.101, Texas Transportation Code, with a federal allowance added in the *Fixing America's Surface Transportation Act* (FAST Act) to allow a vehicle fueled primarily by natural gas to exceed current state weight limitations. The additional allowable weight may not exceed an amount that is equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system, provided that the gross vehicle weight does not exceed 82,000 pounds (23 U.S.C. § 127).

Impact on TxDOT

SB 1102 has an indeterminable fiscal impact on TxDOT. The additional maximum allowable gross vehicle weight allowed to travel on the state highway system may lead to increased deterioration of highways and bridges, requiring more frequent repair and maintenance expenditures.

Effective Date: June 1, 2017

SB 1291

Permits for oversize and overweight vehicles in a certain county

Author: Senator Brandon Creighton (R–Conroe)

Sponsor: Representative Wayne Faircloth
(R–Galveston)

Summary

Under current law, Chambers County is authorized to issue permits for the movement of oversize or overweight (OS/OW) vehicles weighing 100,000 pounds or less on certain state highways located in the county. SB 1291 clarifies the designations of the roadways eligible for an issuance of a permit within Chambers County and adds the non-tolled portion of State Highway 99 (SH 99) to the currently authorized OS/OW corridor for Chambers County. The bill states that the frontage road of SH 99 and non-tolled portions of SH99 are permissible for permitted travel, which will include the segments between Cedar Bayou and Fisher Road.

Impact on TxDOT

Under current law and TxDOT rules, \$80 per permit, less administrative costs, collected by the county for the permits are deposited in the State Highway Fund. If the fees are not sufficient to reimburse TxDOT for the payment of all the costs of maintenance of the highways that are designated in the corridor, the county is required to pay the deficiency. Therefore, maintenance of the new section of road will not have a fiscal impact on TxDOT. Changes to the current OS/OW corridor agreement for Chambers County must be made prior to the use of the new roads for permitted vehicles.

Effective Date: September 1, 2017

SB 1383

Operation of vehicles transporting fluid milk; authorizing a fee

Author: Senator Charles Perry (R–Lubbock)

Sponsor: Representative Ken King (R–Canadian)

Summary

SB 1383 creates a \$1,200 annual permit for transporting fluid milk on a six-axle vehicle up to 90,000 pounds on the interstate as well as the state highway system. The permit complies with the new language in Section 127(a), Chapter 23, United States Code, that provides that fluid milk is a non-divisible load.

Impact on TxDOT

SB 1383 has an indeterminable fiscal impact on TxDOT. Seventy-five percent of the \$1,200 permit fee will be deposited to the State Highway Fund (SHF), resulting in a positive fiscal impact on the SHF. However, the maximum allowable gross vehicle weight (GVW) allowed to travel on the interstate and state highway system may likely lead to increased deterioration of highways and bridges, requiring more frequent repair and maintenance expenditures. It couldn't be determined if the deposits from permit fees will offset all associated repair and maintenance expenditures. In addition to the indeterminable costs, TxDOT anticipates 2,661 bridges (864 on-system and 1,797 off-system) will have to be further evaluated, which will result in load postings at a cost of \$1,600 per bridge (\$400 for the engineering analysis and \$1,200 for the installation of two signs at each bridge). These evaluations may result in a one-time cost of approximately \$4 million.

Effective Date: January 1, 2018

SB 1524

Movement vehicles transporting an intermodal shipping container

Author: Senator Robert Nichols (R–Jacksonville)

Sponsor: Representative Geanie Morrison (R–Victoria)

Bill Summary

SB 1524 adds Subchapter U, to Chapter 623, Texas Transportation Code, to create a permit for an “intermodal shipping container” that has a gross weight or axle weight that exceeds the limits previously allowed by law to be transported over a state highway or county or municipal road to be issued by the Texas Department of Motor Vehicles (TxDMV). The bill defines an intermodal shipping ocean container as “an enclosed, standardized, reusable container that: (1) is used to pack, ship, move, or transport cargo; and (2) is designed to be carried on a semitrailer and loaded onto or unloaded from: (A) a ship or vessel for international transportation; or (B) a rail system for international transportation....”

The bill prohibits the governing body of a municipality from regulating, because of weight, the movement and operation on a state highway or county or municipal road of a combination of vehicles operating with an intermodal shipping container.

The permit route may not exceed 30 miles from the port authority or port of entry located in a county contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and must be approved by TxDOT. Permit routes may not include the national system of interstate and defense highways or load-restricted roads or bridges.

For TxDMV to issue a permit, a truck-tractor and semitrailer combinations must be equipped with a roll stability support safety system and truck blind spot systems. There are two types of specific vehicle configurations for the authorized permit weights:

1. A six-axle configuration for which the specified gross weight of the combination does not exceed 93,000 pounds; and

2. One seven-axle configuration for which the specified gross weight of the combination does not exceed 100,000 pounds.

The bill establishes an annual permit fee of \$6,000. The proceeds of permits will be divided as follows:

- 50 percent deposited to the State Highway Fund (SHF).
- 30 percent will be divided equally among and distributed to the counties designated in the permit application.
- 16 percent will be divided equally distributed to the municipalities designated in the permit application.
- 4 percent deposited in the TxDMV Fund.

The bill requires the fee for a permit application received on or after January 1, 2028, to be determined by TxDMV after consultation with The University of Texas Center for Transportation Research and the Texas A&M Transportation Institute. The bill requires the Comptroller of Public Accounts to send amounts due to the counties and to the municipalities at least once each fiscal year.

SB 1524 also requires TxDOT to conduct a biennial study beginning in 2022 on vehicles operating under these permits that examines the weight and configuration of vehicles involved in accidents, the types of vehicles, traffic volumes and variations, weigh-in-motion studies and road and bridge impacts. TxDMV must issue a sticker with the permit to be placed on the front windshield of the truck-tractor. Also, TxDMV must design the form of the sticker to aid in the enforcement of weight limits.

A permit must be carried in the truck-tractor at all times as well as a copy of the weight record containing required weight record if the truck-tractor is on a public road and transporting an

intermodal shipping container that contains cargo. A copy of the weight record must be presented, on request, to an officer authorized to enforce provisions on vehicle size and weight. It is a Class C misdemeanor to fail to display the permit sticker, carry the permit as required or present the required weight record. In addition, the Texas Department of Public Safety must adopt rules requiring additional safety and driver training for permits issued under the provisions of the bill.

