

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-FIFTH DAY — FRIDAY, APRIL 29, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 600).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent, Excused — Gonzales, V.

Absent — Riddle; Torres.

The invocation was offered by Michael R. Hubbard, pastor, Hopewell Missionary Baptist Church, Dallas, as follows:

God, we humbly approach you on this day in the highest place in our state, the house of representatives. It is you who have established the governing authorities; therefore, we pray that you would extend your wisdom to each of these honorable representatives. No other house of representatives has been confronted with such perplexing challenges in the history of our great state, and they are in need of your guidance to navigate through the uncharted waters that are ahead of us. Lord, we place these challenges that will certainly affect Texans across the length and breadth of our state in your hands. Lord, you are aware of their responsibilities to the constituents in each of their districts, and we know

you as the creator of all things, so we ask that you create an atmosphere of unity that will echo throughout each representative's heart so that every citizen's voice is heard in our Capitol.

We ask your blessings upon our governor, Governor Rick Perry, his family, and the Governor's Office as a whole. God, the people of District 100 thank you for the courage, the devotion, and the integrity that the Honorable Eric Johnson brings to our district. We ask that you continue to give him wisdom and that you will continue to protect him. Bless his wife, Nakita, his family, and his staff. We ask you, Lord, to have favor upon each representative individually as well as collectively. We lift before you the Texans that are serving in the armed forces. Lord, protect them as well as all the service men and women of America, especially those in harm's way. Let your peace pass all understanding, keeping the representatives' hearts and minds through Christ, and may your face continue to shine upon the great State of Texas. We offer this prayer in the name of Jesus, who is the Christ. Amen.

The speaker recognized Representative R. Anderson who led the house in the pledges of allegiance to the United States and Texas flags.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative R. Anderson and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

CAPITOL PHYSICIAN

The speaker recognized Representative Workman who presented Dr. David Vander Straten of Austin as the "Doctor for the Day."

The house welcomed Dr. Straten and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for today because of important business in the district:

V. Gonzales on motion of D. Howard.

(D. Howard in the chair)

HR 1443 - ADOPTED (by Madden)

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1443**.

The motion prevailed.

The following resolution was laid before the house:

HR 1443, Commemorating the 40th anniversary of Edward Nahas's immigration to the United States and honoring Mr. Nahas and his wife, Alda.

(Riddle and Torres now present)

HR 1443 was adopted.

On motion of Representative Workman, the names of all the members of the house were added to **HR 1443** as signers thereof.

HR 1647 - ADOPTED
(by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1647**.

The motion prevailed.

The following resolution was laid before the house:

HR 1647, Congratulating Danielle Jones of DeSoto on her achievements in two 2011 science fair competitions.

HR 1647 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative Giddings who introduced Danielle Jones and members of her family.

HR 1635 - ADOPTED
(by Legler)

Representative Legler moved to suspend all necessary rules to take up and consider at this time **HR 1635**.

The motion prevailed.

The following resolution was laid before the house:

HR 1635, Honoring Ben Meador for his service to the San Jacinto College Board of Trustees.

HR 1635 was adopted.

On motion of Representative J. Davis, the names of all the members of the house were added to **HR 1635** as signers thereof.

HB 3251 - RECOMMITTED

Representative W. Smith moved to recommit **HB 3251** to the Committee on Environmental Regulation.

The motion prevailed.

HR 1574 - ADOPTED
(by S. King)

Representative S. King moved to suspend all necessary rules to take up and consider at this time **HR 1574**.

The motion prevailed.

The following resolution was laid before the house:

HR 1574, Congratulating Eddie and Joan Blackwell of Abilene on their golden wedding anniversary.

HR 1574 was adopted.

**HR 1911 - PREVIOUSLY ADOPTED
(by Johnson and Dutton)**

The chair laid out and had read the following previously adopted resolution:

HR 1911, Commemorating the 100th anniversary of the founding of Kappa Alpha Psi Fraternity.

On motion of Representatives McClendon and Deshotel, the names of all the members of the house were added to **HR 1911** as signers thereof.

(Dutton in the chair)

INTRODUCTION OF GUESTS

The chair recognized Representative Johnson who introduced members of the Kappa Alpha Psi Fraternity.

(White in the chair)

**MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**SB 653 ON THIRD READING
(Madden, Bonnen, McClendon, and Cook - House Sponsors)**

SB 653, A bill to be entitled An Act relating to abolishing the Texas Youth Commission and the Texas Juvenile Probation Commission and transferring the powers and duties of those agencies to the newly created Texas Juvenile Justice Department and to the functions of the independent ombudsman that serves the department.

Amendment No. 1

Representative Madden offered the following amendment to **SB 653**:

Amend **SB 653** on third reading as follows:

(1) In the SECTION of the bill redesignating and amending Section 246.004, Human Resources Code, in Subsection (c), strike "subchapter" and substitute "chapter [~~subchapter~~]".

(2) In the SECTION of the bill redesignating and amending Section 261.101, Human Resources Code, in Subsection (a)(11), between "local" and "probation", insert "juvenile".

Amendment No. 1 was adopted.

Amendment No. 2

Representative McClendon offered the following amendment to **SB 653**:

Amend SECTION 1.004 of **SB 653** (house committee substitute) as follows, beginning at line 11 on page 30 (as stated in the house committee report printing of **HB 1915**):

Sec. 221.003 (c), Human Resources Code, is amended to read as follows:

~~(c) [(c)]~~ Any statement made by a child and any mental health data obtained from the child during the administration of the mental health screening instrument or the initial risk and needs assessment instruments under this section is not admissible against the child at any other hearing. The person administering the mental health screening instrument or initial risk and needs assessment instruments shall inform the child that any statement made by the child and any mental health data obtained from the child during the administration of the instrument is not admissible against the child at any other hearing.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Veasey offered the following amendment to **SB 653**:

Sec. _____. Any data compiled by a local juvenile probation department related to abuse, neglect, or exploitation of youth, or to complaints regarding juvenile probation programs, that is required by this Chapter or by any rule to be reported to the department or local juvenile probation board shall be provided to the Office of the Independent Ombudsman.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Veasey offered the following amendment to **SB 653**:

Amend **SB 653** on third reading as follows:

(1) Strike the Section of the bill added by Floor Amendment No. 15 by Veasey (Report to Independent Ombudsman).

(2) In the SECTION of the bill adding Section 203.010, Human Resources Code, after proposed Subsection (c), insert the following:

Sec. _____. Any data compiled by a local juvenile probation department related to abuse, neglect, or exploitation of youth, or to complaints regarding juvenile probation programs, that is required by this Chapter or by any rule to be reported to the department or local juvenile probation board shall be provided to the Office of the Independent Ombudsman.

Amendment No. 4 was adopted.

SB 653, as amended, was passed by (Record 601): 146 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez;

Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White(C); Woolley; Workman; Zedler; Zerwas.

Nays — Shelton; Turner.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales, V.

HB 3790 - COMMITTEE ON CALENDARS RULE ADOPTED

Pursuant to Rule 3, Section 5(2) and Rule 6, Section 16(f) of the House Rules, Representative Hunter moved to adopt the following rule governing floor consideration of **HB 3790**:

Each original amendment to **HB 3790** that will be offered during second reading consideration must be filed with the chief clerk not later than 10 a.m. on Monday, May 2.

The Committee on Calendars rule was adopted by (Record 602): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White(C); Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales, V.

Absent — Eiland.

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 397 ON THIRD READING
(by V. Gonzales, Martinez, Lucio, Margo, Gallego, et al.)**

HB 397, A bill to be entitled An Act relating to the creation of the Bureau for Economic Development of the Border Region.

HB 397 was passed by (Record 603): 116 Yeas, 29 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Bonnen; Branch; Brown; Burkett; Burnam; Button; Carter; Castro; Coleman; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; Keffer; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Peña; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White(C); Workman; Zerwas.

Nays — Berman; Bohac; Cain; Chisum; Christian; Creighton; Davis, S.; Fletcher; Frullo; Harper-Brown; Hughes; Isaac; King, P.; Kleinschmidt; Landtroop; Laubenberg; Miller, S.; Morrison; Nash; Paxton; Perry; Phillips; Riddle; Sheffield; Shelton; Simpson; Weber; Woolley; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales, V.

Absent — Aliseda; Anderson, C.; Callegari.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 603. I intended to vote no.

Crownover

I was shown voting yes on Record No. 603. I intended to vote no.

Flynn

I was shown voting yes on Record No. 603. I intended to vote no.

Harless

I was shown voting yes on Record No. 603. I intended to vote no.

T. Smith

I was shown voting yes on Record No. 603. I intended to vote no.

L. Taylor

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**SB 693 ON THIRD READING
(Price - House Sponsor)**

SB 693, A bill to be entitled An Act relating to permit application and amendment hearings conducted by groundwater conservation districts and the State Office of Administrative Hearings.

SB 693 was passed by (Record 604): 143 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White(C); Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Hernandez Luna; Riddle.

Absent, Excused — Gonzales, V.

Absent — Crownover; Deshotel; Peña.

STATEMENTS OF VOTE

When Record No. 604 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 604 was taken, I was in the house but away from my desk. I would have voted yes.

Peña

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

**CSHB 1390 ON SECOND READING
(by Deshotel and Bohac)**

CSHB 1390, A bill to be entitled An Act relating to retainage under certain construction contracts.

CSHB 1390 was read second time on April 26, postponed until April 28, and was again postponed until 10 a.m. today.

Amendment No. 1

Representative Deshotel offered the following amendment to **CSHB 1390**:

Amend **CSHB 1390** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 53.053(e), Property Code, is amended to read as follows:

(e) A claim for retainage accrues on the earliest of the last day of the month in which all work called for by the contract between the owner and the original contractor has been completed, finally settled, terminated, or abandoned.

SECTION 2. Section 53.057, Property Code, is amended by amending Subsections (a), (b), (c), and (d) and adding Subsections (b-1), (f), and (g) to read as follows:

(a) A claimant may give notice under this section instead of or in addition to notice under Section 53.056 or 53.252 if the claimant is to labor, furnish labor or materials, or specially fabricate materials, or has labored, furnished labor or materials, or specially fabricated materials, under an agreement with an original contractor or a subcontractor providing for retainage.

(b) The claimant must give the owner or reputed owner notice of contractual ~~the~~ retainage ~~agreement~~ not later than the earlier of:

(1) the 30th ~~[+5th]~~ day after the date the claimant's agreement providing for retainage is completed, terminated, or abandoned; or

(2) the 30th day after the date the original contract is terminated or abandoned ~~[of the second month following the delivery of materials or the performance of labor by the claimant that first occurs after the claimant has agreed to the contractual retainage].~~

(b-1) If an ~~the~~ agreement for contractual retainage is with a subcontractor, the claimant must also give the notice of contractual retainage ~~[within that time]~~ to the original contractor within the period prescribed by Subsection (b).

(c) The notice must generally state the existence of a requirement for retainage and contain:

(1) the name and address of the claimant; and

(2) if the agreement is with a subcontractor, the name and address of the subcontractor ~~[the sum to be retained;~~

~~[(2) the due date or dates, if known; and~~

~~[(3) a general indication of the nature of the agreement].~~

(d) The notice must be sent ~~[by registered or certified mail]~~ to the last known business or residence address of the owner or reputed owner or the original contractor, as applicable.

(f) A claimant has a lien on, and the owner is personally liable to the claimant for, the retained funds under Subchapter E if the claimant:

(1) gives notice in accordance with this section and complies with Subchapter E;

(2) files an affidavit claiming a lien not later than the earliest of:

(A) the date required for filing an affidavit under Section 53.052;

(B) the 40th day after the date stated in an affidavit of completion as the date of completion of the work under the original contract, if the owner sent the claimant notice of an affidavit of completion in the time and manner required;

(C) the 40th day after the date of termination or abandonment of the original contract, if the owner sent the claimant a notice of such termination or abandonment in the time and manner required; or

(D) the 30th day after the owner sent to the claimant in accordance with Section 53.003 to the claimant's address provided in the notice for contractual retainage as required under Subsection (c) a written demand for the claimant to file the affidavit claiming a lien; and

(3) gives the notice of the filed affidavit as required by Section 53.055.

(g) The written demand under Subsection (f)(2)(D):

(1) must contain the owner's name and address and a description, legally sufficient for identification, of the real property on which the improvement is located;

(2) must state that the claimant must file the lien affidavit not later than the 30th day after the date the demand is sent; and

(3) is effective only for the amount of contractual retainage earned by the claimant as of the day the demand was sent.

SECTION 3. Section 53.103, Property Code, is amended to read as follows:

Sec. 53.103. LIEN ON RETAINED FUNDS. A claimant has a lien on the retained funds if the claimant:

(1) sends the notices required by this chapter in the time and manner required; and

(2) except as provided by Section 53.057(f), files an affidavit claiming a lien not later than the 30th day after the earliest ~~[earlier]~~ of the date:

- (A) the work is completed;
- (B) the original contract is terminated; or
- (C) the original contractor abandons performance under the original contract.

SECTION 4. Section 53.105(a), Property Code, is amended to read as follows:

(a) If the owner fails or refuses to comply with this subchapter, the claimants complying with Subchapter C or this subchapter [~~chapter~~] have a lien, at least to the extent of the amount that should have been retained from the original contract under which they are claiming, against the house, building, structure, fixture, or improvement and all of its properties and against the lot or lots of land necessarily connected.

SECTION 5. Sections 53.106(a) and (d), Property Code, are amended to read as follows:

(a) An owner may file with the county clerk of the county in which the property is located an affidavit of completion. The affidavit must contain:

- (1) the name and address of the owner;
- (2) the name and address of the original contractor;
- (3) a description, legally sufficient for identification, of the real property on which the improvements are located;
- (4) a description of the improvements furnished under the original contract;
- (5) a statement that the improvements under the original contract have been completed and the date of completion; and

(6) a conspicuous statement that a claimant may not have a lien on retained funds unless the claimant files an an [the] affidavit claiming a lien not later than the 40th [30th] day after the date the work under the original contract is completed [of completion].

(d) Except as provided by this subsection, an affidavit filed under this section on or before the 10th day after the date of completion of the improvements is prima facie evidence of the date the work under the original contract is completed for purposes of this subchapter and Section 53.057. If the affidavit is filed after the 10th day after the date of completion, the date of completion for purposes of this subchapter and Section 53.057 is the date the affidavit is filed. This subsection does not apply to a person to whom the affidavit was not sent as required by this section.

SECTION 6. Sections 53.107(b) and (d), Property Code, are amended to read as follows:

- (b) The notice must contain:
- (1) the name and address of the owner;
 - (2) the name and address of the original contractor;
 - (3) a description, legally sufficient for identification, of the real property on which the improvements are located;
 - (4) a general description of the improvements agreed to be furnished under the original contract;

(5) a statement that the original contract has been terminated or that performance under the contract has been abandoned;

(6) the date of the termination or abandonment; and

(7) a conspicuous statement that a claimant may not have a lien on the retained funds unless the claimant files an affidavit claiming a lien not later than the 40th ~~30th~~ day after the date of the termination or abandonment.

(d) If an owner is required to send a notice to a [A] subcontractor under this section and fails to send the notice, the subcontractor is not required to comply with Section 53.057 to claim retainage and may claim a lien by filing a lien affidavit as prescribed by Section 53.052 [who fails to file a lien affidavit in the time prescribed by Section 53.103(2) has a lien to the extent authorized under this subchapter if:

~~(1) the subcontractor otherwise complies with this chapter; and~~

~~(2) the owner did not provide the subcontractor notice as required by this section].~~

SECTION 7. Section 53.159, Property Code, is amended by amending Subsections (a) and (b) and adding Subsection (g) to read as follows:

(a) An owner, on written request, shall furnish the following information within a reasonable time, but not later than the 10th day after the date the request is received, to any person furnishing labor or materials for the project:

(1) a description of the real property being improved legally sufficient to identify it;

(2) whether there is a surety bond and if so, the name and last known address of the surety and a copy of the bond; ~~and]~~

(3) whether there are any prior recorded liens or security interests on the real property being improved and if so, the name and address of the person having the lien or security interest; and

(4) the date on which the original contract for the project was executed.

(b) An original contractor, on written request by a person who furnished work under the original contract, shall furnish to the person the following information within a reasonable time, but not later than the 10th day after the date the request is received:

(1) the name and last known address of the person to whom the original contractor furnished labor or materials for the construction project; ~~and]~~

(2) whether the original contractor has furnished or has been furnished a payment bond for any of the work on the construction project and if so, the name and last known address of the surety and a copy of the bond; and

(3) the date on which the original contract for the project was executed.

(g) A subcontractor who does not receive information requested under Subsection (a)(4) within the period prescribed by Subsection (a) is not required to comply with Section 53.057 and may perfect a lien for retainage by filing a lien affidavit under Section 53.052. This subsection expires September 1, 2013.