Impact on TxDOT

SB 1524 has an indeterminable fiscal impact on TxDOT. Half of the \$6,000 permit fee will be deposited to the State Highway Fund (SHF), resulting in a positive fiscal impact on the SHF. However, the maximum allowable gross vehicle weight (GVW) allowed to travel on designated routes on the state highway system may lead to increased deterioration of highways and bridges, requiring more frequent repair and maintenance expenditures. It couldn't be determined if the deposits from permit fees will offset all associated repair and maintenance expenditures. In addition to the indeterminable costs, TxDOT anticipates 1,183 bridges (183 on-system and 1,000 off-system) will have to be further evaluated, which will result in load postings at a cost of \$1,600 per bridge (\$400 for the engineering analysis and \$1,200 for the installation of two signs at each bridge). These evaluations may result in a one-time cost of approximately \$2 million.

TxDOT will work with TxDMV to implement routing procedures for these permits as well as data collection for the required studies. TxDOT cannot yet estimate the cost to implement the biennial studies required by the bill.

Effective Date: January 1, 2018

SB 2227

*Fee for permits issued for the movement of
oversize and overweight vehicles carrying cargo in
Hidalgo County*

Author: Senator Juan “Chuy” Hinojosa (D–McAllen)

Sponsor: Representative Armando “Mando” Martinez
(D–Weslaco)

Summary

SB 2227 amends Section 623.364, Texas Transportation Code, to increase the maximum fee a regional mobility authority (Hidalgo County Regional Mobility Authority “HCRMA”) may collect for the issuance of permits for the movement of oversize or overweight (OS/OW) vehicles carrying cargo on certain roads located in Hidalgo County from \$80 to \$200.

Impact on TxDOT

TxDOT will work with HCRMA to determine a fee sufficient to cover the costs of road maintenance and administrative costs for the operation of the OS/OW corridor. Permit fees, less administrative costs, collected by HCRMA for the permits are deposited in the State Highway Fund for the payment of all the costs of maintenance of the highways that are designated in the OS/OW corridor. TxDOT anticipates an increase in deposits to the subaccount for the OS/OW corridor if the permit fee is increased.

Effective Date: September 1, 2017



Ports

SB 28

Financing of ports in the state

Author: Senator Brandon Creighton (R–Conroe)

Sponsor: Representative Joe Deshotel
(D–Beaumont)

Summary

SB 28 creates the “Ship Channel Improvement Revolving Fund” as an account in the General Revenue Fund to be administered by the Texas Transportation Commission (Commission). The ship channel fund is intended to assist with Texas ports’ local matches for channel deepening and widening projects approved by Congress. SB 28 specifically prohibits the use of the fund for maintenance dredging projects. Sources of funding for the fund include:

- Gifts, grants and donations to the Commission.
- Appropriations.
- Funds received in repayment of loans.
- Interest earned on deposits and investments of the fund.

SB 28 explicitly states that the Texas Mobility Fund may be used for “port access improvement projects.” The bill defines a port access improvement project as “the construction or improvement of public roadways that will enhance connectivity to ports.” Additionally, SB 28 increases the number of members on the Port Authority Advisory Committee (PAAC) from the current seven members appointed by the Commission to nine. The two additional members will be appointed (one each) by the Speaker and the Lieutenant Governor.

Impact on TxDOT

The newly created Ship Channel Improvement Revolving Fund did not receive any appropriations during the 85th Regular (2017) Legislative Session. However, the Commission is required to create rules to establish a revolving loan program to use money from the fund to finance qualified projects for navigation districts. Additionally, TxDOT will work with the offices of the Speaker and the Lieutenant Governor to obtain appointments to the PAAC.

Effective Date: May 26, 2017



Rail

SB 975

Security of high-speed rail operated by a private entity

Author: Senator Brian Birdwell (R–Granbury)

Sponsor: Representative Leighton Schubert (R–Caldwell)

Summary

SB 975 will require the Texas Department of Public Safety (TxDPS) to oversee safety operations, including security screenings and emergency management, for any high-speed rail line operated by a private entity. SB 974 defines high-speed rail as a passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour. SB 975 requires a private entity operator of a passenger high-speed rail service to implement all security requirements of the federal Transportation Security Administration, conduct periodic risk-based threat and vulnerability assessments and, in consultation with the TSA, implement appropriate security measures in response to results of the assessments. The bill requires a high-speed rail operator to collect and investigate security threat reports submitted by members of the public. The bill requires an operator to identify employees who are managers or supervisors whose position description, job duties or assignment includes emergency management responsibilities and require those employees to complete emergency management training provided by TxDPS. The bill prohibits a high-speed rail operator from using the services of a peace officer employed by the state or a political subdivision of the state unless

the operator compensates the state or political subdivision, as applicable, for the officer's time.

SB 975 requires a high-speed rail operator to coordinate security activities and investigations with federal, state and local law enforcement agencies, including by communicating about credible threats, major events, and vulnerable places along the rail line or on a train. The bill requires such an operator to communicate as appropriate with the state Emergency Management Council and the Texas Division of Emergency Management about safety and security issues. The bill requires TxDPS, to the extent not preempted by federal law, to administer and enforce the bill's provisions and authorizes TxDPS to that extent to adopt rules as necessary to administer the bill's provisions. The bill grants TxDPS, in carrying out the powers and duties under the bill's provisions, the same authority granted to TxDOT under statutory provisions relating to the regulation of railroads by TxDOT and requires TxDPS to ensure that rules and standards adopted under the bill's provisions are consistent with the applicable federal rules, regulations and standards.

Impact on TxDOT

No operational or fiscal impact on TxDOT is anticipated unless TxDOT is called on to be a resource to TxDPS in implementation.

Effective Date: September 1, 2017

SB 977

Use of state money for high-speed rail operated by a private entity

Author: Senator Charles Schwertner
(R–Georgetown)

Sponsor: Representative Trent Ashby (R–Lufkin)

Summary

SB 977 defines high-speed rail (HSR) as intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour. SB 977 prohibits the Legislature from appropriating money to pay for the cost of planning, facility construction or maintenance, security, promotion or operation of high-speed rail operated by a private entity. The bill also prohibits TxDOT from spending or receiving state funds to pay for the same list of HSR-related costs.