SECTION 8. Section 53.160(b), Property Code, is amended to read as follows:

(b) The grounds for objecting to the validity or enforceability of the claim or lien for purposes of the motion are limited to the following:

(1) notice of claim was not furnished to the owner or original contractor as required by Section 53.056, 53.057, 53.058, 53.252, or 53.253;

(2) an affidavit claiming a lien failed to comply with Section 53.054 or was not filed as required by Section 53.052;

(3) notice of the filed affidavit was not furnished to the owner or original contractor as required by Section 53.055;

(4) the deadlines for perfecting a lien claim for retainage under this chapter have expired and the owner complied with the requirements of Section 53.101 and paid the retainage and all other funds owed to the original contractor before:

(A) the claimant perfected the lien claim; and

(B) the owner received a notice of the claim as required by this chapter;

(5) all funds subject to the notice of a claim to the owner and a notice regarding the [perfection of a claim against the statutory] retainage have been deposited in the registry of the court and the owner has no additional liability to the claimant;

(6) when the lien affidavit was filed on homestead property:

(A) no contract was executed or filed as required by Section 53.254;

(B) the affidavit claiming a lien failed to contain the notice as required by Section 53.254; or

(C) the notice of the claim failed to include the statement required by Section 53.254; and

(7) the claimant executed a valid and enforceable waiver or release of the claim or lien claimed in the affidavit.

SECTION 9. Chapter 53, Property Code, as amended by this Act, applies only to a lien claim for labor or materials furnished under a subcontract where the original contract was entered into on or after the effective date of this Act. A lien claim for labor or materials furnished under a subcontract where the original contract was entered into before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 10. This Act takes effect September 1, 2011.

Amendment No. 2

Representative Deshotel offered the following amendment to Amendment No. 1:

Amend the Deshotel amendment to **CSHB 1390** as follows:

(1) Strike page 2, line 15, through page 3, line 7, and substitute the following:

(f) A claimant has a lien on, and the owner is personally liable to the claimant for, the retained funds under Subchapter E if the claimant:

(1) gives notice in accordance with this section and:

(A) complies with Subchapter E; or

(B) files an affidavit claiming a lien not later than the earliest of:

(i) the date required for filing an affidavit under Section 53.052;

(ii) the 40th day after the date stated in an affidavit of completion as the date of completion of the work under the original contract, if the owner sent the claimant notice of an affidavit of completion in the time and manner required;

(iii) the 40th day after the date of termination or abandonment of the original contract, if the owner sent the claimant a notice of such termination or abandonment in the time and manner required; or

(iv) the 30th day after the date the owner sent to the claimant to the claimant's address provided in the notice for contractual retainage, as required under Subsection (c), a written notice of demand for the claimant to file the affidavit claiming a lien; and

(2) gives the notice of the filed affidavit as required by Section 53.055.

(2) On page 3, line 23, strike "provided" and substitute "allowed".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

CSHB 1390, as amended, was passed to engrossment. (P. King recorded voting no.)

COMMITTEE GRANTED PERMISSION TO MEET

Representative J. Davis requested permission for the Committee on Economic and Small Business Development to meet while the house is in session, at 12 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Economic and Small Business Development, 12 p.m. today, 3W.9, for a formal meeting, to consider pending business.

(Geren in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hardcastle requested permission for the Committee on Agriculture and Livestock to meet while the house is in session, at 1:30 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Agriculture and Livestock, 1:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**CSSB 1420 ON SECOND READING
(Harper-Brown, Phillips, Pickett, and Bonnen - House Sponsors)**

CSSB 1420, A bill to be entitled An Act relating to the continuation and functions of the Texas Department of Transportation; providing penalties.

CSSB 1420 was considered in lieu of **HB 2675**.

Representative Harper-Brown moved that all prefiled amendments to **HB 2675** be applied to **CSSB 1420**.

The motion prevailed.

Amendment No. 1

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 1

Amend **CSSB 1420** (house committee report) by striking page 4, lines 14-17, and substituting the following:

Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) The department shall employ a chief financial officer. The chief financial officer must:

(1) be a certified public accountant who is licensed and in good standing in this state;

(2) have earned at least a master's degree from an accredited public or private institution of higher education; or

(3) have at least 10 years of professional experience in fiscal management practices and procedures, with at least seven years of managerial experience.

Amendment No. 2

Representative Harper-Brown offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Harper-Brown to **CSSB 1420** (page 1, prefiled amendment packet) on page 1, by striking lines 11-13, and substituting the following:

(3) have at least 10 years of professional experience in fiscal management practices and procedures, including fund accounting for government agencies, with at least seven years of managerial experience.

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 2

Amend **CSSB 1420** (house committee report) as follows:

(1) Strike page 4, line 18, through page 5, line 4, and substitute the following:

(b) The chief financial officer shall:

(1) oversee:

(A) the department's financial activities, including managing the department's debt and loan portfolio and exploring new mechanisms to finance transportation projects; and

(B) the management of the state highway fund; and

(2) certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.

(2) On page 5, line 5, strike "(d)" and substitute "(c)".

(3) On page 5, line 8, strike "(e)" and substitute "(d)".

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 3

Amend **CSSB 1420** (house committee printing) as follows:

(1) Strike page 4, lines 18-24 and substitute:

(b) The chief financial officer shall oversee the department's financial activities, including:

(1) financial forecasting of the department's revenues and expenditures;

(2) establishing and monitoring of the department's budget;

(3) financial reporting on federal and state programs; and

(4) managing the department's debt and loan portfolio.

(2) On page 4, line 25 strike "chief financial officer" and substitute "department".

(3) On page 5, between lines 9 and 10, insert:

(f) Each month, the chief financial officer shall certify that the highway construction and maintenance contracts to be awarded by the department during that month will not create a liability to the state in excess of the most recent cash flow forecast issued by the chief financial officer.

Amendment No. 4 was adopted. (C. Anderson, Carter, and Kleinschmidt recorded voting no.)

Amendment No. 5

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 4

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 12, line 16, strike "improvement program" and substitute "plan".

(2) On page 12, line 17, strike "specific, long-term".

(3) On page 14, line 12, after "necessary.", add "An update or revision of the statewide transportation improvement program or the 10-year developmental program is an amendment or administrative modification and does not require an update to the statewide transportation plan."

(4) On page 14, line 15, strike "PLANS AND POLICY EFFORTS" and substitute "PLANS, PROGRAMS, AND POLICY EFFORTS".

(5) On page 14, line 16, strike "plans and policy efforts." and substitute "plans, programs, and policy efforts.".

(6) On page 14, line 18, strike "plan or policy effort" and substitute "plan, program, or policy effort".

Amendment No. 5 was adopted.

Amendment No. 6

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 5

Amend **CSSB 1420** (house committee report) on page 9, line 19, by inserting "or division or office director" between "engineer" and the comma.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 6

Amend **CSSB 1420** (house committee report) by striking page 10, line 9, through page 12, line 6 and substituting the following:

Sec. 201.451. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011, Government Code.

(2) "Inspector general" means the person appointed under this subchapter to serve as inspector general for the department.

(3) "Office" means the office of inspector general for the department.

(4) "Review" includes an inspection, investigation, audit, or similar activity.

(5) "State funds" or "state money" includes federal funds or money received and appropriated by the state or for which the state has oversight responsibility.

Sec. 201.452. ESTABLISHMENT OF OFFICE. (a) The department shall establish an office of inspector general.

(b) The office is governed by the inspector general for the department.

(c) The inspector general shall:

(1) manage daily operations of the office;

(2) supervise office staff;

(3) create office operating procedures, personnel policies, and employment policies;

(4) allocate resources in the office;

(5) oversee office information resources systems;

(6) determine the location of office facilities; and

(7) coordinate office activities with the activities of other state agencies.

(d) The inspector general is responsible for office procurement and contracts.

Sec. 201.453. INDEPENDENCE OF OFFICE. Except as otherwise provided by this subchapter, the office and inspector general operate independently of the department.

Sec. 201.454. ADMINISTRATIVE ATTACHMENT. The office is administratively attached to the department. The department shall provide to the office administrative support services.

Sec. 201.455. SERVICE LEVEL AGREEMENT. (a) The department and the office shall enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support by the department.

(b) The service level agreement must be reviewed at least annually to ensure that services and deliverables are provided in accordance with the agreement.

Sec. 201.456. APPROPRIATIONS AND BUDGET. (a) The inspector general shall submit a budget for the office in accordance with the reporting requirements of the General Appropriations Act.

(b) The inspector general shall submit to the Legislative Budget Board and the department a legislative appropriations request and an operating budget in accordance with the service level agreement entered into under Section 201.455 and applicable law.

(c) If required by or under law, the department shall submit the operating budget to the legislature. The budget is not subject to review, alteration, or modification by the department or the commission before submission to the legislature.

Sec. 201.457. DUTIES OF DEPARTMENT. (a) The department shall:

(1) provide administrative assistance to the office; and

(2) coordinate administrative responsibilities with the office to avoid unnecessary duplication of duties.

(b) The department may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract to which the office is a party without the office's approval.

Sec. 201.458. APPOINTMENT; STATE OFFICER. (a) The commission shall appoint an inspector general to serve as director of the office.

(b) The appointment shall be made without regard to political affiliation, race, color, disability, sex, religion, age, or national origin.

(c) In making the appointment, the commission shall consider the person's integrity, education, training, knowledge of law, experience in the enforcement of law, executive ability, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation, criminal justice administration, or other closely related fields.

(d) The inspector general is a state officer.

Sec. 201.459. TERM. The inspector general serves a two-year term that expires on February 1 of each odd-numbered year.

Sec. 201.460. ELIGIBILITY. (a) To be eligible for appointment as inspector general, a person must:

- (1) have unquestioned integrity and moral character;
- (2) hold a bachelor's degree;
- (3) have either:

(A) at least five years of experience as a certified public accountant, certified internal auditor, or certified inspector general; or

(B) a peace officer certification issued by the Commission on Law Enforcement Officer Standards and Education that the person has held for at least five years; and

- (4) have either:

(A) at least five years of experience in a professional or administrative position that included as a major duty fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance; or

(B) experience carrying out law enforcement duties to prevent fraud, waste, and abuse.

(b) The person appointed as inspector general must obtain certification as a certified inspector general within the time required by rules adopted by the commission.

(c) A person formerly employed by the department as an executive or manager may not serve as inspector general before the fifth anniversary of the date of the termination of that person's employment with the department.

(d) A person is not eligible for appointment as inspector general if the person or the person's spouse:

(1) is an officer or paid consultant of a business entity or other organization that holds a license, certificate of authority, or other authorization from the department or that receives funds from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods or funds from the department, other than compensation or reimbursement authorized by law.

(e) A person is not eligible to serve as inspector general if the person or the person's spouse is required to register as a lobbyist under Chapter 305, Government Code, because of the person's or spouse's activities for compensation related to the operation of the department.

Sec. 201.461. CONFLICT OF INTEREST. (a) The inspector general may not serve as an ex officio member on the governing body of a governmental entity.

(b) The inspector general may not have a financial interest in the transactions of the office, the department, or a contractor with the department or office.

(c) The inspector general and office staff may not participate in partisan political activities related to the work of the inspector general's office. The inspector general may select the most efficient personnel available for each position in the inspector general's office. It is against the public policy of this state for an officer or employee of this state to recommend a person to serve on the staff of the inspector general.

Sec. 201.462. PEACE OFFICERS. (a) The office may employ and commission peace officers to assist the inspector general in carrying out the duties of the office relating to detection, investigation, and prevention of fraud, waste, and abuse in department programs or in programs receiving state or federal funds that are implemented, administered, or overseen by or for the department.

(b) A commissioned peace officer or otherwise designated law enforcement officer employed by the office is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund unless the officer transfers from a position, without a break in service, that qualifies for supplemental retirement benefits from the fund.

Sec. 201.463. EXPERTS. Subject to the availability of funds, the inspector general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform the functions of the office.

Sec. 201.464. EMPLOYEES; TRAINING. (a) The inspector general may employ personnel as necessary to implement the duties of the office.

(b) The inspector general shall train office personnel to pursue, efficiently and as necessary, fraud, waste, and abuse cases in department programs or other state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.465. ASSISTANCE BY DEPARTMENT EMPLOYEES. The inspector general may require employees of the department to provide assistance to the office in connection with the office's duties relating to conducting reviews

of fraud, waste, and abuse in the provision of services for department programs or state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.466. GENERAL RESPONSIBILITIES. The office is responsible for:

(1) conducting reviews of fraud, waste, and abuse in the provision or funding of services by or for the department or under a program implemented, administered, or overseen by or for the department;

(2) the enforcement of state law and the protection of the public relating to the provision of those services; and

(3) the prevention and detection of crime relating to the provision of those services.

Sec. 201.467. RULEMAKING BY INSPECTOR GENERAL. (a) Notwithstanding Section 201.101 and any other law, the inspector general shall adopt the rules necessary to administer the functions of the office, including rules to address the imposition of sanctions and penalties for violations and due process requirements for imposing sanctions and penalties.

(b) A rule, standard, or form of the department that is necessary to accomplish the duties of the office is considered to also be a rule, standard, or form of the office and remains in effect as a rule, standard, or form of the office until changed by the inspector general.

(c) The office shall submit proposed rules and adopted rules to the department for publication. The department shall promptly provide for the publication of the proposed or adopted rules in accordance with law. The department, including the commission, may not amend or modify a rule submitted by the office.

(d) The rules must include standards for the office that emphasize:

(1) coordinating reviews and investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of attorney general.

Sec. 201.468. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The office shall develop and implement policies that provide the public a reasonable opportunity to appear before the office and to speak on any issue under the office's jurisdiction.

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

(c) The office shall keep an information file about each complaint filed with the office relating to the department or an entity receiving state or federal money and falling under the investigatory jurisdiction of the office.

Sec. 201.469. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

(a) The inspector general may review any activity or operation of the department or a person in this state that is related to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a department program or state or federally funded program implemented, administered, or overseen by or for the department. A review may include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money.

(b) The office shall conduct reviews to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs.

(c) The office shall conduct internal affairs investigations in instances of suspected fraud, waste, and abuse and in instances of suspected misconduct by employees, contractors, subcontractors, and vendors.

(d) The department or the commission may not impair or prohibit the inspector general from initiating or completing a review, or attempt to influence the inspector general in conducting a review.

(e) The inspector general may review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person receiving the funds in connection with a department or state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.470. INITIATION OF REVIEW. The inspector general may initiate a review:

(1) on the inspector general's own initiative;

(2) at the request of the department or the commission; or

(3) based on a complaint from any source concerning a matter described by Section 201.469.

Sec. 201.471. ACCESS TO INFORMATION. To further a review conducted by the office, the inspector general is entitled to access all books, records, accounts, documents, reports, vouchers, databases, systems, or other information, including confidential information, electronic data, and internal records relevant to the functions of the office that are maintained by or for a person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.472. COOPERATION REQUIRED. To further a review conducted by the inspector general's office, the inspector general is entitled to full and unrestricted access to all offices, limited access or restricted areas, employees, equipment, and computers, including areas, equipment, and computers that contain confidential information and internal records, relevant to the functions of the office that are maintained by or for a person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.473. SUBPOENAS. (a) The inspector general may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence in connection with a review conducted under this subchapter.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the inspector general, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may hold in contempt a person who fails to obey the court order.

(e) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

Sec. 201.474. INTERNAL AUDITOR. (a) In this section, "internal auditor" means a person appointed under Section 201.108.

(b) The internal auditor shall provide the inspector general with a copy of the department's internal audit plan to:

(1) assist in the coordination of efforts between the inspector general and the internal auditor; and

(2) limit duplication of effort regarding reviews by the inspector general and internal auditor.

(c) The internal auditor shall provide to the inspector general all final audit reports concerning audits of any:

(1) division of the department;

(2) contract, procurement, or grant; and

(3) program conducted by the department.

Sec. 201.475. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The inspector general may provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The inspector general may refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

(c) The inspector general may enter into a memorandum of understanding with a law enforcement or prosecutorial agency, including the office of the attorney general, to assist in conducting a review under this subchapter.

Sec. 201.476. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) The state auditor may, on request of the inspector general, provide appropriate information or other assistance to the inspector general or office, as determined by the state auditor.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this subchapter, share information, or schedule work plans.

(c) The state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and information obtained under Section 201.471 or subject to Section 201.482.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 201.477. AUTHORITY OF STATE AUDITOR AND SUNSET ADVISORY COMMISSION NOT IMPAIRED. (a) This subchapter does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321, Government Code, or other law.

(b) This subchapter does not take precedence over the authority of the Sunset Advisory Commission or other legislative bodies to review the department under other law.

Sec. 201.478. PREVENTION. (a) The inspector general may recommend to the department policies on:

(1) promoting economical and efficient administration of state or federal funds administered by an individual or entity that received the funds from the department; and

(2) preventing and detecting fraud, waste, and abuse in the administration of those funds.

(b) The inspector general may provide training or other education regarding the prevention of fraud, waste, or abuse to employees of the department. The training or education provided must be approved by the commission.