The prohibitions on spending funds do not preclude or limit TxDOT's responsibilities under federal law or other state law, including:

- Regulatory responsibilities.
- Oversight of transportation projects.
- Environmental review.
- Policy development.
- Communication with public officials.
- Coordinating with a private entity that operates or proposes to operate high-speed rail in the same manner that TxDOT coordinates with other entities that operate transportation projects.

Also TxDOT must prepare a semiannual report of each expense made relating to high-speed rail and submit a copy to the Texas Transportation Commission, the Comptroller of Public Accounts, the house and senate transportation committees, the Speaker, the Lieutenant Governor and the Governor.

Impact on TxDOT

TxDOT is currently participating in the environmental review process for two proposed HSR projects:

1. National Environmental Policy Act (NEPA) process for a proposed high-speed rail line from Oklahoma City to Laredo, which includes analysis of how such a line may interact with proposed private high-speed rail lines; and
2. Texas Central Railway NEPA process, which consists of reviewing environmental documents and assisting with public outreach. Since SB 977 allows TxDOT to perform its duties related to environmental and tr processes, no major operational or fiscal impact on TxDOT is anticipated. TxDOT staff will need to track time spent working on high-speed rail projects as required by this law.

Effective Date: September 1, 2017



State Contracting

HB 89

State contracts with and investments in companies that boycott Israel

Author: Representative Phil King (R–Weatherford)

Sponsor: Senator Brandon Creighton (R–Conroe)

Summary

HB 89 requires a governmental entity contracting for goods or services to include in its contract a written verification from the contracting company stating the company does not boycott Israel and will not boycott Israel during the term of the contract.

HB 89 requires the Comptroller of Public Accounts (comptroller) to prepare and maintain a list of all companies that boycott Israel. Under certain circumstances, it will require state pension systems and the Permanent School Fund to sell, redeem, divest or withdraw publicly traded securities of a company that boycotts Israel. The Office of Attorney General will receive both the comptroller's list of companies that boycott Israel and reports from state governmental entities regarding their divestment from listed companies.

Impact on TxDOT

HB 89 will require TxDOT to update its contract templates to include a certification stating the vendor company does not boycott Israel and will not boycott Israel during the term of the contract.

Effective Date: September 1, 2017

HB 2121

Damages in certain contract claims against the state

Author: Representative John Cyrier (R–Lockhart)

Sponsor: Senator Bryan Hughes (R–Mineola)

Summary

HB 2121 amends Chapter 2260, Texas Government Code, to allow damages to include attorney's fees in claims against the state for breach of a written contract for engineering, architectural or construction services or for related materials in which the amount in controversy was less than \$250,000, excluding penalties, costs, expenses, prejudgment interest and attorney's fees.

Impact on TxDOT

No fiscal impact can be determined. However, HB 2121 now allows attorney's fees to be awarded, if the contract is for engineering, architectural or construction services, which may lead to TxDOT being responsible for attorney's fees in some instances.

Effective Date: June 15, 2017

HB 3021

Indemnification and duties of engineers and architects under certain governmental contracts

Author: Representative Dade Phelan (R–Beaumont)

Sponsor: Senator Bryan Hughes (R–Mineola)

Summary

HB 3021 subjects state agencies to certain contracting requirements under Section 271.904, Texas Local Government Code, which currently apply

only to local governments and political subdivisions of the state. TxDOT is now subject to the following three provisions:

1. *Requirement to Defend*

HB 3021 prohibits TxDOT from requiring a professional services contractor (architect, landscape architect, surveyor, appraiser or engineer) to defend the agency from claims arising from TxDOT's own negligence.

2. *Standard of Care*

HB 3021 prescribes the contractual "standard of care" that TxDOT may legally require of an engineer or architect, so that they may only be held to the level of skill and competence of other engineers and architects under "similar circumstances." This legal test considers the contemporary state of the profession to assess whether the design professional's actions were reasonable. The bill also removes the phrase "similar locality" from this section of the existing statute, which reduces the risk to TxDOT that a firm could, based on the professional standards of a specific location, be held to a lower standard of work than a project requires.

3. *Work Schedule*

HB 3021 requires TxDOT contracts to require engineers and architects to "perform services as expeditiously as is prudent," considering the typical skill level of professionals in those fields. HB 3021 clarifies that the law does not prohibit a state agency from including conditions in its professional engineering contracts that "relate to scope, fees, and schedule of a project." This change ensures that TxDOT can continue to enforce work schedules in its contracts and seek recourse for work delays.

Impact on TxDOT

TxDOT's professional services contracts do not currently contain a requirement to defend. TxDOT may need to revise some language in its Comprehensive Development Agreements and design-build contracts since those agreements apply a slightly higher standard of care than what is allowed under HB 3021. The bill has no significant anticipated operational or fiscal impact on TxDOT.

Effective Date: September 1, 2017

SB 252

Prohibiting governmental contracts with a company doing business with Iran, Sudan, or a foreign terrorist organization

Author: Senator Van Taylor (R-Plano)

Sponsor: Representative Sarah Davis
(R-West University Place)

Summary

SB 252 prohibits a governmental entity from entering into a contract with a company from Sudan or Iran or a company on the Comptroller of Public Accounts' (comptroller) list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization. Under an exemption in the bill, a company the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran or a foreign terrorist organization is not subject to contract prohibition.

Impact on TxDOT

SB 252 will have a minimal impact on TxDOT as TxDOT already consults with the comptroller about its list of prohibited companies, and the State Pension Review Board already maintains lists of companies scrutinized under current state law that are debarred from doing business with the state.

Effective Date: September 1, 2017

SB 533

Governmental entity contracting and procurement

Author: Senator Jane Nelson (R–Flower Mound)

Sponsor: Representative Charlie Geren
(R–Fort Worth)

Summary

SB 533 amends the “revolving door” employment policy to prohibit a former state employee or officer of a state agency, who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person, from accepting employment from that person before the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn. SB 533 requires the Comptroller of Public Accounts (comptroller) to update a contract management guide to include policies on the interactions and communication between employees of the state agency and a vendor that contracts with the state agency or seeks to conduct business with the state agency. The bill does not prohibit the exchange of information between a state agency and a vendor related to future solicitations or as necessary to monitor an existing contract.

SB 533 requires a state agency employee or official to disclose any potential conflict of interest specified by state law or agency policy that is known by the employee or official at any time during the procurement process from the initial request for bids for the purchase of goods or services from a private vendor until the completed final delivery of the goods or services or the term of a contract with a private vendor. The bill provides that this section applies only to a contract for the purchase of goods or services solicited through a purchase order if the amount of the purchase order exceeds \$25,000.

The bill requires the Department of Information Resources (DIR), at the direction of the Governor, the Lieutenant Governor or the Speaker, to provide additional oversight services for major information

resources projects including risk management, quality assurance services, independent project monitoring and project management. For each proposed major information resources project or major contract SB 533 requires a state agency to prepare in consultation with DIR a technical architectural assessment of the project or contract.

SB 533 adds the comptroller to the Quality Assurance Team (QAT) and requires the QAT to create an automated project review system as well as to provide annual training to state agency procurement and contract management staff in information technology contracting best practices. The bill stipulates that the State Auditor’s Office (SAO) serves on the QAT as an advisor. The QAT approves and reviews major information resources projects for state agencies.

SB 533 requires a state agency, in each project for a major information resources project, to consider incorporating into the project the applicable best practices recommended in the quality assurance team’s annual report. The bill requires a state agency contract for a major information resources project to comply with the requirements in the comptroller’s contract management guide.

SB 533 requires the comptroller to appoint a chief procurement officer (CPO) for the state. The bill provides that the CPO has authority over state agency procurement, including the authority to analyze state purchasing data to leverage state purchasing power, provide functional support to state agencies, provide training on state purchasing and contract management, review major contract solicitations for information technology projects monitored by the quality assurance team, review solicitations for major contracts reviewed by the Contract Advisory Team (CAT), delegate to a state agency the authority to contract for the purchase of a good or service valued in an amount specified by comptroller rule and provide leadership on procurement issues.

SB 533 requires a state agency to comply with any

request for information from the CPO necessary to conduct the authorized analysis. The bill requires the CPO to coordinate with DIR and the QAT to conduct a contract solicitation review and make appropriate recommendations to the comptroller and Legislature based on the review. The bill grants the CPO the authority only to review a contract solicitation. DIR or the appropriate state agency retains the authority to award a statewide information resources contract as authorized by law. The bill requires the CPO to coordinate with the CAT to conduct the review. The bill requires a state agency to comply with any request for information by the CPO that is necessary to conduct the review. SB 533 lowers the dollar threshold for contracts requiring CAT review from \$10 million to \$5 million. SB 533 authorizes the comptroller to add members to the team by designating members from state agencies that agree to participate on the team. The bill authorizes a state agency to decline a request to participate on the team by submitting a written statement declining the request to the comptroller.

SB 533 authorizes the comptroller to enter into agreements to authorize state agencies and political subdivisions of other states to purchase goods or services through comptroller contracts. The bill authorizes the comptroller to charge a reasonable administrative fee to state agencies and political subdivisions of other states that purchase a good or service.

The bill requires a state agency that posts a contract on its website to redact from the posted contract information that is confidential under law, information the Office of the Attorney General determines is exempted from public disclosure under the Public Information Act and the social security number of any individual.

Impact on TxDOT

Overall, SB 533 will require numerous changes to TxDOT's information technology contracting procedures. TxDOT will have to update numerous policies, procedures and training materials to implement the changes and requirements for TxDOT's IT management and operations to comply with SB 533. The Governor, Lieutenant Governor or Speaker now have the authority to direct DIR to hire a firm to "oversee" any of TxDOT's IT projects and TxDOT will have to pay the cost. The bill provision that allows DIR to contract with a vendor for these "oversight" activities removes the greatest impediment to DIR or QAT taking over projects in the past – their availability of internal resources. The impact of adding any of the oversight activities to a time sensitive project could mean an extra layer of project management, with additional reporting to DIR.

SB 533 will have fiscal and operational impacts on TxDOT. However, the scope of the impacts cannot be determined until after TxDOT, in conjunction with DIR, develops all rules, policies, training requirements and reports required by the bill.

Effective Date: September 1, 2017

SB 706

Abolishment of the State Council on Competitive Government and the transfer of its functions to the Texas Comptroller of Public Accounts

Author: Senator Brian Birdwell (R–Granbury)

Sponsor: Representative Kyle Kacal
(R–College Station)

Summary

SB 706 abolishes the state Council on Competitive Government (CCG) and transfers responsibility for these contracts to the Comptroller of Public Accounts (comptroller).

Impact on TxDOT

TxDOT currently uses a number of CCG contracts, which are similar to the state term contracts the comptroller currently develops and maintains. TxDOT is already required by law to use state term contracts or CCG contracts if such contracts are in place. The transfer of CCG's responsibilities, powers and contracts to the comptroller will have minimal impact on current TxDOT activities. SB 706 requires some changes to the wording in TxDOT's Purchasing Manual, which contains several references to the CCG.

Effective Date: September 1, 2017

SB 807

Choice of law and venue for certain construction contracts

Author: Senator Brandon Creighton (R–Conroe)
Sponsor: Representative Paul Workman (R–Austin)

Summary

Chapter 272, Texas Business and Commerce Code, provides that a construction contract that includes a provision that would subject that contract to the laws or courts of another state is voidable by a party required to perform the construction. SB 807 defines a “construction contract” to include not only actual construction, but also the professional services included, such as engineering and architecture, as well as moving services and any contract that is collateral to or affecting a construction contract and subcontracts.

Impact on TxDOT

TxDOT's contracts are either subject to TxDOT's contract claim process under Chapter 2260, Texas Government Code, or TxDOT's templates require that the contract is governed by Texas law, which is in conformance with SB 807.

Effective Date: September 1, 2017

SB 1289

Purchase of iron and steel products made in the United States for certain governmental entity projects

Author: Senator Brandon Creighton (R–Conroe)
Sponsor: Representative Chris Paddie (R–Marshall)

Summary

SB 1289 amends the Texas Government Code to provide the uniform general conditions for a project in which iron or steel products will be used must require that the bid documents provided to all bidders and the contract include a requirement that any iron or steel product produced through a manufacturing process and used in the project be produced in the United States. The bill requires that a governmental entity adopt rules to promote compliance with the bill. The bill's requirement to use iron or steel produced in the United States does not apply to a project for which the governmental entity responsible for the project determines that iron or steel products produced in the United States are not produced in sufficient quantities, reasonably available or of a satisfactory quality or for which use of iron or steel products produced in the United States will increase the total cost of the project by more than 20 percent.