Sec. 201.479. PERIODIC REPORTING TO STATE AUDITOR AND COMMISSION REQUIRED. The inspector general shall timely inform the state auditor and the commission of the initiation of a review of a department program and the ongoing status of each review.

Sec. 201.480. REPORTING OFFICE FINDINGS. The inspector general shall report the findings of the office for any review conducted under this subchapter to:

(1) the commission;

(2) the governor;

(3) the lieutenant governor;

(4) the speaker of the house of representatives;

(5) the state auditor's office; and

(6) appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct.

Sec. 201.481. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The inspector general shall immediately report to the commission, the governor's general counsel, and the state auditor a problem that the inspector general determines is particularly serious or flagrant and that relates to the administration of a program, operation of the department, or interference with an inspector general review.

Sec. 201.482. INFORMATION CONFIDENTIAL. (a) Except as provided by this section and Sections 201.479, 201.480, 201.483, and 201.484, all information and material compiled or maintained by the inspector general during a review under this subchapter is:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the state auditor's office, the department, or the office or its agents involved in the review related to that information or material.

(b) As the inspector general determines appropriate based on evidence sufficient to support an allegation, information relating to a review may be disclosed to:

(1) a law enforcement agency;

(2) a district or county attorney with jurisdiction;

(3) the attorney general's office;

(4) the state auditor's office; or

(5) the department.

(c) A person that receives information under Subsection (b) may not disclose the information except to the extent that disclosure is consistent with the authorized purpose for which the person first obtained the information.

Sec. 201.483. DRAFT OF FINAL REVIEW REPORT; DEPARTMENT RESPONSE. (a) Except in cases in which the office has determined that fraud, waste, or abuse exists, the office shall provide a draft of the final review report of any review of the operations of the department to the director before publishing the office's final review report.

(b) The director may provide a response to the office's draft report in the manner prescribed by the office not later than the 10th day after the date the draft report is received by the director. The inspector general by rule shall specify the format and requirements of the department response.

(c) Notwithstanding Subsection (a), the office may not provide a draft report to the director if in the inspector general's opinion providing the draft report could negatively affect any anticipated civil or criminal proceedings.

(d) The office may include any portion of the department's response in the office's final report.

Sec. 201.484. FINAL REVIEW REPORTS; DEPARTMENT RESPONSE. (a) The inspector general shall prepare a final report for each review conducted under this subchapter. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review;

(2) a determination of whether wrongdoing or substantial waste was found; and

(3) a description of any findings of wrongdoing or substantial waste or, if no wrongdoing or substantial waste was found, a statement indicating that finding.

(b) The inspector general's final review reports are subject to disclosure under Chapter 552, Government Code.

(c) All working papers and other documents related to compiling the final review reports remain confidential and are not subject to disclosure under Chapter 552, Government Code.

(d) Not later than the 60th day after the date the office issues a final report that identifies deficiencies or inefficiencies in, or recommends corrective measures in the operations of, the department, the department shall file a response that includes:

(1) an implementation plan and timeline for implementing corrective measures; or

(2) the department's rationale for declining to implement corrective measures for the identified deficiencies or inefficiencies or the office's recommended corrective measures, as applicable.

(e) Unless otherwise prohibited by this subchapter, the inspector general shall deliver a copy of each final report to:

(1) the director;

(2) the commission;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

(6) any appropriate law enforcement and prosecutorial agencies; and

(7) the state auditor.

Sec. 201.485. COSTS. (a) The inspector general shall maintain information regarding the cost of reviews.

(b) The inspector general may cooperate with appropriate administrative and prosecutorial agencies, including the office of the attorney general, in recovering costs incurred under this subchapter from nongovernmental entities, including contractors or individuals involved in:

(1) violations of applicable state or federal rules or statutes;

(2) abusive or wilful misconduct; or

(3) violations of a contract or program policy.

(c) In a criminal prosecution to which this subchapter applies, the attorney representing the state shall request that the court require restitution as a condition of a convicted person's community supervision or parole.

Sec. 201.486. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.

(a) The office may:

(1) act for the department in the assessment by the office of administrative or civil penalties the department is authorized to assess under applicable law; and

(2) request that the attorney general obtain an injunction to prevent a person from disposing of an asset identified by the office as potentially subject to recovery by the office due to the person's fraud, waste, or abuse.

(b) If the office imposes an administrative or civil penalty under Subsection (a) for the department:

(1) the department may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this subchapter, applicable laws governing the imposition of a penalty by the department, and any other applicable law.

Amendment No. 8

Representative Harper-Brown offered the following amendment to Amendment No. 7:

Amend Amendment No. 7 by Harper-Brown to **CSSB 1420** (page 6, prefiled amendments packet) as follows:

(1) On page 10 of the amendment, line 27, strike "may" and substitute "shall".

(2) On page 10 of the amendment, line 30, strike "may" and substitute "shall".

Amendment No. 8 was adopted.

Amendment No. 7, as amended, was withdrawn.

Amendment No. 9

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 23

Amend **CSSB 1420** (house committee printing) by striking page 32, line 24, through page 33, line 17, and substituting:

Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. (a) The department shall give [~~publish~~] notice to interested persons regarding [~~of~~] the time and place at which bids on a contract will be opened and the contract awarded. Subject to Subsections (b) and (c), the commission by rule shall determine the most effective method for providing the notice required by this section.

(b) The notice must be published in a newspaper published in the county in which the improvement is to be made and, at a minimum, must provide the address of an Internet website on which information regarding bids may be located [~~once a week for at least two weeks before the time set for awarding the contract and in two other newspapers that the department may designate~~].

(c) [~~Instead of the notice required by Subsection (b), if the department estimates that the contract involves an amount less than \$300,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.~~

[~~(d)~~] If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper published in the county:

- (1) nearest the county seat of the county in which the improvement is to be made; and
- (2) in which a newspaper is published.

Amendment No. 9 was withdrawn.

CSSB 1420 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BERMAN: Linda, we're getting e-mails now, and I think you know that. In any of your amendments that you're offering today, and in the future, is there any revival of the Trans-Texas Corridor?

REPRESENTATIVE HARPER-BROWN: No, not ever, not at all.

BERMAN: Okay.

HARPER-BROWN: We've already passed a bill to do away with the Trans-Texas Corridor. I am not reviving it in any way, shape, fashion, or form. I do not want the Trans-Texas Corridor in this bill. I have no desire to revive the Trans-Texas Corridor.

REMARKS ORDERED PRINTED

Representative Berman moved to print remarks between Representative Harper-Brown and Representative Berman.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 12:15 p.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 12:15 p.m. today, 3W.15, for a formal meeting, to set a calendar.

CSSB 1420 - (consideration continued)

Amendment No. 10

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 24

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 36, line 3, strike "Section 228.012(e), Transportation Code, is" and substitute "Sections 228.012(b) and (e), Transportation Code, are".

(2) On page 36, between lines 4 and 5, insert:

(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. Except as provided by Subsection (c), 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.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 25

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 201.607, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

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

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

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

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

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department, as negotiated by the department and the agency but which may not exceed 45 days after the date the agency receives a request for comments from the department; ~~and~~

(5) specifies that comments submitted to the department later than the period specified under Subdivision (4) will be considered by the department to the extent possible; and

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

(c) The department by rule shall establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

(b) Section 201.607(a), Transportation Code, as amended by this section, applies only to a request for comments from the Texas Department of Transportation received by a state agency on or after the effective date of this Act. As necessary, the Texas Department of Transportation and each affected state

agency shall promptly revise the memorandum of understanding required by Section 201.607, Transportation Code, to implement the change made by this section to Section 201.607(a), Transportation Code.

SECTION _____. (a) Chapter 201, Transportation Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

Sec. 201.751. DEFINITIONS. In this subchapter:

- (1) "Day" means a calendar day.
- (2) "Federal Highway Administration" means the United States Department of Transportation Federal Highway Administration.
- (3) "Highway project" means a highway or related improvement that is:
 - (A) part of the state highway system; or
 - (B) not part of the state highway system but funded wholly or partly by federal money.
- (4) "Local government sponsor" means a political subdivision of the state that:
 - (A) elects to participate in the planning, development, design, funding, or financing of a highway project; and
 - (B) is a municipality or a county, a group of adjoining counties, a county acting under Chapter 284, a regional tollway authority operating under Chapter 366, a regional mobility authority operating under Chapter 370, a local government corporation, or a transportation corporation created under Chapter 431.

Sec. 201.752. STANDARDS. (a) The commission by rule shall establish standards for processing an environmental review document for a highway project. The standards must increase efficiency, minimize delays, and encourage collaboration and cooperation by the department with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

(b) The standards apply regardless of whether the environmental review document is prepared by the department or a local government sponsor. The standards apply to work performed by the sponsor and to the department's review process and environmental decision.

(c) The standards must address, for each type of environmental review document:

- (1) the issues and subject matter to be included in the project scope prepared under Section 201.754;
- (2) the required content of a draft environmental review document;
- (3) the process to be followed in considering each type of environmental review document; and
- (4) review deadlines, including the deadlines in Section 201.759.

(d) The standards must include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

(e) The standards may include a process and criteria for the prioritization of environmental review documents if the department makes a finding that it lacks adequate resources to timely process all documents it receives for projects described in Section 201.753(a). The process established under this subsection must provide for notification to the local government sponsor if an environmental review document is to be delayed due to prioritization, and must provide that the delayed review will be completed not later than one year before the date that the local government sponsor plans to publish notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS. (a) A local government sponsor or the department may prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by the commission as being eligible for participation under this subchapter.

(b) Notwithstanding Subsection (a), a local government sponsor may prepare an environmental review document for a highway project that is not identified by the commission or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by commission rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) A fee received by the department under Subsection (b) must be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Sec. 201.754. SCOPE OF PROJECT. If an environmental review document is prepared by a local government sponsor, the local government sponsor must prepare a detailed scope of the project in collaboration with the department before the department may process the environmental review document.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local government sponsor may submit notice to the department proposing that the local government sponsor prepare the environmental review document for a highway project.

(b) The notice must include:

(1) the project scope prepared under Section 201.754; and

(2) a request for classification of the project.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for:

(1) project scope determination;

(2) environmental reports;

(3) the environmental review document;

(4) environmental permits and conditions;

(5) coordination with resource agencies; and

(6) public participation.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's submission of an environmental review document must include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Not later than the 20th day after the date the department receives a local government sponsor's environmental review document, the department shall either:

(1) issue a letter confirming that the document is administratively complete and ready for technical review; or

(2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if the department sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by the department to be missing from the document.

(b) If the department provides notice under Subsection (a), the department shall undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) The local government sponsor may resubmit any environmental review document determined by the department under Section 201.757 not to be administratively complete, and the department shall issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sec. 201.759. REVIEW DEADLINES. (a) The following deadlines must be included in the standards adopted under Section 201.752:

(1) the department shall issue a classification letter not later than the 30th day after the date the department receives notice from a local government sponsor under Section 201.755;

(2) for a project classified as a programmatic categorical exclusion, the environmental decision must be rendered not later than the 60th day after the date the supporting documentation is received by the department;

(3) for a project classified as a categorical exclusion, the environmental decision must be rendered not later than the 90th day after the date the supporting documentation is received by the department;

(4) for a project that requires the preparation of an environmental assessment:

(A) the department must provide all department comments on a draft environmental assessment not later than the 90th day after the date the draft is received by the department; and

(B) the department must render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to the department; or

(ii) the date the public involvement process concludes;

(5) the department must render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by the department; and

(6) for a project that requires the preparation of an environmental impact statement, the department shall render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Review deadlines under this section specify the date by which the department will render the environmental decision on a project or the time frames by which the department will make a recommendation to the Federal Highway Administration, as applicable.

(c) A deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to department comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for the department concerning compliance with applicable law.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Notwithstanding any provision of this subchapter or any other law, a local government sponsor and the department may enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. For a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and the department under this section.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE. (a) Not later than June 30 and December 31 of each year, the department shall submit a report to the commission at a regularly scheduled commission meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

- (1) how the project was classified for environmental review;
- (2) the current status of the environmental review;
- (3) the date on which the department is required to make an environmental decision under applicable deadlines;
- (4) an explanation of any delays; and
- (5) any deadline under Section 201.759 missed by the department.

(b) Not later than December 1 of each year, the department shall submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter, including a status report for the preceding 12-month period that contains the information described in Subsection (a).

(c) The department shall post copies of the reports required under this section on its Internet website and shall provide a copy of the report required by Subsection (b) to each member of the legislature who has at least one project covered by the report in the member's district.

(d) The department shall make available on its Internet website and update regularly the status of projects being processed under this subchapter.

(b) The Texas Transportation Commission shall adopt rules to implement Subchapter I-1, Chapter 201, Transportation Code, as added by this section, not later than March 1, 2012.

(c) Subchapter I-1, Chapter 201, Transportation Code, as added by this section, applies only to a notice of a local government sponsor proposing the sponsor's preparation of an environmental review document that is received by the Texas Department of Transportation on or after the effective date of this Act. Submissions to the Texas Department of Transportation received before the effective date of this Act are governed by the law in effect on the date the submission was received, and that law is continued in effect for that purpose.

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.005 and 222.006 to read as follows:

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. The department by rule shall establish a process to certify department district environmental specialists to work on all documents related to state and federal environmental review processes. The certification process must:

(1) be available to department employees; and

(2) require continuing education for recertification.

SECTION _____. (a) Section 12.0011, Parks and Wildlife Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Recommendations and information submitted by the department under Subsection (b) in response to a request for comments from the Texas Department of Transportation must be submitted not later than the 45th day after the date the department receives the request.

(b) Section 12.0011(b-1), Parks and Wildlife Code, as added by this section, applies only to a request for comments from the Texas Department of Transportation received on or after the effective date of this Act.

Amendment No. 12

Representative Schwertner offered the following amendment to Amendment No. 11:

Amend Amendment No. 11 by Harper-Brown (page 25 of the prefiled amendments packet) to **CSSB 1420** by striking page 4, lines 2-14, and substituting the following:

(e) For highway projects described in Section 201.753(a), the standards may provide a process and criteria for the prioritization of environmental review documents in the event the department makes a finding that it lacks adequate resources to timely process all documents it receives. Standards established pursuant to this subsection must provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and must ensure that the environmental review document for each highway project will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Amendment No. 12 was adopted.

Amendment No. 11, as amended, was adopted.

Amendment No. 13

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 36

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 228, Transportation Code, is amended by adding Section 228.013 to read as follows:

Sec. 228.013. DETERMINATION OF FINANCIAL TERMS FOR CERTAIN TOLL PROJECTS. (a) This section applies only to a proposed department toll project in which a private entity has a financial interest in the project's performance and for which:

(1) funds dedicated to or controlled by a region will be used;

(2) right-of-way is provided by a municipality or county; or

(3) revenues dedicated to or controlled by a municipality or county will

be used.

(b) The distribution of a project's financial risk, the method of financing for a project, and the tolling structure and methodology must be determined by a committee consisting of the following members:

(1) a representative of the department;

(2) a representative of any local toll project entity, as defined by Section 371.001, for the area in which the project is located;

(3) a representative of the applicable metropolitan planning organization; and

(4) a representative of each municipality or county that has provided revenue or right-of-way as described by Subsection (a).

Amendment No. 13 was adopted. (C. Anderson, Carter, and Kleinschmidt recorded voting no.)

Amendment No. 14

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 37

Amend **CSSB 1420** (house committee printing) by striking SECTION 25 of the bill (page 33, line 18, through page 34, line 12) and substituting the following:

SECTION 25. Chapter 223, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DESIGN-BUILD CONTRACTS

Sec. 223.241. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of highway projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Sec. 223.242. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Notwithstanding the requirements of Subchapter A and Chapter 2254, Government Code, the department may use the design-build method for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

(b) A design-build contract under this subchapter may not grant to a private entity:

(1) a leasehold interest in the highway project; or

(2) the right to operate or retain revenue from the operation of a toll project.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the department and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) The department may enter into not more than three design-build contracts for highway projects, each of which has a construction cost estimate of \$50 million or more to the department, in any fiscal year.

(e) Money disbursed by the department to pay engineering costs for the design of a project incurred by the design-build contractor under a design-build contract may not be included in the amounts under Section 223.041:

(1) required to be spent in a state fiscal biennium for engineering-related services; or

(2) appropriated in Strategy A.1.1, Plan/Design/Manage or Strategy A.1.2, Contracted Planning and Design of the General Appropriations Act.

Sec. 223.243. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as the department's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a highway project, the department shall select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, who is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by the department and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 223.244. OTHER PROFESSIONAL SERVICES. (a) The department shall provide or contract for, independently of the design-build contractor, the following services as necessary for the acceptance of the highway project by the department:

- (1) inspection services;
- (2) construction materials engineering and testing; and
- (3) verification testing services.