The contract requirements also do not apply to a TxDOT contract for the improvement to the state or federal highway system. SB 1289 also amends Texas Transportation Code to add iron to the current provisions in Section 223.045, Texas Transportation Code, related to Steel Preference Provisions in contracts for the improvement of the state and highway system.

Impact on TxDOT

SB 1289 will have minimal impact on TxDOT projects because most TxDOT projects in which iron or steel products will be used are subject to federal “Buy America” provisions and are exempt from the requirements of this bill. Some local government contracts that TxDOT participates in may be subject to the provisions of this bill.

Effective Date: September 1, 2017

SB 1877

Relating to sending notice of proposed contracts for highway projects by e-mail

Author: Senator Charles Perry (R–Lubbock)

Sponsor: Representative John Wray (R–Waxahachie)

Summary

SB 1877 amends Section 223.003, Texas Transportation Code, to allow TxDOT to email the notice of proposed highway construction and maintenance contracts to construction contractors. Currently, the notice must be printed and mailed to contractors at the expense of TxDOT. SB 1877 still allows a contractor to request a printed and mailed version instead of an electronic copy.

Impact on TxDOT

TxDOT sends approximately 1,250 notices each month at a cost of approximately \$3,500 for mailing and production costs. Emailing notices could save approximately \$42,000 a year and allow TxDOT staff who currently performs the mailing duties to focus their efforts on other essential tasks. TxDOT can use the EBS (Electronic Bidding System) to email the notice to active prime contractors and subcontractors.

Effective Date: June 15, 2017

For more legislation on State Contracting Issues, see SB 312 (page 14)



Tolls & Toll Operations

The Texas Legislature did not pass any freestanding bills related to toll roads during the 85th (Regular) Legislative Session. However, the TxDOT Sunset legislation (SB 312) contained multiple amendments concerning toll issues. For details on this legislation, see page 14.



Transportation Safety

HB 62

Prohibition of use of a wireless communication device while operating a motor vehicle

Author: Representative Tom Craddick (R–Midland)

Sponsor: Senator Judith Zaffirini (D–Laredo)

Summary

HB 62 addresses distracted driving by prohibiting the use of a wireless communication device to read, write or send electronic messages, such as text messages, while operating a motor vehicle, unless the vehicle is stopped. To be prosecuted, the behavior must be committed in the presence of or within the view of a peace officer or established by other evidence. An offense is a misdemeanor punishable by a fine of \$25-\$99. Offenders who have been previously convicted will face a fine of \$100-\$200.

The bill creates affirmative defenses to prosecution of the new offense if the operator used a portable wireless communication device:

- In conjunction with a hands-free device.
- To navigate using a global positioning system or navigation system.
- To report illegal activity or summon emergency help.
- To enter information into a software application that provides information relating to traffic and road conditions to users of the application.
- To read an electronic message that the person reasonably believed concerned an emergency.
- That is permanently or temporarily affixed to the vehicle to relay information in the course

of the driver's occupational duties between the driver and a dispatcher or a digital network or software application service.

- To activate a function that plays music.

The new offense will not apply to the driver of an authorized emergency or law enforcement vehicle using a portable wireless communication device while acting in an official capacity or a driver who is licensed by the Federal Communications Commission to operate a radio frequency device other than a portable wireless communication device.

A peace officer who stops a motor vehicle for an alleged violation may not take possession or inspect the device in question. This bill preempts all local ordinances, rules or other regulations adopted by a political subdivision relating to the use of a portable wireless communication device by the operator of a motor vehicle to read, write or send an electronic message.

HB 62 requires the Texas Department of Public Safety to add a requirement to the driver's license exam that includes testing an applicant's knowledge of the effects of distracted driving and the use of a wireless communication device while driving.

Impact on TxDOT

The bill requires TxDOT to post a sign at each point where an interstate highway or US highway enters the state that informs drivers that electronic messaging is prohibited and drivers are subject to a fine if they are electronically messaging while operating a vehicle. The signs must also indicate whether use of a wireless communication device with hands-free device is allowed in the political subdivision. An estimated 10 interstate highways and 33 U.S. highways will require signs to be

fabricated and installed at an estimated cost of \$65,000. Ongoing maintenance costs for the signs are expected to cost \$43,000 every seven years.

Effective Date: September 1, 2017

HB 920

Operation of all-terrain vehicles and recreational off-highway vehicles

Author: Representative Kyle Kacal
(R–College Station)

Sponsor: Senator Brandon Creighton (R–Conroe)

Summary

HB 920 allows individuals who provide law enforcement, firefighting, ambulance, medical or other emergency services to be able to use all-terrain vehicles (ATVs) on public roads other than an interstate or limited-access highway and removes the ATV travel distance restrictions for emergency responders. Current law requires the operator of an ATV on a public road to attach a triangular orange flag on an eight-foot-long pole to the back of the vehicle. HB 920 reduces the required pole length from eight feet to six feet.

Impact on TxDOT

HB 920 will have minimal impact on TxDOT. Currently, TxDOT has ATVs in its fleet that may need to be modified for the proper display of the triangular orange flag.

Effective Date: September 1, 2017

HB 2639

Alert for a missing senior citizen or person with Alzheimer's disease

Author: Representative Joe Pickett (D–El Paso)

Sponsor: Senator Dawn Buckingham (R–Lakeway)

Summary

HB 2639 adds persons who have been diagnosed with Alzheimer's disease to the list of persons covered by the statewide silver alert, regardless of age.

Impact on TxDOT

The State Operations Center coordinates the dissemination of qualifying missing person advisories involving the following resource partners, known as the State Network: TxDOT, the National Weather Service, law enforcement, media, the Texas Lottery Commission, the Independent Bankers Association of Texas, the National Center for Missing and Exploited Children and the Texas Department of Public Safety.

The goal of the State Network is to rapidly notify the public of specific missing person cases, promoting tips and leads to law enforcement. Advisories can be issued within any Texas geographical area, including statewide. Only a law enforcement agency can make a request to activate the State Network. Each alert program contains criteria designed to ensure network integrity and prevent public desensitization.

The state's Silver Alert program was created by Texas legislation in 2007 and was designed to notify the public of missing older adults with a documented mental condition. TxDOT does not anticipate a significant impact from the passage of this legislation since it will be part of the current Silver Alert program.

Effective Date: June 9, 2017

HB 3087

Highway maintenance and service vehicles for purposes of certain provisions governing vehicle equipment

Author: Representative Geanie Morrison
(R–Victoria)

Sponsor: Senator Robert Nichols (R–Jacksonville)

Summary

HB 3087 amends Section 547.001, Texas Transportation Code, to define a "highway maintenance vehicle," for purposes of certain lighting requirements, as a highway or traffic maintenance vehicle designated by TxDOT. The bill defines a "service vehicle" as a highway or traffic maintenance vehicle that is owned and operated

on a highway by or for a governmental agency and performs a function requiring the use of a lamp or illuminating device in accordance with adopted standards and specifications or that has a public service function, including public utility vehicles, tow trucks and any vehicle designated as a service vehicle by TxDOT or as a certain escort flag vehicle.

Impact on TxDOT

HB 3087 continues to allow TxDOT to adopt lighting standards for vehicles performing work or services on the right of way. The term “service vehicle” will also apply to other government agencies and contractors working on TxDOT’s behalf. TxDOT will need to update current policy to define what types of equipment are designated as “highway maintenance vehicles” or “service vehicles.”

Effective Date: September 1, 2017

SB 1001

Vehicles exempt from vehicle safety inspections

Author: Senator Larry Taylor (R–Friendswood)

Sponsor: Representative Dennis Paul (R–Houston)

Summary

SB 1001 amends Section 548.052, Texas Transportation Code, to increase the weight of trailers that are exempt from inspection from 4,500 pounds or less to 7,500 pounds or less. A portion of these inspection fees are deposited in the Texas Mobility Fund (TMF). However, SB 1001 will require all trailers with a weight between 4,500 and 7,500 pounds to pay a \$7.50 fee at the time of registration. The Texas Department of Motor Vehicles will remit the fee to the Comptroller of Public Accounts, of which \$3.50 will be deposited to the TMF, \$2 to General Revenue Fund and \$2 to the Clean Air Account.

The bill adds language that the fee collected for the trailers is not a registration fee and is not required to be used for registration fee purposes under Section 7-a, Article VIII, Texas Constitution. Additionally, SB 1001 allows the Texas Department of Public Safety to accept inspections made by federally qualified inspectors and for vehicles that are part of a fleet.

Impact on TxDOT

There should be no fiscal impact on TxDOT because the TMF will receive \$3.50 of the \$7.50 fee for trailers between 4,500 and 7,500 pounds.

Effective Date: September 1, 2017

SB 1138

Creation of the blue alert system to aid in the apprehension of an individual suspected of killing or causing serious bodily injury to a law enforcement officer

Author: Senator John Whitmire (D–Houston)

Sponsor: Representative Matt Krause (R–Fort Worth)

SB 1138 establishes a blue alert system to aid in the apprehension of an individual suspected of killing or causing serious bodily injury to a law enforcement officer. TxDOT is required to cooperate with the Texas Department of Public Safety to assist in developing and implementing the alert system through the use of existing dynamic message signs (DMS).

Impact on TxDOT

SB 1138 will not have an operational impact or fiscal impact on TxDOT. Amber alerts are specifically allowed by the federal government for use on the DMS system. Silver Alerts and alerts for those with intellectual disabilities are specified in Texas Transportation Code. The Blue Alerts were created by Executive Order RP68 in 2008. Federal law requires that the DMS system is only used for transportation-related messages, and these Silver, Blue and intellectual disability alerts specifically involve the transportation system and vehicles on the transportation system. While Silver, Blue, and other similar alerts are not specifically permitted by federal regulation, FHWA has never objected to these Texas programs. If FHWA were to raise an objection, TxDOT would be given the opportunity to comply before any funding was suspended.

Effective Date: September 1, 2017

SB 1523

State Safety Oversight program for rail fixed guideway public transportation systems

Author: Senator Robert Nichols (R–Jacksonville)

Sponsor: Representative Yvonne Davis (D–Dallas)

Bill Summary

SB 1523 designates TxDOT as the state agency responsible for implementing a State Safety Oversight (SSO) program for rail fixed-guideway public transportation systems, which are defined by 49 U.S.C. § 5329(e). Pursuant to that designation, SB 1523 requires TxDOT to:

- Enforce federal and state laws on rail fixed guideway public transportation safety.
- Review, revise, approve, oversee and enforce the public transportation agency safety plan required under 49 U.S.C. § 5329(d), including the implementation by a rail fixed guideway public transportation system of the system's plan.
- Investigate and enforce the safety of rail fixed guideway public transportation systems.
- Coordinate all enforcement responsibilities with other governmental entities as needed.

SB 1523 requires TxDOT to determine “an appropriate staffing level” for the SSO program in consultation with the Federal Transit Administration (FTA). TxDOT must also audit the rail fixed guideway public transportation systems once every three years to verify compliance with the public transportation agency safety plan developed under 49 U.S.C. § 5329(d), as well as provide an annual status report to the Governor, Lieutenant Governor, Speaker, FTA, and the governing body of each rail fixed guideway system. SB 1523 requires the Texas Transportation Commission to adopt rules no later than March 1, 2019, for program implementation and also allows TxDOT to hire contractors to act on behalf of TxDOT in carrying out the duties of TxDOT for the SSO program.

Impact on TxDOT

SB 1523 was needed to meet the federal SSO requirements of the *Moving Ahead for Progress in the 21st Century Act* (MAP-21) (Section 20021, Public Transportation Safety) and Part 674, Title 49, Code of Federal Regulations. Texas has until April 15, 2019, to have a fully compliant SSO program. If Texas does not meet the federal requirements of 49 U.S.C. §5329(e), the FTA may withhold transit formula funding from Texas. In fiscal year (FY) 2016, that funding totaled \$66,691,898 to TxDOT. These funds are pass-through funds from the FTA that TxDOT administers to rural and small urban transit providers. In addition to the pass-through funds, direct recipients of FTA funds are at risk of losing their federal funds if the SSO program is not implemented. In FY 2016, direct recipients received approximately \$482 million from the FTA.