(b) The department shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude a design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 223.245. REQUEST FOR QUALIFICATIONS. (a) For any highway project to be delivered through the design-build method, the department must prepare and issue a request for qualifications. A request for qualifications must include:

(1) information regarding the proposed project's location, scope, and limits;

(2) information regarding funding that may be available for the project;

(3) criteria that will be used to evaluate the qualifications statements, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;

(4) the relative weight to be given to the criteria; and

(5) the deadline by which qualifications statements must be received by the department.

(b) The department shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on the department's Internet website.

(c) The department shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. The department may interview responding proposers. Based on the department's evaluation of qualifications statements and interviews, if any, the department shall qualify or short-list proposers to submit proposals.

(d) The department shall qualify or short-list at least two private entities to submit proposals under Section 223.246, but may not qualify or short-list more private entities than the number of private entities designated on the request for qualifications. If the department receives only one responsive qualifications statement, the department shall terminate the procurement.

(e) The department may withdraw a request for qualifications or request for proposals at any time.

Sec. 223.246. REQUEST FOR PROPOSALS. (a) The department shall issue a request for proposals to proposers short-listed under Section 223.245. A request for proposals must include:

(1) information on the overall project goals;

(2) publicly available cost estimates for the design-build portion of the project;

(3) materials specifications;

(4) special material requirements;

(5) a schematic design approximately 30 percent complete;

(6) known utilities, provided that the department is not required to undertake an effort to locate utilities;

(7) quality assurance and quality control requirements;
(8) the location of relevant structures;
(9) notice of any rules or goals adopted by the department relating to awarding contracts to disadvantaged business enterprises or small business enterprises;

(10) available geotechnical or other information related to the project;
(11) the status of any environmental review of the project;
(12) detailed instructions for preparing the technical proposal required under Subsection (d), including a description of the form and level of completeness of drawings expected;

(13) the relative weighting of the technical and cost proposals required under Subsection (d) and the formula by which the proposals will be evaluated and ranked; and

(14) the criteria to be used in evaluating the technical proposals, and the relative weighting of those criteria.

(b) The formula used to evaluate proposals under Subsection (a)(13) must allocate at least 70 percent of the weighting to the cost proposal.

(c) A request for proposals must also include a general form of the design-build contract that the department proposes and that may be modified as a result of negotiations prior to contract execution.

(d) Each response to a request for proposals must include a sealed technical proposal and a separate sealed cost proposal submitted to the department by the date specified in the request for proposals.

(e) The technical proposal must address:

(1) the proposer's qualifications and demonstrated technical competence, unless that information was submitted to the department and evaluated by the department under Section 223.245;

(2) the feasibility of developing the project as proposed, including identification of anticipated problems;

(3) the proposed solutions to anticipated problems;

(4) the ability of the proposer to meet schedules;

(5) the conceptual engineering design proposed; and

(6) any other information requested by the department.

(f) The department may provide for the submission of alternative technical concepts by a proposer. If the department provides for the submission of alternative technical concepts, the department must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(g) The cost proposal must include:

(1) the cost of delivering the project; and

(2) the estimated number of days required to complete the project.

(h) A response to a request for proposals shall be due not later than the 180th day after the final request for proposals is issued by the department. This subsection does not preclude the release by the department of a draft request for proposals for purposes of receiving input from short-listed proposers.

(i) The department shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The department may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the department as provided in the request for proposals. The department shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The department shall rank the proposers in accordance with the formula provided in the request for proposals.

Sec. 223.247. NEGOTIATION. (a) After ranking the proposers under Section 223.246(i), the department shall first attempt to negotiate a contract with the highest ranked proposer. The department may include in the negotiations alternative technical concepts proposed by other proposers, subject to Section 223.249.

(b) If the department is unable to negotiate a satisfactory contract with the highest ranked proposer, the department shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 223.248. ASSUMPTION OF RISKS AND COSTS. (a) Except as provided by Subsection (b), the department shall assume:

(1) all risks and costs associated with:

(A) changes and modifications to the scope of the project requested by the department;

(B) unknown or differing conditions at the site of the project;

(C) applicable environmental clearance and other regulatory permitting necessary for the project; and

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, other than costs associated with acquiring a temporary easement or work area used for staging or constructing the project.

(b) A design-build contractor may assume some or all of the risks or costs described by Subsection (a) if the terms of the assumption are reflected in the final request for proposals, including all supplements to the request.

Sec. 223.249. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS. (a) The department shall pay an unsuccessful proposer that submits a responsive proposal a stipend for the work product contained in the proposal that the department determines can be used by the department in the performance of the department's functions. The stipend must be a minimum of twenty-five hundredths of one percent of the contract amount and must be specified in the initial request for proposals, but may not exceed the value of the work product contained in the proposal that the department determines can be used by the department in the performance of the department's functions. If the department determines that the value of the work product is less than the stipend

amount, the department shall provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used by the department in determining the value of the work product. After payment of the stipend, the department may make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipend under this subsection.

(b) In a request for proposals, the department shall provide for the payment of a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

Sec. 223.250. PERFORMANCE OR PAYMENT BOND. (a) The department shall require a design-build contractor to provide:

(1) a performance and payment bond;

(2) an alternative form of security; or

(3) a combination of the forms of security described by Subdivisions (1) and (2).

(b) Except as provided by Subsection (c), a performance and payment bond, alternative form of security, or combination of the forms shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If the department determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the security.

(d) A performance and payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(e) The department may require one or more of the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the department;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit provided by a bank meeting the requirements specified in the request for proposals; or

(4) any other form of security determined suitable by the department.

(f) Section 223.006 of this code and Chapter 2253, Government Code, do not apply to a bond or alternative form of security required under this section.

Amendment No. 15

Representative Harper-Brown offered the following amendment to Amendment No. 14:

Amend Floor Amendment No. 14 by Harper-Brown to **CSSB 1420** (page 37 of the prefiled amendments packet) as follows:

(1) On page 2, line 2, strike "not more than three".

(2) On page 2, line 3, strike "each of which" and substitute "if the contract".

(3) On page 2, line 5, strike ", in any fiscal year".

(4) On page 4, lines 10-12, strike "If the department receives only one responsive qualifications statement, the department shall terminate the procurement" and substitute "If the department receives only one responsive qualifications statement to a request for qualifications, an independent audit by the comptroller's office must confirm and validate that:

(1) the project, for which the request for qualifications was issued, delivered value for the public investment; and

(2) no anti-competitive practices were involved in the procurement".

Amendment No. 15 was adopted.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Branch requested permission for the Committee on Higher Education to meet while the house is in session, at 2 p.m. today, in 3W.9, to consider **SB 633** and pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Higher Education, 2 p.m. today, 3W.9, for a formal meeting, to consider **SB 633** and pending business.

COMMITTEE GRANTED PERMISSION TO MEET

Representative L. Taylor requested permission for the Committee on Elections to meet while the house is in session, at 1:30 p.m. today, in 1W.14, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Elections, 1:30 p.m. today, 1W.14, for a formal meeting, to consider pending business.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a committee meeting:

R. Anderson on motion of Geren.

Sheets on motion of Geren.

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on Calendars:

Branch on motion of Patrick.

Cook on motion of Patrick.

Hunter on motion of Patrick.

Keffer on motion of Patrick.

T. King on motion of Patrick.

Kolkhorst on motion of Patrick.

Lucio on motion of Patrick.

Ritter on motion of Patrick.

Rodriguez on motion of Patrick.

Solomons on motion of Patrick.

Truitt on motion of Patrick.

Zerwas on motion of Patrick.

The following members were granted leaves of absence for the remainder of today to attend a meeting of the Committee on Calendars:

Bonnen on motion of Patrick.

Coleman on motion of Patrick.

CSSB 1420 - (consideration continued)

Amendment No. 14, as amended, was adopted. (C. Anderson, Cain, Carter, Harless, Kleinschmidt, Kolkhorst, and Zedler recorded voting no.)

Amendment No. 16

Representative McClendon offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 51

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 1, between lines 4 and 5, insert the following appropriately numbered SECTION:

SECTION _____. Section 201.001(a), Transportation Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Commissioner" means the commissioner of transportation.

(2) Strike SECTIONS 2, 3, 4, and 5 (page 1, line 16, through page 4, line 11) and substitute the following appropriately numbered SECTIONS:

SECTION _____. Section 201.003, Transportation Code, is amended to read as follows:

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

(b) A reference in law to the State Highway Commission, ~~or~~ State Highway and Public Transportation Commission, or Texas Transportation Commission means the commissioner of transportation ~~[Texas Transportation Commission]~~.

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

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

~~[(e)] A [reference in] law that authorizes the Texas Transportation Commission to authorize the director of the Texas Department of Transportation to take an action shall be construed to authorize the commissioner of transportation to take that action [to a member of the commission means a commissioner].~~

SECTION _____. Subchapter B, Chapter 201, Transportation Code, is amended to read as follows:

SUBCHAPTER B. COMMISSIONER OF [TEXAS] TRANSPORTATION
[COMMISSION]

Sec. 201.051. COMMISSIONER [COMMISSION]. (a) The commissioner is elected for a term of four years ~~[Texas Transportation Commission consists of five members appointed by the governor with the advice and consent of the senate].~~

(b) To be eligible for election as commissioner, or appointment to fill a vacancy in the office of commissioner, a ~~[The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area.]~~

~~[(e) Each member of the commission must represent the general public.]~~

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

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

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

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

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

~~[(c) [(f)] An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible for election or appointment as commissioner [or a Texas trade association of automobile dealers may not be a member of the commission].~~

(d) ~~[(g)]~~ The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible for election or appointment as commissioner ~~[or a Texas association of automobile dealers may not be a member of the commission].~~

(e) ~~[(h)]~~ A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department is not eligible for election or appointment as commissioner ~~[may not serve as a member of the commission].~~

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

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

(g) The commissioner is a successor to the Texas Transportation Commission for all purposes, including for the purposes of the following sections of Article III, Texas Constitution:

(1) Sections 49-k, 49-l, and 49-m;

(2) Section 49-n, as added by H.J.R. 28, Acts of the 78th Legislature, Regular Session, 2003; and

(3) Sections 49-o and 49-p.

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

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

~~[(b)]~~ The commissioner ~~[chair]~~ shall:

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

~~[(2)]~~ represent the department in dealing with the governor;

(2) ~~[(2)]~~ report to the governor on the state of affairs ~~[(2)]~~ of the department at least quarterly;

(3) ~~[(4)]~~ ~~report to the commission the governor's suggestions for department operations;~~

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

(4) ~~[(6)]~~ periodically review the department's organizational structure and submit recommendations for structural changes to the governor~~[(the commission,] and the Legislative Budget Board;~~

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

~~(6) [(8) create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to the commission as a whole;~~

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

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

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

Sec. 201.053 ~~[201.054]~~. RECOMMENDATIONS TO LEGISLATURE.

(a) The commissioner ~~[commission]~~ shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

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

Sec. 201.054 ~~[201.056]~~. COMPENSATION. The commissioner ~~[A member of the commission]~~ is entitled to compensation as provided by the General Appropriations Act. If compensation for the commissioner ~~[members]~~ is not provided by that Act, the commissioner ~~[each member]~~ is entitled to reimbursement for actual and necessary expenses incurred in performing functions as commissioner ~~[a member of the commission]~~.

Sec. 201.055 ~~[201.057]~~. GROUNDS FOR REMOVAL. ~~[(a)]~~ It is a ground for removal ~~[from the commission]~~ if the ~~[a]~~ commissioner:

(1) does not have at the time of election or appointment or maintain during service as commissioner ~~[on the commission]~~ the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051; or

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

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

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

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

Sec. 201.056 [201.058]. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the commissioner ~~[members of the commission]~~, as often as necessary, information concerning the commissioner's ~~[members']~~ qualifications for office and the commissioner's ~~[under Subchapter B and their]~~ responsibilities under applicable laws relating to standards of conduct for state officers.

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

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

- ~~[(1) this subchapter;~~
- ~~[(2) the programs operated by the department;~~
- ~~[(3) the role and functions of the department;~~
- ~~[(4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;~~
- ~~[(5) the current budget for the department;~~
- ~~[(6) the results of the most recent formal audit of the department;~~
- ~~[(7) the requirements of the:~~
 - ~~[(A) open meetings law, Chapter 551, Government Code;~~
 - ~~[(B) open records law, Chapter 552, Government Code; and~~
 - ~~[(C) administrative procedure law, Chapter 2001, Government Code;~~

~~[(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~

~~[(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.~~

~~[(e) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.]~~

(3) On page 5, line 18, strike "Sections 201.118 and 201.119" and substitute "Section 201.118".

(4) Strike page 6, line 15, through page 7, line 6.

(5) On page 7, between lines 6 and 7, insert the following appropriately numbered SECTION:

SECTION _____. Section 201.202(a), Transportation Code, is amended to read as follows:

(a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

- (1) aviation;
- (2) highways and roads; ~~and~~
- (3) public transportation; and
- (4) rail transportation.

(6) On page 8, between lines 23 and 24, insert the following appropriately numbered SECTIONS:

SECTION _____. The heading to Subchapter E, Chapter 201, Transportation Code, is amended to read as follows:

SUBCHAPTER E. STATE ROAD MAP; UNIVERSITY LABORATORIES
[DIRECTOR]

SECTION _____. Section 201.301, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) This section expires January 1, 2013.

(7) On page 48, between lines 17 and 18, add the following appropriately numbered SECTION:

SECTION _____. Section 504.401(d), Transportation Code, is amended to read as follows:

(d) In this section, "state official" means:

- (1) a member of the legislature;
- (2) the governor;
- (3) the lieutenant governor;
- (4) a justice of the supreme court;
- (5) a judge of the court of criminal appeals;
- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the commissioner of transportation;
- (12) the secretary of state; or
- (13) ~~(12)~~ a member of the State Board of Education.

(8) Add the following appropriately numbered SECTION to the bill:

SECTION _____. Section 52.092(c), Election Code, is amended to read as follows:

(c) Statewide offices of the state government shall be listed in the following order:

- (1) governor;
- (2) lieutenant governor;
- (3) attorney general;
- (4) comptroller of public accounts;
- (5) commissioner of the General Land Office;
- (6) commissioner of agriculture;
- (7) commissioner of transportation;

(8) railroad commissioner;

(9) [~~(8)~~] chief justice, supreme court;

(10) [~~(9)~~] justice, supreme court;

(11) [~~(10)~~] presiding judge, court of criminal appeals;

(12) [~~(11)~~] judge, court of criminal appeals.

(9) In SECTION 98 of the bill (page 72, line 25), strike "201.0545" and substitute "223.105".

(10) Add the following appropriately numbered SECTION to the bill:

SECTION _____. (a) The first commissioner of transportation elected under the changes in law made by this Act shall be elected at the general election held in November 2012 to serve for a term that begins January 1, 2013.

(b) Until the first commissioner of transportation elected under this Act takes office, the members of the Texas Transportation Commission and the executive director of the Texas Department of Transportation serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission, and that prior law is continued in effect for that purpose. If, on January 1, 2013, there is a vacancy in the new office of commissioner of transportation created under this Act because the first commissioner of transportation-elect has died or refuses or is permanently unable to serve, the members of the Texas Transportation Commission and the executive director of the Texas Department of Transportation serving on the effective date of this Act shall, unless otherwise removed as provided by law, continue in office under the prior law that governed the composition of the Texas Transportation Commission until the governor fills the vacancy by appointment in the manner provided by law. The prior law that governed the composition of the Texas Transportation Commission and the executive director of the Texas Department of Transportation is continued in effect for that purpose. At the time the first commissioner of transportation that is elected, or in extraordinary circumstances appointed, under this Act takes office, the Texas Transportation Commission is abolished.

(c) The commissioner of transportation succeeds to all powers, duties, rights, and obligations of the Texas Transportation Commission, and the abolition of the Texas Transportation Commission does not affect the validity of any right, duty, decision, rule, or action of any kind taken by or under the authority of the commission.

(11) Renumber remaining SECTIONS of the bill appropriately.

(Sheets now present)

Amendment No. 17

Representative Y. Davis offered the following amendment to Amendment No. 16:

Amend Amendment No. 16 by McClendon to **CSSB 1420** (page 51, prefiled amendments packet) as follows:

(1) Strike page 9, lines 12-30.

(2) Strike page 8, line 27-31 through page 8, line 11.

(3) Renumber remaining items of the amendment accordingly.

Amendment No. 17 was adopted.

(Hunter, Keffer, Kolkhorst, and Truitt now present)

Representative Pickett moved to table Amendment No. 16, as amended.

The motion to table prevailed by (Record 605): 108 Yeas, 18 Nays, 4 Present, not voting.

Yeas — Aliseda; Allen; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza; Giddings; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Harcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Martinez; Miller, D.; Miller, S.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Villarreal; Weber; White; Woolley; Workman; Zedler.

Nays — Alonzo; Alvarado; Carter; Dukes; Dutton; Farias; Farrar; Hernandez Luna; Kleinschmidt; Larson; Lozano; Marquez; McClendon; Menendez; Miles; Taylor, V.; Vo; Walle.