Effective Date: June 1, 2017

For more legislation on Transportation Safety Issues, see SB 312 (page 14)



Transportation Technology

HB 1791

Use of connected braking systems

Author: Representative Joe Pickett (D–El Paso)

Sponsor: Senator Jose Rodriguez (D–El Paso)

Summary

Currently, Section 545.062, Texas Transportation Code, requires the operator of a vehicle, when following another vehicle, to maintain an assured clear distance between the two vehicles so that, considering the speed of the vehicles, traffic and the conditions of the highway, the operator can safely stop without colliding with the preceding vehicle or veering into another vehicle, object or person on or near the highway.

HB 1791 authorizes an operator of a vehicle equipped with a connected braking system that is following another vehicle equipped with that system to be assisted by the connected braking system to maintain a clear distance or “sufficient space.” HB 1791 defines “connected braking system” to mean “a system by which the braking of one vehicle is electronically coordinated with the braking system of a following vehicle.”

HB 1791 seeks to provide clarity in the law to allow the use of connected braking systems and safe vehicle following distances in Texas. Technological innovations have allowed for an increased use of connected braking technology by major truck fleets in the United States, whereby a convoy of two vehicles are linked together wirelessly so the rear vehicle can control its speed based on the behavior of the front vehicle, surrounding traffic and weather conditions. Several state and federal

agencies, research institutes and private sector companies, including TxDOT, have participated in various projects demonstrating how connected braking technology improves safe driving conditions for the vehicles using the technology as well as surrounding vehicles.

Impact on TxDOT

TxDOT actively participates with the Federal Highway Administration, the automotive industry and private sector transportation industries in the research and development of connected and automated vehicle applications. Connected braking systems are proposed as a means of increasing safety and reducing truck accidents. HB 1791 is anticipated to have minimal operational impact on TxDOT.

Effective Date: May 18, 2017

SB 2205

Automated motor vehicles

Author: Senator Kelly Hancock
(R–North Richland Hills)

Sponsor: Representative Charlie Geren
(R–Fort Worth)

Summary

SB 2205 creates a legal framework for the operation of automated motor vehicles in Texas and explicitly allows an automated motor vehicle to operate on highways in the state of Texas, with or without a human operator, under certain circumstances. The bill sets forth:

- Who is considered the operator of an automated driving system.

- The requirements for operating an automated motor vehicle in the state.
- Duties following an accident involving an automated vehicle.
- The ability of the owner to identify the vehicle as an automated motor vehicle or an automated driving system with the Texas Department of Public Safety.

SB 2205 specifies that the owner of an automated motor vehicle is the vehicle's operator for purposes of enforcement of applicable traffic laws, removes the legal necessity for a licensed human operator to be present in the automated motor vehicle and considers the automated driving system to be the entity licensed to operate the vehicle. The bill also prohibits local governmental entities from imposing other regulations on the operation of an automated motor vehicle.

TxDOT Impact

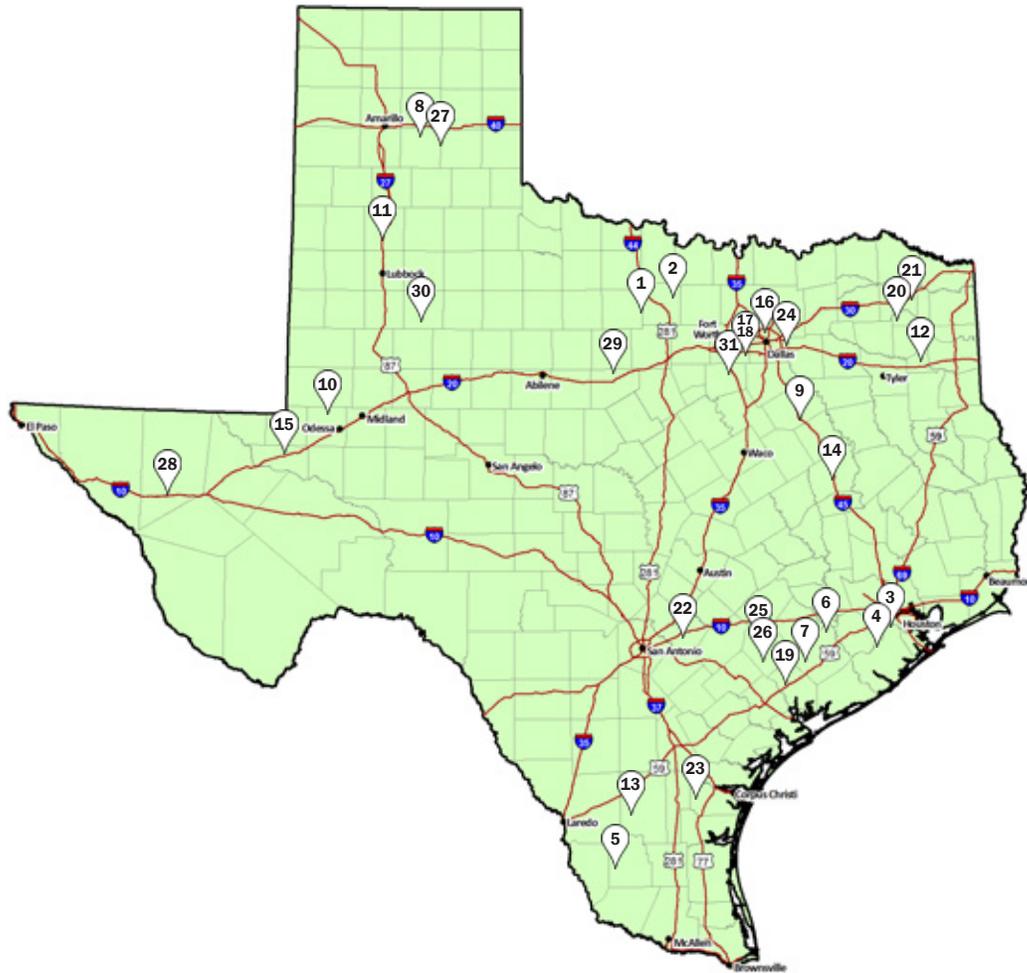
TxDOT recognizes automated vehicle integration onto Texas roads and will actively monitor and participate as appropriate in the continued roll-out of automated vehicle technology and the implementation of SB 2205. TxDOT recognizes this technology has the potential to help TxDOT achieve one of its primary goals of reducing crashes and improving road safety.