Present, not voting — Mr. Speaker; Geren(C); Gonzalez; Morrison.

Absent, Excused — Gonzales, V.

Absent, Excused, Committee Meeting — Anderson, R.; Bonnen; Branch; Coleman; Cook; King, T.; Lucio; Ritter; Rodriguez; Solomons; Zerwas.

Absent — Burnam; Castro; Gutierrez; Johnson; King, S.; Mallory Caraway; Martinez Fischer; Veasey.

STATEMENTS OF VOTE

When Record No. 605 was taken, I was temporarily out of the house chamber. I would have voted yes.

S. King

When Record No. 605 was taken, I was in the house but away from my desk. I would have voted yes.

Martinez Fischer

When Record No. 605 was taken, I was excused to attend a committee meeting. I would have voted yes.

Rodriguez

When Record No. 605 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

(T. King and Rodriguez now present)

Amendment No. 18

Representative Crossover offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 73

Amend **CSSB 1420** on page 1 line 14 (committee printing) by adding a new Subsection (4), as follows and renumber accordingly

(4) A coordinated county transportation authority; or

Amendment No. 18 was adopted. (Cain recorded voting no.) (The vote was reconsidered later today, and Amendment No. 18 was amended by Amendment Nos. 20 and 21 and was adopted, as amended.)

Amendment No. 19

Representative Pickett offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 74

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 1, line 17, between "Subsections" and "(d)", insert "(a), (b)".

(2) On page 1, between lines 18 and 19, insert the following:

(a) The Texas Transportation Commission consists of five members, of whom:

(1) three are appointed by the governor with the advice and consent of the senate;

(2) one is appointed by the governor with the advice and consent of the senate, selected from a list of individuals provided by the speaker of the house of representatives; and

(3) one is appointed by the lieutenant governor.

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member appointed by the governor under Subsection (a)(1) must reside in a rural area.

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. The appointment of members of the Texas Transportation Commission, as provided by Section 201.051(a), Transportation Code, as amended by this Act, shall be made as follows:

(1) for the two terms expiring February 1, 2013, the governor and the lieutenant governor shall each make an appointment;

(2) for the two terms expiring February 1, 2015, the governor shall make one appointment and the governor shall make one appointment selected from a list provided by the speaker of the house of representatives; and

(3) for the term expiring February 1, 2017, the governor shall make the appointment.

Amendment No. 19 was withdrawn.

Amendment No. 18 - Vote Reconsidered

Representative Harper-Brown moved to reconsider the vote by which Amendment No. 18 was adopted.

The motion to reconsider prevailed.

Amendment No. 20

Representative Guillen offered the following amendment to Amendment No. 18:

Amend Amendment No. 18 by Crossover to **CSSB 1420** (page 73 of the prefiled amendments packet) by adding the following appropriately numbered item to the amendment:

() Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill as appropriate:

SECTION _____. Section 456.003, Transportation Code, is amended to read as follows:

Sec. 456.003. PARTICIPATION INELIGIBILITY. A transit authority is ineligible to participate in the formula or discretionary program provided by this chapter unless the authority was created under Chapter 453 or former Article 1118z, Revised Statutes, by a municipality having a population of less than 200,000 at the time the authority is created.

SECTION _____. Section 456.006, Transportation Code, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) Notwithstanding Subsection (b), an urban transit district that was not included in an urbanized area containing a transit authority according to the 2000 federal decennial census but, as a result of the 2010 federal decennial census urban and rural classification, is included in an urbanized area that contains one or more transit authorities may receive money from the formula or discretionary program in an amount that does not exceed the amount of funds allocated to the district during the fiscal biennium ending August 31, 2011. This subsection expires August 31, 2018.

(b-2) The population of a municipality that was considered part of an urban transit district for purposes of the state transit funding formula for the fiscal biennium ending August 31, 2011, but that is included in a large urbanized area as a result of the 2010 federal decennial census, continues to be considered part of the urban transit district for purposes of the state transit funding formula. This subsection expires August 31, 2018.

SECTION _____. Subchapter B, Chapter 456, Transportation Code, is amended by adding Section 456.0221 to read as follows:

Sec. 456.0221. ALLOCATION TO CERTAIN RECIPIENTS AFFECTED BY NATURAL DISASTER. (a) The commission shall consider as an urban transit district for the purposes of the allocation of funds under this chapter a designated recipient:

(1) that received money under the formula as an urban transit district for the fiscal biennium ending August 31, 2011;

(2) whose population according to the most recent decennial census is less than 50,000; and

(3) whose population loss over the preceding 10-year period is primarily the result of a natural disaster.

(b) This section expires August 31, 2018.

(Solomons and Zerwas now present)

Amendment No. 20 was adopted.

Amendment No. 21

Representative Turner offered the following amendment to Amendment No. 18:

Amend the Crossover amendment on page 73 to **CSSB 1420** by adding, following the word "authority" the phrase ", Chapter 451 Authority".

Amendment No. 21 was adopted.

Amendment No. 18, as amended, was adopted. (Cain recorded voting no.)

(Branch now present)

Amendment No. 22

Representative Pickett offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 74

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 1, line 17, between "Subsections" and "(d)", insert "(a), (b)".

(2) On page 1, between lines 18 and 19, insert the following:

(a) The Texas Transportation Commission consists of five members, of whom:

(1) three are appointed by the governor with the advice and consent of the senate;

(2) one is appointed by the governor with the advice and consent of the senate, selected from a list of individuals provided by the speaker of the house of representatives; and

(3) one is appointed by the lieutenant governor.

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member appointed by the governor under Subsection (a)(1) must reside in a rural area.

(3) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. The appointment of members of the Texas Transportation Commission, as provided by Section 201.051(a), Transportation Code, as amended by this Act, shall be made as follows:

(1) for the two terms expiring February 1, 2013, the governor and the lieutenant governor shall each make an appointment;

(2) for the two terms expiring February 1, 2015, the governor shall make one appointment and the governor shall make one appointment selected from a list provided by the speaker of the house of representatives; and

(3) for the term expiring February 1, 2017, the governor shall make the appointment.

(Cook now present)

Amendment No. 22 was adopted.

Amendment No. 23

Representative McClendon offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 78

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 4, line 12, strike "(a)".

(2) On page 4, line 15, strike "department shall employ" and substitute "commission shall appoint".

(3) On page 4, lines 15-17, strike "The chief financial officer must be a certified public accountant who is licensed and in good standing in this state." and substitute "The chief financial officer must:

(1) have at least one master's or doctoral degree; and

(2) be a certified public accountant who is licensed and in good standing in this state."

(4) On page 4, strike lines 18-24 and substitute the following:

(b) The chief financial officer shall oversee the department's financial activities, including:

(1) managing department debt;

(2) exploring new mechanisms to finance transportation projects;

(3) budgeting for pass-through toll projects and department contracts;

and

(4) overseeing the project delivery office established under Section 201.1076.

(5) On page 5, strike lines 8-16.

(6) On page 8, line 24, strike "Section 201.401(a), Transportation Code, is" and substitute "(a) Sections 201.401(a) and (b), Transportation Code, are".

(7) On page 9, between lines 14 and 15, insert the following:

(b) A person may not act as general, outside, or retained counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. A person who acts as general counsel to the department must be licensed as an attorney in this state.

(b) The changes in law made by this Act to Section 201.401, Transportation Code, in the qualifications of the general counsel of the Texas Department of Transportation do not affect the entitlement of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the position's term. The changes in law apply only to a general counsel appointed on or after the effective date of this Act. This Act does not prohibit a person who is serving as the general counsel on the effective date of this Act from being reappointed to that position if the person has the qualifications required for the position under Section 201.401, Transportation Code, as amended by this Act.

(8) Add the following appropriately numbered SECTIONS and renumber the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 201, Transportation Code, is amended by adding Section 201.004 to read as follows:

Sec. 201.004. CONSIDERATION OF OUTSIDE APPLICANTS. In making an appointment under this chapter, the commission shall consider applicants from outside the department.

SECTION _____. Subchapter C, Chapter 201, Transportation Code, is amended by adding Section 201.1076 to read as follows:

Sec. 201.1076. PROJECT DELIVERY OFFICE. The chief financial officer shall establish and oversee a project delivery office within the department to coordinate the activities of other department offices and personnel to accomplish the commission's financial objectives and fulfill the appointing authority's financial reporting requirements.

SECTION _____. (a) Section 201.108, Transportation Code, is amended to read as follows:

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

- (1) have at least one master's or doctoral degree;
- (2) be a certified public accountant who is licensed and in good standing in this state;
- (3) be a certified internal auditor; and
- (4) have demonstrated experience in preparing financial statements and reports.

(b) The auditor shall:

- (1) report directly to the commission on the conduct of department affairs;
- (2) administer and oversee compliance functions of the department; and
- (3) facilitate preparation of financial statements or reports required by law to be filed by the commission.

(b) The changes in law made by this Act to Section 201.108, Transportation Code, in the qualifications of the internal auditor of the Texas Department of Transportation do not affect the entitlement of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the position's term. The changes in law apply only to an internal auditor appointed on or after the effective date of this Act. This Act does not prohibit a person who is serving as the internal auditor on the effective date of this Act from being reappointed to that position if the person has the qualifications required for the position under Section 201.108, Transportation Code, as amended by this Act.

Amendment No. 24

Representative McClendon offered the following amendment to Amendment No. 23:

Amend the amendment identified as Chief Clerk's #821506 found at page 78 of prefiled amendments to **CSSB 1420** (house committee report), as follows:

In an appropriately numbered section of the bill, insert the following subparagraphs (to be properly enumerated):

() A person may not act as general, outside, or retained counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. A person who acts as general counsel to the department must be licensed as an attorney in this state.

() The changes in law made by this Act to Section 201.401, Transportation Code, in the qualifications of the general counsel of the Texas Department of Transportation do not affect the entitlement of a person serving in that position immediately before the effective date of this Act to continue to carry out the position's functions for the remainder of the position's term. The changes in law apply only to a general counsel appointed on or after the effective date of this Act. This Act does not prohibit a person who is serving as the general counsel on the effective date of this Act from being reappointed to that position if the person has the qualifications required for the position under Section 201.401, Transportation Code, as amended by this Act.

Amendment No. 24 was adopted.

Amendment No. 23, as amended, was adopted. (Cain recorded voting no.)

Amendment No. 25

Representative Pickett offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 81

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 4, lines 16-17, strike "be a certified public accountant who is licensed and in good standing in this state" and substitute "have at least 10 years of progressively responsible professional experience in fiscal management practices and procedures, with at least 7 years of progressively responsible managerial experience".

(2) Strike page 4, line 18, through page 5, line 4, and substitute the following:

(b) The chief financial officer shall:

(1) oversee:

(A) the department's financial activities, including managing the department's debt and loan portfolio and exploring new mechanisms to finance transportation projects; and

(B) the management of the state highway fund; and

(2) certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.

(3) On page 5, line 5, strike "(d)" and substitute "(c)".

(4) On page 5, line 8, strike "(e)" and substitute "(d)".

Amendment No. 25 was adopted.

Amendment No. 26

Representative Pickett offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 82

Amend **CSSB 1420** (house committee report) as follows:

(1) On page 4, line 20, strike "debt portfolio" and substitute "loan portfolio".

(2) On page 4, strike lines 21-24 and substitute the following:

(2) financial forecasting of the department's revenues and expenditures;

(3) establishing and monitoring of the department's budget; and

(4) financial reporting on federal and state programs.

(3) Strike page 4, line 25, through page 5, line 4, and substitute the following:

(c) The chief financial officer shall certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.

(4) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 201.209, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

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

(c) The department may contract with experts and consultants to assist the department:

(1) in matters involving debt management, comprehensive development agreements, regional mobility authorities, toll roads, or public-private partnerships; and

(2) in exploring other mechanisms to finance transportation projects.

Amendment No. 26 was adopted.

(Lucio now present)

Amendment No. 27

Representative Kolkhorst offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 77

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 1, line 17, between "Subsections" and "(d)", insert "(b)",

(2) On page 1, between lines 18 and 19, insert the following:

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area and be a registered voter of a county with a population of less than 100,000.

Amendment No. 28

Representative Darby offered the following amendment to Amendment No. 27:

Amend Amendment No. 27 by Kolkhorst to **CSSB 1420** (page 77 of the prefiled amendments packet) as follows:

(1) On page 1, line 10 of the amendment, strike "100,000" and substitute "150,000".

(2) At the end of the amendment, add:

(3) On page 1, line 16, of the bill, between "SECTION 2." and "Section" insert "(a)".

(4) On page 3, between lines 9 and 10 of the bill, insert:

(b) Section 201.051(b), Transportation Code, as amended by this Act, does not affect the right of a commissioner serving on the effective date of this Act to complete the commissioner's term. The requirement of Section 201.051(b), Transportation Code, as amended by this Act, applies at the time a vacancy occurs in the position held by the person serving as the rural designee on the effective date of this Act.

Amendment No. 28 was adopted.

AMENDMENT NO. 27 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DARBY: Members, this simply protects the existing commissioners that are on the commission right now and applies it when a vacancy occurs in the position for the member serving in the rural designation, then that will continue to be in effect.

REPRESENTATIVE KOLKHORST: Currently, in statute, there is a rural designee—out of the five commissioners, there is one that is rural. It is undefined in statute in this current part of statute. Some statutes define that as 50,000 or less. Mr. Darby and I are working, I had done 100,000, he 200,000, we came up with 150,000. The one thing we wanted to be very careful of is the rural representative currently is from Lubbock, Texas. We wanted to be sure we grandfathered that person and then also made sure that when someone is coming off the commission, which currently there will be one from Fort Worth and one from Houston that will come off, that this will not trigger one of them having to be a rural representative. So, as long as the representative from Lubbock, Texas serves, he will be the designee, and after that we do put in a bracket.

REPRESENTATIVE ANCHIA: Can you talk us through how the amendment as amended by Representative Darby impacts commission membership and affects both Harris County—or I should say North Texas and the Harris County area?

KOLKHORST: I just did, but I'll explain it again.

ANCHIA: If you don't mind.

KOLKHORST: Sure. Currently, the rural representative is from Lubbock, Texas. If this amendment went on with no grandfather clause, then the next member that rolled off would have to be applied with the 150,000 or less. That could affect the appointee from Harris County that is currently about to expire or the member from Tarrant County that is currently about to expire.

ANCHIA: Affect them in what way?

KOLKHORST: Because the rural designee right now, according to the law, is from Lubbock, Texas, from Lubbock County, which is higher than 150,000. So, what this would do, in essence, is say this does not go into effect until after the

Lubbock designee right now, who is serving as rural, rolls off, which is in 2015. We wanted to make sure that this did not affect the next two appointments which are actually, technically from the urban areas. So, it grandfathers who is currently in office.

REPRESENTATIVE BRANCH: We're just, to get—because all of a sudden we've been lit up in the Harris County area, in the North Texas area about this, and I just want to make sure that I understand that's somehow not going to be an advantageous effect on maybe smaller communities, but somehow hurt the urban areas.

KOLKHORST: No, that is why we did the amendment to the amendment. We worked pretty hard on getting the grandfather clause, because even if you said it doesn't take effect, it's a little wordy, and you can see that on that, but it says the person currently serving as a rural representative gets to continue to serve as the rural representative until his or her time expires. Now, the reason we did that was because there's two appointees that come up and those are currently from urban areas, and we don't want to take that slot. We are happy with Commissioner Underwood serving as the rural representative until he rolls off and then, of course, we would like this to be a little more reflective of the rural area. I mean, keep in mind, 150,000, you know—in a lot of the federal laws, rural is 50,000 and below, but we know we have a dynamic state and so between Drew and I, we came up with 150,000, which actually represents—

BRANCH: Was that a compromise, because his number was 200,000?

KOLKHORST: His was 200 and mine was 100, and the difference between those is very little, but there are 223 counties out of 254 that are—

BRANCH: How many?

KOLKHORST: 223 counties out of 254 counties in Texas that are 100,000 and less, so this just moves it up just marginally, it probably catches just three or four more counties. Some of the concern was in West Texas, trying not to leave out Midland County as potentially rural.

BRANCH: Do you have the numbers? Since you made the compromise, how many counties there are that are at the 150,000?

KOLKHORST: I had the bracket from 100 to 200, then it only affected like eight more counties. So, somewhere in between.

BRANCH: So, it would be less than eight.

KOLKHORST: Right, less than eight. So, there's not a huge difference between 200 and 100.

BRANCH: Would Mr. Darby know how many fit in the 150,000?

KOLKHORST: I've got some information actually, at my desk. I'll get my iPad real fast. I did not—because of our compromise, I really wanted 100,000. Technically, I'd like 50,000 but—so, let me read this one more time. So, the amendment to the amendment clearly states, "this Act does not affect the right of a commissioner serving on the effective date of this Act to complete the

commissioner's term. The requirement of Section 205.051(b), the Transportation Code, as amended by this Act, applies at the time a vacancy occurs in the position held by the person serving as the rural designee on the effective date of this Act." So, the rural designee right now, of course, is Commissioner Underwood from Lubbock County. If you'll give me one second here.