Effective Date: September 1, 2017

Highway Naming and Designation

Over the years, the Texas Legislature has established several memorial sign programs to honor certain individuals, places, or organizations in the state. Examples include designating a highway in honor of a public safety officer killed in the line of duty, memorializing a loved one killed by a drunk driver or recognizing volunteers who help keep the state’s roadways clean. Signs like these are common in Texas, and most drivers have seen them along the highway during their travels. Knowing that TxDOT’s top priorities are focusing limited taxpayer dollars on highway safety and maintenance, reducing congestion and connecting Texas communities, the Legislature requires outside resources to cover the costs of constructing and installing these signs.

The following highway naming and designations passed during the 2017, 85th Legislature:



Designation	Highway	Location	Bill	Bill Author/Sponsor
1 Henry H. King Memorial Highway	Segment of US 380	Young and Jack Counties	HB 216	Author: Rep. Drew Springer Sponsor: Sen. Craig Estes
2 Luther G. Prunty Memorial Highway	Segment of FM 1810	Jack County	HB 409	Author: Rep. Drew Springer Sponsor: Sen. Craig Estes
3 Officer Endy Ekpanya Memorial Highway	Segment of FM 518	Pearland	HB 938	Author: Rep. Ed Thompson Sponsor: Sen. Larry Taylor
4 Lieutenant Colonel Roy Lin Tisdale Memorial Highway	Segment of FM 1462	Brazoria County	HB 947	Author: Rep. Ed Thompson Sponsor: Sen. Larry Taylor

	Designation	Highway	Location	Bill	Bill Author/Sponsor
5	State Trooper David Lee Nevez Memorial Highway	Segment of FM 649	Jim Hogg County	HB 1162	Author: Rep. Ryan Guillen Sponsor: Sen. Judith Zaffirini
6	Johnnie David Hutchins Memorial Highway	Segment of US 90 ALT	Wharton County	HB 1221	Author: Rep. Phil Stephenson Sponsor: Sen. Lois Kolkhorst
7	Roy P. Benavidez Memorial Highway	Segment of SH 71	Wharton County	HB 1303	Author: Rep. Phil Stephenson Sponsor: Sen. Lois Kolkhorst
8	Charles H. Roan Memorial Highway	Segment of US 287	Claude	HB 1317	Author: Rep. Ken King Sponsor: Sen. Kel Seliger
9	Navarro County Vietnam Memorial Loop	Segment of SH 31	Navarro County	HB 1317	Author: Rep. Ken King Sponsor: Sen. Kel Seliger
10	Chris Kyle Memorial Highway	Segment of SH 191	Ector County	HB 1483	Author: Rep. Brooks Landgraf Sponsor: Sen. Kel Seliger
11	Nelda Laney Safety Rest Areas	I-27	Hale County	HB 1691	Author: Rep. John Smithee Sponsor: Sen. Kel Seliger
12	Jack Ward Memorial Highway	Segment of SH 31	Gregg County	HB 2675	Author: Rep. Jay Dean Sponsor: Sen. Bryan Hughes
13	Al Dean Memorial Highway	Segment of SH 16	Duval County	HB 3283	Author: Rep. Ryan Guillen Sponsor: Sen. Judith Zaffirini
14	Sergeant Wade Daniel Wilson Memorial Highway	Segment of I-45	Leon County	HB 3536	Author: Rep. Trent Ashby Sponsor: Sen. Charles Schwertner
15	Trooper Billy Jack Zachary Memorial Highway	Segment of I-20	Ward County	HB 3917	Author: Rep. Brooks Landgraf Sponsor: Sen. Charles Perry
16	Harold C. Simmons Memorial Highway	Segment of SH 289	Dallas	HB 3964	Author: Rep. Morgan Meyer Sponsor: Sen. Don Huffines
17	Rosa Parks Memorial Parkway	Segment of SH 360	Tarrant County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
18	Senator Chris Harris Memorial Highway	Segment of SH 360	Tarrant County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
19	State Trooper Bill Davidson Memorial Highway	Segment of US 59	Jackson County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
20	Veterans Memorial Highway	Segment of US 271	Camp County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
21	Titus County Vietnam Veterans Memorial Highway	Segment of FM 4000	Titus County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
22	Texas Game Warden Teyran "Ty" Patterson Memorial	Segment of SH 123-B	Guadalupe County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
23	Kolyn Barton Memorial Highway	Segment of FM 666	Nueces County	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
24	Staff Sergeant Jeremie S. Border Memorial Highway	Segment of SH 352	Mesquite	SB 312	Author: Sen. Robert Nichols Sponsor: Rep. Larry Gonzales
25	Sheriff Ronnie Dodds Memorial Highway	Segment of US 90 ALT	Lavaca County	SB 364	Author: Sen. Lois Kolkhorst Sponsor: Rep. Leighton Schubert
26	David M. Furrh Memorial Highway	Segment of SH 95	Lavaca County	SB 365	Author: Sen. Lois Kolkhorst Sponsor: Rep. Leighton Schubert
27	Colonel Charles Goodnight Memorial Highway	Segment of US 287	Armstrong and Donley Counties	SB 867	Author: Sen. Kel Seliger Sponsor: Rep. Ken King
28	Tom Lea Trail	Various segments	Various counties	SB 928	Author: Sen. Jose Rodriguez Sponsor: Rep. Joe Pickett
29	Bedford-Carmichael Bridge	Segment of SH 6	Eastland County	SB 1037	Author: Sen. Charles Perry Sponsor: Rep. Mike Lang
30	Trooper Jonathan Thomas McDonald Memorial Highway	Segment of US 84	Garza County	SB 1099	Author: Sen. Charles Perry Sponsor: Rep. Drew Springer
31	Clifton Taylor Memorial Highway	Segment of I-35W	Johnson County	SB 1732	Author: Sen. Brian Birdwell Sponsor: Rep. DeWayne Burns

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