So, Texas counties with less than 200,000 is 232, and Texas counties with 125,000 or less is 223. So, I'm thinking the 150 would catch—we'd probably be talking about 200 and—gosh, 225 counties, which is the vast majority of—it's geographically, the vast majority of Texas—by population standards, it's one percent. I was making the point that, obviously 225 counties out of 254, I'm saying approximate, you know, we know that 125,000—there are 223 counties that have 125,000 population or less. So, although it's a vast, large geographic area of Texas, we know the population of those counties represent about a little over 20 percent. If you look at our five commissioners, one being rural, is about 20 percent, so it's what we currently have, we just wanted to define rural a little bit more. Obviously, Lubbock is not in any definition rural if you go and look at what's in the government codes and different things, although we're very happy with Commissioner Underwood. We are trying to bracket that for the smaller counties in the future, with making sure that the problem in members—the labor here is being expended on—there are two commissioners coming up for appointment, they are currently serving urban areas, we want to respect that. We are not asking for one of those to become rural, because then, at that point, you technically would have two commissioners representing the rural area.

BRANCH: And one of our concerns—

KOLKHORST: Which, I would be for, but I think that's not fair—

BRANCH: —is not just current, but I think sort of the coming cycle, if this is going to change this mix between urban and rural.

KOLKHORST: I don't think so. So, we only have one designee for rural, we are defining rural here. We are trying to define rural as 150,000 or less, which is pretty big actually. Like, Senator Nichols was a rural representative.

REPRESENTATIVE GIDDINGS: When we get e-mails and telephone calls from back home, Representative Kolkhorst, we kind of respond to that, would you agree?

KOLKHORST: Yes, ma'am.

GIDDINGS: And we did get e-mails and phone calls about this, and so, we just want to be absolutely clear. This does not disturb the next cycle and the rotation for those commissioners that are other than labelled or categorized rural.

KOLKHORST: That is correct. The amendment to the amendment is meant to clarify that the current rural representative can finish out his term in that role, and after that, his role does not expire until 2015. So it is not meant for the next appointee to become rural, and we worked pretty hard over here to make sure that the language was specific to that.

GIDDINGS: So, nothing here then would change the, I'm going to call it the rotation, or the next cycle, for a category other than rural, under 150,000.

KOLKHORST: That is correct. We are giving a little more direction and definition to what rural is, although I think it is very generous at 150,000. It takes in a lot of counties.

REPRESENTATIVE CALLEGARI: I've heard bits and pieces and I missed the first part of your comments, but, as I understand it, or can you verify, as the law exists, the statute exists now, there is a rural representative among the five, is that correct?

KOLKHORST: Yes, and it's in statute that you have to have one rural. It's just not defined.

CALLEGARI: Okay. My concern is, of course, our representative in the Houston area is going to be cycling out soon—will this affect that representative in any way?

KOLKHORST: It will not.

CALLEGARI: Okay, so we will still be eligible to have a representative. The next time, if I understood what you said before, the next time that a rural representative, if Mr. Underwood would move, it would be—it would have to be somebody within the limits of this—

KOLKHORST: Correct, and let me say that Commissioner Underwood has done a nice job representing the rural areas and we're proud of that, and he will, at the end of his term, have served 12 years as the rural representative. So, it's just giving a little more definition to what rural is, and again, I think I got coerced into it being a little more generous than I like, but I'm going to go there for West Texas. Drew says I'm okay with it. And as you know, Bill, you've dealt with a lot of different grants and stuff; a lot of times, rural is defined as 50,000.

CALLEGARI: Right, I hear you. One more question. I'm not able to look at that while I'm talking to you. The amendment to the amendment, how does it vary from the basic amendment?

KOLKHORST: So, it does clarify that the current rural representative will finish out that role. This amendment does not affect the current rural representative, which is trying to protect your Houston representative right now and the Tarrant County, another urban member that will be up for reappointment this year, or are up.

REMARKS ORDERED PRINTED

Representative Callegari moved to print remarks on Amendment No. 27.

The motion prevailed.

Amendment No. 27, as amended, was adopted. (Cain and Carter recorded voting no.)

Amendment No. 29

Representative McClendon offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 84

Amend **CSSB 1420** (house committee printing) as follows:

On page 5, on line 8-9, amend SECTION 6 (or an appropriately numbered SECTION) of the bill as regards Sec. 201.1075(e) of Subchapter C, Chapter 201, Transportation Code, to read as follows:

(e) The chief financial officer shall report to the director commission.

Amendment No. 29 was withdrawn.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Smithee requested permission for the Committee on Insurance to meet while the house is in session, at 1:15 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative Thompson moved to set a local, consent, and resolutions calendar for 10 a.m. Tuesday, May 3.

The motion prevailed.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 1:15 p.m. today, in 1W.14, to set a calendar.

Permission to meet was granted.

Representative Truitt requested permission for the Committee on Pensions, Investments, and Financial Services to meet while the house is in session, at 2 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

Representative Thompson requested permission for the Committee on Licensing and Administrative Procedures to meet while the house is in session, at 3:30 p.m. today, in 3W.9, to consider pending business.

Permission to meet was granted.

Representative Keffer requested permission for the Committee on Energy Resources to meet while the house is in session, at 2:30 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Licensing and Administrative Procedures, 3:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

Energy Resources, 2:30 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Pensions, Investments, and Financial Services, 2 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Local and Consent Calendars, 1:15 p.m. today, 1W.14, for a formal meeting, to set a calendar.

Insurance, 1:15 p.m. today, 3W.9, for a formal meeting, to consider pending business.

CSSB 1420 - (consideration continued)

Amendment No. 30

On behalf of Representative Kolkhorst, Representative Harper-Brown offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 85

Amend **CSSB 1420** (house committee printing) as follows:

(1) On page 5, line 18, strike "and 201.119" and substitute ", 201.119, and 201.120".

(2) On page 7, between lines 6 and 7, insert the following:

Sec. 201.120. LEGISLATIVE APPROPRIATIONS REQUEST. (a) Department staff shall deliver the department's legislative appropriations request to the commission in an open meeting not later than the 30th day before the date the department submits the legislative appropriations request to the Legislative Budget Board.

(b) The commission may adopt the legislative appropriations request in the meeting described by Subsection (a) or in a subsequent open meeting.

Amendment No. 30 was adopted.

(Keffer in the chair)

(R. Anderson now present)

Amendment No. 31

Representative Kolkhorst offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 88

Amend **CSSB 1420** (house committee report) on page 8, line 9, by striking "and programs".

AMENDMENT NO. 31 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE PHILLIPS: I just want to make sure, Lois, to understand—you have a problem with programs? Is that correct?

REPRESENTATIVE KOLKHORST: When I was on the Sunset Commission last cycle, we went through a lot of different things how TxDOT had spent a tremendous amount of time and money not trying to go after federal dollars, but, yet, programs. And I think many of you—many of you—can I finish? Many of you will remember the fight that we had when we were trying to, as a body, debate whether or not the Trans-Texas Corridor was something that we wanted to do, or private equity tolls—which we may or may not do—that's, we believe to be a part of what this body decides, and I respect the will of this body. But at the same time, we were getting pushed from D.C., and there was a lot of information coming out about the efforts. And so, this makes it real clear—and, I mean, Larry, we had some tough, tough language that said you can't even go up there and do anything, and that's ridiculous.

PHILLIPS: I know, but let me ask you a question—I want to make sure I understand. What does it mean by "program?" Because they call them "programs"—the bridge program, the bridge replacement program—they can't go—that's a lot of federal dollars to replace aging bridge—

KOLKHORST: Then go and work on getting them—

PHILLIPS: But it's called—that's what it's called. I just want to make sure that—that's the only thing when you say "programs"—I understand what you're doing. What you're saying is don't go up there and sell a way to build roads that we don't want you to do, right?

KOLKHORST: That's correct.

PHILLIPS: That's your purpose?

KOLKHORST: Yes, and we can do that for legislative intent.

PHILLIPS: But when we talk about the road and bridge—I mean, the bridge replacement program—that's what the concern is—that's the only concern I have is that are you—

KOLKHORST: I hear your—

PHILLIPS: That you really don't want them to go up and say that we want to try to work on a—

KOLKHORST: I think that they can work and we can utilize the different ways that we communicate to our lawmakers, who are really the people that should be advocating for these programs—our congressmen and women—to do those kind of things.

PHILLIPS: Again, I don't—

KOLKHORST: And I have to tell you, we took a pretty hard role on the last Sunset bill—on **HB 300**—that we almost, like, prohibited them from even going to Washington.

PHILLIPS: They couldn't even breathe, I don't think, under that.

KOLKHORST: Because there was a lot of push and pull—different signals going from here to Washington, D.C. that were different from the direction that the body of this state—

PHILLIPS: But, you understand though that they're not just there asking for money. They're trying to make sure that we comply with their programs, and that—

KOLKHORST: Sure, so—

PHILLIPS: That they don't do service for the other programs we have—I just want to raise that to you—is that I have a concern that "program" means something—can mean something different than what you're saying. And I don't know how you word it—what I don't know is how to word it to fix what you want fixed—I just wanted to raise that and I don't know how to fix what you—

KOLKHORST: I raised my concern from kind of the experience that we went through the last cycle, and we did not pass a bill here in Sunset—so I hear you, and if you'd like to get legislative intent I'd be happy to do that. Or you could have the conversation between you and I reduced to writing.

PHILLIPS: No, I think we can have that, and if there's some language that maybe needs to be changed—

KOLKHORST: Maybe in conference we need to—

PHILLIPS: If you'll work with it—because I think—I'm not against what you're trying to do, what I want is to just make sure we don't tie their hands on—by the nomenclature that we use. That's all.

KOLKHORST: And I hear—you know—you're a lawyer and I understand that, and I just think that we don't want to go back to the days of not that long ago when there was conflicting messages going to Washington, D.C.

REMARKS ORDERED PRINTED

Representative Phillips moved to print remarks between Representative Kolkhorst and Representative Phillips.

The motion prevailed.

Amendment No. 31 was adopted.

Amendment No. 32

Representative McClendon offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 90

Amend **CSSB 1420** (house committee printing) as follows:

On page 24, beginning at line 1, amend SECTION 21 (or an appropriately numbered SECTION) of the bill, by adding Subdivision (h) to Sec. 201.808 of Subchapter J, Chapter 201, Transportation Code to read as follows:

(h) To provide a means of verifying the accuracy of information being made available through the transportation expenditure reporting system, the department shall retain and archive appropriate documentation supporting the expenditure information or data summary that is detailed in the reporting system, by archiving true and correct copies of the original supporting documentation in digital, electronic, or other appropriate format of storage or imaging that allows departmental management and retrieval of the records. Supporting documentation may include, but is not limited to, contract or transactional documents, letter agreements, invoices, statements, payment vouchers, requests for object of expenditure payments to be made by or on behalf of the department, and other items establishing the purpose and payment of the expenditure. Such documentation shall be retained for the applicable period of time as set forth in the Texas Administrative Code for records retention and destruction according to rules promulgated by the Texas State Library and Archives Commission.

Amendment No. 32 was adopted. (Cain recorded voting no.)

Amendment No. 33

Representative Veasey offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 95

Amend **CSSB 1420** (house committee report) by inserting Subsection (b-2) to SECTION 2 of the bill:

(b-2) A vacancy in the office of commissioner is filled by election by the legislature. The legislature fills a vacancy by the vote of each house sitting separately. A person is elected as commissioner by the legislature if the person receives a majority of the votes cast in each house for the person's election.

Amendment No. 33 was withdrawn.

Amendment No. 34

Representative McClendon offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 87

Amend **CSSB 1420** (house committee printing) as follows:

On page 7, between lines 25 and 27, and on page 8, line 1, amend SECTION 10 (or an appropriately numbered SECTION) of the bill as follows:

Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to Section 556.006, Government Code, the commission or a department employee may not use money under the department's control or engage in an activity on behalf of the department to influence the passage or defeat of legislation.

Amendment No. 35

Representative McClendon offered the following amendment to Amendment No. 34:

Amend Amendment No. 34 by McClendon to **CSSB 1420** (page 87 of the prefiled amendments packet) on page 1, by striking line 8 and substituting "employee may not use money under the department's control or".

Amendment No. 35 was adopted.

Amendment No. 34, as amended, was adopted. (Cain recorded voting no.)

Amendment No. 36

Representative Phillips offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 96

Amend **CSSB 1420** (82R21087) by adding an appropriately numbered SECTION to read as follows and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 111, Transportation Code, is amended by adding Section 111.103 to read as follows:

Section 111.103: HIGH SPEED RAIL SAFETY STANDARDS; FEES.

(a) Upon application by a railroad, the department by rule may adopt safety standards for high-speed passenger rail rolling stock and systems designed to operate at speeds in excess of 185 miles per hour for that railroad.

(b) The department may require the high-speed rail system to be isolated by grade separations or physical barriers from streets and roadways and existing freight or passenger railroads.

(c) The department shall consider safety records of rolling stock and systems operating internationally in countries with a history of safe commercial high-speed passenger rail service.

(d) A railroad is not required to seek approval of high-speed rail safety standards from the department if it is operating under standards approved by the Federal Railroad Administration or other federal authority.

(e) The department by rule shall adopt reasonable fees to recover all costs to administer this section.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on Agriculture and Livestock:

C. Anderson on motion of Guillen.

Hardcastle on motion of Guillen.

Hughes on motion of Guillen.

Isaac on motion of Guillen.

Kleinschmidt on motion of Guillen.

Landtroop on motion of Guillen.

Lozano on motion of Guillen.

Miles on motion of Guillen.

The following member was granted leave of absence for the remainder of today to attend a meeting of the Committee on Agriculture and Livestock:

C. Howard on motion of Guillen.

The following member was granted leave of absence temporarily for today because of important business:

Sheets on motion of Simpson.

CSSB 1420 - (consideration continued)

(Ritter now present)

Amendment No. 36 was adopted by (Record 606): 72 Yeas, 52 Nays, 1 Present, not voting. (The vote was reconsidered later today, and Amendment No. 36 was withdrawn.)

Yeas — Alonzo; Anchia; Beck; Branch; Burkett; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Driver; Dukes; Eissler; Fletcher; Frullo; Geren; Gonzalez; Gooden; Guillen; Hamilton; Harless; Hartnett; Hopson; Huberty; Hunter; Jackson; Johnson; King, S.; Kuempel; Margo; Marquez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Torres; Truitt; Weber; Woolley; Zerwas.

Nays — Allen; Alvarado; Anderson, R.; Aycok; Berman; Bohac; Brown; Burnam; Cain; Carter; Davis, S.; Davis, Y.; Deshotel; Dutton; Elkins; Farias; Farrar; Flynn; Gallego; Garza; Giddings; Gutierrez; Hancock; Hilderbran; Hochberg; Howard, D.; Keffer(C); King, P.; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Martinez; Martinez Fischer; Naishtat; Paxton; Perry; Ritter; Simpson; Smith, T.; Taylor, V.; Thompson; Turner; Veasey; Vo; Walle; White; Workman; Zedler.

Present, not voting — Mr. Speaker.

Absent, Excused — Gonzales, V.; Sheets.

Absent, Excused, Committee Meeting — Anderson, C.; Bonnen; Coleman; Hardcastle; Howard, C.; Hughes; Isaac; Kleinschmidt; Landtroop; Lozano; Miles.

Absent — Aliseda; Castro; Eiland; Gonzales, L.; Harper-Brown; Hernandez Luna; King, T.; Kolkhorst; Madden; Mallory Caraway; Reynolds; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 606. I intended to vote yes.

Bohac

When Record No. 606 was taken, my vote failed to register. I would have voted yes.

L. Gonzales

When Record No. 606 was taken, I was in the house but away from my desk. I would have voted no.

Kolkhorst

(Landtroop now present)

Amendment No. 37

Representative Gallego offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 97

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 201.105, Transportation Code, is amended by adding the following Subsection (b-1) to read as follows:

(b-1) In determining district boundaries, the commission shall include Val Verde County in the district that contains Tom Green County.

Amendment No. 37 was adopted. (Cain recorded voting no.)

Amendment No. 38

Representative Martinez offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 98

Amend **CSSB 1420** (house committee report) by adding the following to SECTION 10 of the bill accordingly:

Subchapter D, Chapter 201, Transportation Code, is amended by adding Section 201.214 to read as follows:

Sec. 201.214. TRANSPARENCY FOR DEPARTMENT CONTRACTS; PUBLIC INFORMATION. (a) The department shall make available on its Internet website all documents related to:

(1) department contracts, including bid documents, financing agreements, and the text of proposed contracts; and

(2) department subcontracts with a value of more than \$5,000.

(b) Information under Subsection (a) is subject to Chapter 552, Government Code.

(c) Information related to a contract for the construction of a project must be posted before construction begins.

Additionally, Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.216 to read as follows:

Sec. 223.216. AGENDA AND MINUTES OF PRIVATE PARTICIPANT SUBJECT TO PUBLIC INFORMATION LAW. The agenda and minutes of meetings of the board of directors of a private participant in a comprehensive development agreement that relate to the agreement:

(1) Shall be posted on an Internet website associated with the toll project not later than the 10th day after the date of the meeting; and

(2) are subject to Chapter 552, Government Code.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

CSSB 1420 - (consideration continued)**Amendment No. 39**

Representative Martinez offered the following amendment to Amendment No. 38:

Amend Amendment No. 38 by Martinez to **CSSB 1420** (page 98 of the prefiled amendment packet) on page 1, line 11, by striking "\$5,000" and substituting "\$25,000".

Amendment No. 39 was adopted.

Amendment No. 38, as amended, was withdrawn.

Amendment No. 40

Representative Martinez offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 99

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter F, Chapter 201, Transportation Code, is amended by adding Section 201.407 to read as follows:

Sec. 201.407. EMPLOYEE SAFETY AWARDS. Notwithstanding Section 2113.201, Government Code, the department may award a cash safety bonus of not more than \$200 to an employee who:

(1) is at or below salary group B16 of the position classification schedule;

(2) holds a position that is classified by the executive director as safety-sensitive;

(3) works on a roadway for more than 50 percent of the hours worked by the employee; and

(4) during the preceding six months:

(A) exhibited exemplary safety performance and achievement; and

(B) did not receive a safety bonus under this section.

Amendment No. 40 was withdrawn.

Amendment No. 41

Representative Pickett offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 100

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 201.607, Transportation Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

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

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

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

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

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department, as negotiated by the department and the agency but which may not exceed 45 days after the date the agency receives a request for comments from the department; ~~and~~

(5) specifies that comments submitted to the department later than the period specified under Subdivision (4) will be considered by the department to the extent possible; and

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

(c) The department by rule shall establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

(b) Section 201.607(a), Transportation Code, as amended by this section, applies only to a request for comments from the Texas Department of Transportation received by a state agency on or after the effective date of this Act. As necessary, the Texas Department of Transportation and each affected state agency shall promptly revise the memorandum of understanding required by Section 201.607, Transportation Code, to implement the change made by this section to Section 201.607(a), Transportation Code.

SECTION _____. (a) Chapter 201, Transportation Code, is amended by adding Subchapter I-1 to read as follows:

SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

Sec. 201.751. DEFINITIONS. In this subchapter:

(1) "Day" means a calendar day.

(2) "Federal Highway Administration" means the United States Department of Transportation Federal Highway Administration.

(3) "Highway project" means a highway or related improvement that is:

(A) part of the state highway system; or

(B) not part of the state highway system but funded wholly or partly by federal money.

(4) "Local government sponsor" means a political subdivision of the state that:

(A) elects to participate in the planning, development, design, funding, or financing of a highway project; and

(B) is a municipality or a county, a group of adjoining counties, a county acting under Chapter 284, a regional tollway authority operating under Chapter 366, a regional mobility authority operating under Chapter 370, a local government corporation, or a transportation corporation created under Chapter 431.

Sec. 201.752. STANDARDS. (a) The commission by rule shall establish standards for processing an environmental review document for a highway project. The standards must increase efficiency, minimize delays, and encourage collaboration and cooperation by the department with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

(b) The standards apply regardless of whether the environmental review document is prepared by the department or a local government sponsor. The standards apply to work performed by the sponsor and to the department's review process and environmental decision.

(c) The standards must address, for each type of environmental review document:

(1) the issues and subject matter to be included in the project scope prepared under Section 201.754;

(2) the required content of a draft environmental review document;

(3) the process to be followed in considering each type of environmental review document; and

(4) review deadlines, including the deadlines in Section 201.759.

(d) The standards must include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

(e) The standards may include a process and criteria for the prioritization of environmental review documents if the department makes a finding that it lacks adequate resources to timely process all documents it receives for projects described in Section 201.753(a). The process established under this subsection must provide for notification to the local government sponsor if an environmental review document is to be delayed due to prioritization, and must provide that the delayed review will be completed not later than one year before the date that the local government sponsor plans to publish notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS. (a) A local government sponsor or the department may prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by the commission as being eligible for participation under this subchapter.

(b) Notwithstanding Subsection (a), a local government sponsor may prepare an environmental review document for a highway project that is not identified by the commission or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by commission rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) A fee received by the department under Subsection (b) must be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Sec. 201.754. SCOPE OF PROJECT. If an environmental review document is prepared by a local government sponsor, the local government sponsor must prepare a detailed scope of the project in collaboration with the department before the department may process the environmental review document.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local government sponsor may submit notice to the department proposing that the local government sponsor prepare the environmental review document for a highway project.

(b) The notice must include:

- (1) the project scope prepared under Section 201.754; and
- (2) a request for classification of the project.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for:

- (1) project scope determination;
- (2) environmental reports;
- (3) the environmental review document;
- (4) environmental permits and conditions;
- (5) coordination with resource agencies; and
- (6) public participation.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's submission of an environmental review document must include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Not later than the 20th day after the date the department receives a local government sponsor's environmental review document, the department shall either:

(1) issue a letter confirming that the document is administratively complete and ready for technical review; or

(2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if the department sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by the department to be missing from the document.

(b) If the department provides notice under Subsection (a), the department shall undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) The local government sponsor may resubmit any environmental review document determined by the department under Section 201.757 not to be administratively complete, and the department shall issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Sec. 201.759. REVIEW DEADLINES. (a) The following deadlines must be included in the standards adopted under Section 201.752:

(1) the department shall issue a classification letter not later than the 30th day after the date the department receives notice from a local government sponsor under Section 201.755;

(2) for a project classified as a programmatic categorical exclusion, the environmental decision must be rendered not later than the 60th day after the date the supporting documentation is received by the department;

(3) for a project classified as a categorical exclusion, the environmental decision must be rendered not later than the 90th day after the date the supporting documentation is received by the department;

(4) for a project that requires the preparation of an environmental assessment:

(A) the department must provide all department comments on a draft environmental assessment not later than the 90th day after the date the draft is received by the department; and

(B) the department must render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to the department; or

(ii) the date the public involvement process concludes;

(5) the department must render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by the department; and

(6) for a project that requires the preparation of an environmental impact statement, the department shall render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Review deadlines under this section specify the date by which the department will render the environmental decision on a project or the time frames by which the department will make a recommendation to the Federal Highway Administration, as applicable.

(c) A deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to department comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for the department concerning compliance with applicable law.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Notwithstanding any provision of this subchapter or any other law, a local government sponsor and the department may enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. For a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and the department under this section.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE. (a) Not later than June 30 and December 31 of each year, the department shall submit a report to the commission at a regularly scheduled commission meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

(1) how the project was classified for environmental review;

(2) the current status of the environmental review;

(3) the date on which the department is required to make an environmental decision under applicable deadlines;

(4) an explanation of any delays; and

(5) any deadline under Section 201.759 missed by the department.

(b) Not later than December 1 of each year, the department shall submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter, including a status report for the preceding 12-month period that contains the information described in Subsection (a).

(c) The department shall post copies of the reports required under this section on its Internet website and shall provide a copy of the report required by Subsection (b) to each member of the legislature who has at least one project covered by the report in the member's district.

(d) The department shall make available on its Internet website and update regularly the status of projects being processed under this subchapter.

(b) The Texas Transportation Commission shall adopt rules to implement Subchapter I-1, Chapter 201, Transportation Code, as added by this section, not later than March 1, 2012.

(c) Subchapter I-1, Chapter 201, Transportation Code, as added by this section, applies only to a notice of a local government sponsor proposing the sponsor's preparation of an environmental review document that is received by the Texas Department of Transportation on or after the effective date of this Act. Submissions to the Texas Department of Transportation received before the effective date of this Act are governed by the law in effect on the date the submission was received, and that law is continued in effect for that purpose.

SECTION ____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.005 and 222.006 to read as follows:

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. The department by rule shall establish a process to certify department district environmental specialists to work on all documents related to state and federal environmental review processes. The certification process must:

(1) be available to department employees; and

(2) require continuing education for recertification.

SECTION _____. (a) Section 12.0011, Parks and Wildlife Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Recommendations and information submitted by the department under Subsection (b) in response to a request for comments from the Texas Department of Transportation must be submitted not later than the 45th day after the date the department receives the request.

(b) Section 12.0011(b-1), Parks and Wildlife Code, as added by this section, applies only to a request for comments from the Texas Department of Transportation received on or after the effective date of this Act.

Amendment No. 41 was withdrawn.

Amendment No. 42

Representative Gallego offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 111

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE. (a) Notwithstanding Section 418.018, Government Code, in a county (1) of less than 75,000 and (2) with a verifiable history of wildfire, the department may designate an emergency evacuation route for use in the event of a wildfire emergency. The department may establish criteria to determine which areas of a county are subject to a potential wildfire emergency.

(b) The department may assist in the improvement of a designated wildfire emergency evacuation route.

(c) Criteria for determining a wildfire emergency evacuation route must provide for evacuation of commercial establishments such as motels, hotels and other businesses with overnight accommodations.

(d) A wildfire emergency evacuation route designated under Subsection (a) may include federal or state highways or county roads.

Amendment No. 42 was withdrawn.

Amendment No. 43

Representative Smithee offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 112

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. BUSINESS ADOPTION OF INTERSECTION PROGRAM.

(a) This section applies only to a municipality with a population of 100,000 or more.

(b) Each district engineer shall prepare and submit a plan to the department for a program to encourage businesses to adopt and maintain state highway intersections in each municipality in the district.

(c) A plan submitted under this section must include recognition for a business that maintains and improves the appearance of an intersection.

(d) The department shall adopt rules for the selection or approval of plans and for the implementation of plans.

Amendment No. 43 was adopted. (Cain recorded voting no.)

Amendment No. 44

Representative Lewis offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 113

Amend **CSSB 1420** (house committee printing) by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. COORDINATION WITH AND REVIEW OF LOCAL GOVERNMENT CORPORATIONS. (a) In this section, "local government corporation" has the meaning assigned by Section 431.003.

(b) The department shall:

(1) coordinate the promotion and development of public transportation facilities and systems with local government corporations; and

(2) annually review reports submitted under Subsection (c) to ensure that local government corporations are promoting and developing public transportation facilities and systems as provided by Subchapter D, Chapter 431.

(c) A local government corporation shall submit to the commission an annual report that includes the projects and activities of the corporation and any other information the department by rule may require.

SECTION _____. Section 431.101(a), Transportation Code, is amended to read as follows:

(a) A local government corporation may be created to aid and act on behalf of one or more local governments to accomplish the promotion and development of public transportation facilities and systems [~~any governmental purpose of those local governments~~]. To be effective, the articles of incorporation and the bylaws of a local government corporation must be approved by ordinance, resolution, or order adopted by the governing body of each local government that the corporation is created to aid and act on behalf of.

SECTION _____. Section 431.105(a), Transportation Code, is amended to read as follows:

(a) A state agency, including the commission, or a political subdivision may contract with a local government corporation to accomplish the promotion and development of public transportation facilities and systems [~~a governmental purpose of the sponsoring local government~~] in the same manner and to the same extent that it:

(1) may contract with any other corporation created under this chapter; and

(2) is authorized to contract under Subchapter A, Chapter 472.

Amendment No. 44 was withdrawn.

Amendment No. 45

Representative Fletcher offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 120

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter I, Chapter 201, Transportation Code, is amended by adding Section 201.711 to read as follows:

Sec. 201.711. PLANNING AND FUNDING OF BIKE LANES. The department may not use state funds to construct a bike lane but may use those funds to plan for a bike lane if a county, municipality, or municipal management district requests the department to plan for the lane as part of road construction or improvement in the entity's boundaries.

Amendment No. 45 was withdrawn.

Amendment No. 46

Representative Gallego offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 111

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.622 to read as follows:

Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE. (a) Notwithstanding Section 418.018, Government Code, in a county (1) of less than 75,000 and (2) with a verifiable history of wildfire, the department may designate an emergency evacuation route for use in the event of a wildfire emergency. The department may establish criteria to determine which areas of a county are subject to a potential wildfire emergency.

(b) The department may assist in the improvement of a designated wildfire emergency evacuation route.

(c) Criteria for determining a wildfire emergency evacuation route must provide for evacuation of commercial establishments such as motels, hotels and other businesses with overnight accommodations.

(d) A wildfire emergency evacuation route designated under Subsection (a) may include federal or state highways or county roads.

Amendment No. 46 was adopted. (Zedler recorded voting no.)

Amendment No. 47

Representative Alonzo offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 130

Amend **CSSB 1420** by inserting the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 201.909(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) In this section, "victim" means a person killed in a highway accident [~~involving alcohol or a controlled substance~~], excluding an operator who was under the influence of alcohol or a controlled substance.

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

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

(1) the phrase "Please Don't Drink and Drive" if the accident in which the victim was killed involved alcohol or a controlled substance;

(2) the phrase "In Memory Of" and the name of one or more victims in accordance with the commission rule; and

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

Amendment No. 47 was withdrawn.

Amendment No. 48

Representative Pickett offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 131

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 201.943(b), (c), (d), (e), and (f), Transportation Code, are amended to read as follows:

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

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

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

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

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

(3) to make loans for a purpose described in Subdivision (1) or (2) to public entities, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that are authorized by law to construct, maintain, or finance a highway improvement project, toll road project, or public transportation project;

(4) to create debt service reserve accounts;

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

(6) ~~(5)~~ to refund or cancel outstanding obligations; and

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

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, together with any other money or revenues that the commission pledges or otherwise commits for the purposes of the fund, including loan repayments to be deposited in the fund under Section 201.9461, receipts from credit agreements, and money received or to be received from the federal government, uncommitted fund balances, and the investment earnings on ~~that~~ money in the fund, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations during that year.

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

(1) assumes that the short-term obligations will be refunded and refinanced to mature over a 30-year ~~[20-year]~~ period with level debt service ~~[principal]~~ requirements and bearing interest at then current market rates, as determined by the comptroller; and

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, together with any other money or revenues that the commission pledges or otherwise commits for the purposes of the fund, including loan repayments to be deposited in the fund under Section 201.9461, receipts from credit agreements, and money received or to be received from the federal government, uncommitted fund

balances, and the investment earnings on ~~that~~ money in the fund, during each year of the assumed 30-year ~~[20-year]~~ period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

SECTION _____. Subchapter M, Chapter 201, Transportation Code, is amended by adding Sections 201.9461 and 201.9462 to read as follows:

Sec. 201.9461. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For money disbursed from the fund as a loan, the commission shall determine the terms and conditions of repayment, including the interest rate to be charged.

(b) The department shall deposit in the fund all amounts received from repayment of a loan.

Sec. 201.9462. BORROWING FROM FUND BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that is authorized by law to construct, maintain, or finance a highway improvement project, toll road project, or public transportation project may borrow money from the fund and may enter into any agreement relating to receiving a loan made from money in the fund.

(b) Money borrowed under Subsection (a) must be segregated from other funds under the control of the public entity and may be used only for a purpose authorized by this subchapter.

(c) To provide for the repayment of a loan, a public entity may:

(1) pledge revenues or income from any available source;

(2) pledge, levy, and collect any taxes, subject to any constitutional limitation; or

(3) pledge any combination of revenues, income, and taxes.

(d) This section is wholly sufficient authority for a public entity to borrow money from the fund as authorized by this subchapter and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan.

SECTION _____. Sections 222.003(c) and (e), Transportation Code, are amended to read as follows:

(c) Proceeds from the sale of bonds and other public securities issued under this section may ~~shall~~ be used to:

(1) fund state highway improvement projects; and

(2) make loans for the purpose described by Subdivision (1) to public entities, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that are authorized by law to construct, maintain, or finance a state highway improvement project.

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes described by this section ~~[for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution]~~. The proceeds of bonds and other public securities issued under this section may not be used for the construction of a state highway or other facility on the Trans-Texas

Corridor. For purposes of this section, the "Trans-Texas Corridor" means the statewide system of multimodal facilities under the jurisdiction of the department that is designated by the commission, notwithstanding the name given to that corridor.

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.0031 and 222.0032 to read as follows:

Sec. 222.0031. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For money disbursed under Section 222.003 as a loan, the commission shall determine the terms and conditions of repayment, including the interest rates to be charged.

(b) The department shall deposit all amounts received from repayment of a loan in:

- (1) the state highway fund; or
- (2) a subaccount in the state infrastructure bank.

Sec. 222.0032. BORROWING FROM BOND PROCEEDS BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that is authorized by law to construct, maintain, or finance a state highway improvement project may borrow money from the department through a loan made under Section 222.003, and may enter into any agreement relating to receiving a loan under that section.

(b) Money borrowed under Subsection (a) must be segregated from other funds under the control of the public entity and may be used only for the purpose authorized by Section 222.003(c)(1).

(c) To provide for the repayment of a loan, a public entity may:

- (1) pledge revenues or income from any available source;
- (2) pledge, levy, and collect any taxes, subject to any constitutional

limitation; or

(3) pledge any combination of revenues, income, and taxes.

(d) This section is wholly sufficient authority for a public entity to borrow money as authorized by Subsection (a) and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan.

SECTION _____. Sections 222.004(b) and (g), Transportation Code, are amended to read as follows:

(b) The commission by order or resolution may issue general obligation bonds for the purposes provided in this section. The commission may at any time during a biennium issue bonds or other public securities, and enter into related credit agreements, up to the aggregate amount of general obligation bond proceeds appropriated for that biennium, notwithstanding any estimate in an appropriations act relating to amounts expected to be expended in a fiscal year during that biennium. The aggregate principal amount of the bonds that are issued may not exceed the amount specified by Section 49-p(a), Article III, Texas Constitution.

(g) Bonds may be issued for one or more of the following purposes:

- (1) to pay all or part of the costs of highway improvement projects;

(2) to make loans for the purpose described in Subdivision (1) to public entities, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that are authorized by law to construct, maintain, or finance a highway improvement project; and

(3) [~~2~~] to pay:

(A) the costs of administering projects authorized under this section;

(B) the cost or expense of the issuance of the bonds; or

(C) all or part of a payment owed or to be owed under a credit agreement.

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Sections 222.0041 and 222.0042 to read as follows:

Sec. 222.0041. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS. (a) For money disbursed under Section 222.004 as a loan, the commission shall determine the terms and conditions of repayment, including the interest rates to be charged.

(b) The department shall deposit all amounts received from repayment of a loan made under Section 222.004 in a subaccount in the state infrastructure bank.

Sec. 222.0042. BORROWING FROM BOND PROCEEDS BY PUBLIC ENTITY. (a) A public entity, including a municipality, county, district, authority, agency, department, board, commission, or transportation corporation created under Chapter 431, that is authorized by law to construct, maintain, or finance a highway improvement project may borrow money from the department through a loan made under Section 222.004, and may enter into any agreement relating to receiving a loan under that section.

(b) Money borrowed under Subsection (a) must be segregated from other funds under the control of the public entity and may be used only for the purpose authorized by Section 222.004(g)(1).

(c) To provide for the repayment of a loan, a public entity may:

(1) pledge revenues or income from any available source;

(2) pledge, levy, and collect any taxes, subject to any constitutional limitation; or

(3) pledge any combination of revenues, income, and taxes.

(d) This section is wholly sufficient authority for a public entity to borrow money from the fund as authorized by Subsection (a) and to pledge revenues, income, or taxes, or any combination of revenues, income, and taxes, to the repayment of a loan.

SECTION _____. (a) Section 222.103, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) The department may participate, by spending money from any available source, in the cost of the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission. The commission:

(1) shall [~~may~~] require:

(A) the repayment of any money spent by the department for the cost of a toll facility of a public entity; or

(B) the public entity to agree to share project revenue with the department, on terms and conditions approved by the commission; and

(2) shall require the repayment of any money spent by the department for the cost of a toll facility of a private entity.

(b) Money repaid as required by the commission and other payments received by the department in connection with an expenditure made under this section shall be deposited to the credit of the fund or account from which the expenditure was made except as otherwise required. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(b-1) Loan repayments and revenue sharing and other payments received by the department in connection with an expenditure made under this section may be used by the commission or the department to finance the construction, maintenance, or operation of tolled or nontolled transportation projects, as defined by Section 228.001, in any location in this state.

(b) Section 222.103(a), Transportation Code, as amended by this section, applies only to money loaned by the Texas Department of Transportation on or after the effective date of this Act.

Amendment No. 48 was adopted. (C. Anderson, Carter, and Kleinschmidt recorded voting no.)

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the Committee on Higher Education:

Alonzo on motion of Harless.

Branch on motion of Harless.

Brown on motion of Harless.

Castro on motion of Harless.

D. Howard on motion of Harless.

Johnson on motion of Harless.

Lewis on motion of Harless.

Patrick on motion of Harless.

CSSB 1420 - (consideration continued)

(Lozano now present)

Amendment No. 49

Representative Smithee offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 141

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter Y, Chapter 201, Transportation Code, is amended by adding Section 201.2002 to read as follows:

Sec. 201.2002. JAMES E. "PETE" AND NELDA LANEY REST AREAS.

(a) The northbound and southbound rest areas located on Interstate Highway 27 in Hale County are designated as the James E. "Pete" and Nelda Laney Rest Areas.

(b) The department shall design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the James E. "Pete" and Nelda Laney Rest Areas and any other appropriate information.

(c) The department shall erect markers at appropriate locations at the rest areas.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Amendment No. 49 was adopted. (Cain recorded voting no.) (The vote was reconsidered later today, and Amendment No. 49 was amended by Amendment No. 89 and was adopted, as amended.)

(Miles now present)

Amendment No. 50

Representative Hilderbran offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 143

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION _____. Chapter 221, Transportation Code, is amended by adding Section 221.004 to read as follows:

Sec. 221.004. STATE BYWAYS PROGRAM. (a) The department shall develop, implement, and administer a program to:

(1) designate as scenic byways, highways or portions of highways in the state highway system that have notable scenic or historic qualities; and

(2) pursue funding under the federal scenic byways program for projects on highways designated as scenic byways.

(b) The department shall:

(1) adopt rules for the administration of this section and the state byways program; and

(2) structure the program under this section to maximize the amount of money available from the federal government for the program.

(c) At a minimum, the department shall designate the following highways as scenic byways:

(1) State Highway 16 through Bandera, Kerr, Gillespie, and Llano Counties;

(2) Interstate Highway 10 through Kendall, Kerr, Gillespie, and Kimble Counties;

(3) State Highway 83 through Uvalde, Real, Kerr, Kimble, and Menard Counties; and

(4) State Highway 29 through Menard, Mason, and Llano Counties.

Amendment No. 51

Representative Hilderbran offered the following amendment to Amendment No. 50:

Amend Amendment No. 50 by Hilderbran to **CSSB 1420** (page 143 of the prefiled amendments packet) on page 1, by striking lines 19-28 and substituting the following:

(c) This section applies only to Kerr and Kimble Counties.

Amendment No. 51 was adopted.

Amendment No. 50, as amended, was adopted. (Cain recorded voting no.)

Amendment No. 52

Representative Phillips offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 145

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 222.071, Transportation Code, is amended by adding Subdivisions (1-a), (2-a), and (7) and amending Subdivision (5) to read as follows:

(1-a) "Bond" includes a bond, note, or other public security.

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

(5) "Qualified project" includes:

(A) the construction of a federal-aid highway;

(B) a transit project under 49 U.S.C. Sections 5307, 5309, and 5311; [oe]

(C) for the expenditure of secondary funds from a subaccount subject to the federal act, a project eligible for assistance under Title 23 or Title 49, United States Code; or

(D) a transportation project.

(7) "Transportation project" means a tolled or nontolled highway improvement project.

SECTION _____. Section 222.072, Transportation Code, is amended to read as follows:

Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) The state infrastructure bank is an account held by the Texas Treasury Safekeeping Trust Company [in the state highway fund]. The bank is administered by the commission.

(b) The commission may deposit in the bank money derived from any source available to the commission, including:

(1) federal ~~[Federal]~~ funds received by the state, including funds received under the federal act;

(2) ~~[5]~~ matching state funds in an amount required by the federal ~~[that]~~ act;

(3) if appropriated by the legislature for that purpose:

(A) proceeds from bonds issued under Section 222.003;

(B) proceeds from bonds issued under Section 222.004; and

(C) other direct appropriations;

(4) proceeds from bonds issued under Section 201.943 and money provided by the commission from the Texas Mobility Fund that is in excess of the amount required to be on deposit in the Texas Mobility Fund under the proceedings that authorize Texas Mobility Fund bonds and credit agreements;

(5) a repayment of principal and interest on a loan made under Section 222.074;

(6) proceeds from the sale of loans under Section 222.078;

(7) ~~[5]~~ proceeds from bonds issued under Section 222.075;

(8) ~~[5]~~ secondary funds; and

(9) a gift or grant ~~[, other state funds deposited into the bank by order of the commission, and other money received by the state that is eligible for deposit in the bank may be deposited into the bank and used only for the purposes described in this subchapter].~~

(c) The commission shall prepare and file biennially a report with the governor, the lieutenant governor, and the Legislative Budget Board that provides information on the operation of the bank, including:

(1) the amounts and sources of money deposited in the bank during the most recent biennium;

(2) investments and returns on investments of money in the bank during the most recent biennium;

(3) loans made from the bank during the most recent biennium;

(4) other financial assistance provided from the bank during the most recent biennium;

(5) the status of any defaults on repayment of loans or other financial assistance provided from the bank; and

(6) the details of any qualified project for which financial assistance is received from the bank during the most recent biennium, including the identity of a highway that is directly affected by the project and the degree to which the project is designed to reduce congestion, improve traffic safety, and enhance connectivity.

SECTION _____. Section 222.074, Transportation Code, is amended by amending Subsection (a) and adding Subsections (d), (e), (f), and (g) to read as follows:

(a) To further a purpose described by Section 222.073, the commission may use money deposited to the credit of the bank to provide financial assistance to a public or private entity, including the department, for a qualified project to:

(1) extend credit by direct loan, including by purchasing an obligation of a public entity;

(2) provide liquidity or credit enhancement, including through an agreement to:

(A) provide a loan to a public or private entity; or

(B) purchase a bond, note, or other obligation from a public entity [enhancements];

(3) serve as a capital reserve for bond or debt instrument financing;

(4) subsidize interest rates;

(5) insure the issuance of a letter of credit or credit instrument;

(6) finance a purchase or lease agreement in connection with a transit project;

(7) provide security for bonds and other debt instruments; [✕]

(8) provide capitalized interest for debt financing by a public or private entity;

(9) provide a guarantee of the payment of operation and maintenance costs of a qualified project by a public entity;

(10) pay the cost of issuing a bond or other debt instrument; or

(11) provide methods of leveraging money that have been approved by the United States secretary of transportation and relate to the project for which the assistance is provided.

(d) The proceeds from bonds issued under Section 222.003 or 222.004 may only be used to provide financial assistance for a highway improvement project, subject to any limitations prescribed by law.

(e) Money from the Texas Mobility Fund may only be used to provide financial assistance for a state highway improvement project, publicly owned toll road, or public transportation project, that is located on or off of the state highway system, subject to any limitations prescribed by law.

(f) The commission may require a public or private entity that requests financial assistance from the bank to pay an application fee and other reasonable amounts in connection with the request. The commission shall deposit revenue collected under this subsection to the credit of the state highway fund.

(g) The department shall monitor the use of financial assistance provided to a public or private entity to ensure that the assistance is used for a purpose authorized by law. The department may audit a book or record of a public or private entity for that purpose.

SECTION _____. Section 222.0745, Transportation Code, is amended to read as follows:

Sec. 222.0745. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A public entity in this state, including a municipality, county, district, authority, agency, department, board, or commission, that is authorized by law to construct, maintain, or finance a qualified project may:

(1) borrow money from the bank, including by direct loan or through another form of financial assistance; and

(2) enter into an agreement that relates to receiving financial assistance from the bank ~~[based on the credit of the public entity].~~

(b) Money received by a public entity under this subchapter ~~[borrowed under this section]~~ must be segregated from other funds under the control of the public entity and may only be used for purposes authorized by this subchapter ~~[related to a qualified project].~~

(c) To provide for the repayment of a loan or another form of financial assistance from the bank, a public entity may:

(1) pledge revenue or income from any available source;

(2) pledge, impose, or collect a tax that the entity is otherwise authorized to impose; or

(3) pledge any combination of revenue, income, or taxes.

(d) This section is wholly sufficient authority for a public entity to:

(1) borrow or otherwise obtain a form of financial assistance from the bank as authorized by this subchapter; and

(2) pledge revenue, income, or taxes or any combination of revenue, income, or taxes for the repayment of a loan or another form of financial assistance from the bank.

(e) The authority granted by this section does not affect the ability of a public entity to incur debt using other statutorily authorized methods.

SECTION _____. Sections 222.075(b), (f), (i), and (j), Transportation Code, are amended to read as follows:

(b) Except as provided by Subsection (c), the commission may:

(1) issue revenue bonds or revenue refunding bonds under this section without complying with any other law applicable to the issuance of bonds; and

(2) enter into a credit agreement related to the bonds.

(f) The commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to repay financial assistance provided from the bank, including any ~~[pay]~~ acquired obligations.

(i) Before the commission issues revenue bonds or enters into a credit agreement under this section, the commission shall submit a record of the ~~[All]~~ proceedings of the commission that authorize ~~[relating to]~~ the issuance, execution, and delivery of the ~~[revenue]~~ bonds or credit agreement and any contract that provides revenue or security to pay the bonds or credit agreement ~~[issued under this section shall be submitted]~~ to the attorney general for review ~~[examination]~~. If the attorney general finds that the proceedings authorizing the bonds or credit agreement and any bonds authorized by the proceedings conform to the requirements prescribed by the Texas Constitution and this subchapter ~~[On determining that the revenue bonds have been authorized in accordance with law]~~, the attorney general shall approve the proceedings and ~~[revenue]~~ bonds, and

shall deliver to [the revenue bonds shall be registered by] the comptroller for registration a copy of the attorney general's legal opinion relating to the approval and a record of the proceedings. After approval by the attorney general, the bonds or credit agreement may be executed and delivered, exchanged, or refinanced in accordance with the authorization proceedings. After the approval and registration, the [revenue] bonds, credit agreement, or contract providing revenue or security included in or executed and delivered according to the authorization proceedings are incontestable in any court or other forum for any reason and are valid, [and] binding, and enforceable [obligations] in accordance with their terms for all purposes.

(j) The commission may use proceeds from the sale of revenue bonds to finance other funds or accounts relating to the bonds or credit agreement, including a debt service reserve fund, and to pay the cost of issuing the bonds. Any remaining [The] proceeds received from the sale of the [revenue] bonds shall be deposited in the bank and invested and used in the manner provided for other funds deposited under this subchapter.

SECTION _____. Section 222.076, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may create, within a subaccount, one or more additional subaccounts.

SECTION _____. Section 222.077, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If a form of financial assistance [Any funds disbursed through the state infrastructure bank] must be repaid, [on terms determined by] the commission shall determine the terms of the repayment, including the interest rate to be charged. The terms must comply with the federal act except for terms applicable to funds deposited in a subaccount described by Section 222.076(b).

(a-1) For a tolled highway improvement project, the commission may require that revenue from the project be shared between an entity and the department. The entity and the department may enter into an agreement specifying the terms of the revenue sharing.

(b) Notwithstanding any other law to the contrary:

(1) the repayment of a loan or other assistance provided with money deposited to the credit of a subaccount in the bank, including all amounts received as a share of revenue from a tolled highway improvement project, shall be deposited in that subaccount; and

(2) investment income generated by money deposited to the credit of a subaccount in the bank shall be:

(A) credited to that subaccount, subject to any requirement imposed by a proceeding that authorizes bonds to be issued to provide money for deposit in the bank that is necessary to protect the tax-exempt status of interest payable on the bonds in accordance with applicable federal law;

(B) available for use in providing financial assistance under this subchapter; and

(C) invested in United States Treasury securities, bank deposits, or other financing instruments approved by the United States secretary of transportation to earn interest and enhance the financing of projects assisted by the bank, except that proceeds from bonds deposited in the bank under Section 222.072 are subject to any limitations contained in a document that authorizes the issuance of the bonds.

SECTION _____. Subchapter D, Chapter 222, Transportation Code, is amended by adding Sections 222.078 and 222.079 to read as follows:

Sec. 222.078. SALE OF LOAN. (a) In this section, "loan" includes any financial assistance that must be repaid and any portion of that assistance.

(b) The commission may sell a loan made from money in the bank. The commission shall deposit the proceeds from the sale in the bank.

(c) The commission may submit to the attorney general for review and approval a financial assistance agreement related to a loan to be sold under this section, including a record of proceedings of the borrowing entity that relates to the agreement. The agreement shall be considered a public security for purposes of Chapter 1202, Government Code.

(d) If the attorney general approves an agreement under Subsection (c), the agreement is:

(1) incontestable in a court or other forum; and

(2) valid, binding, and enforceable according to the agreement's terms, as provided by Chapter 1202, Government Code.

(e) The commission shall sell a loan under this section using a competitive bidding process and at a price and under terms that the commission determines to be reasonable.

(f) As part of a sales agreement with a purchaser of a loan, the commission may agree to perform a function required to enforce a condition or requirement stated in the loan, including enforcing the payment of debt service by the borrowing entity.

(g) The commission may exercise any powers necessary to carry out the authority granted by this section, including the authority to contract with any person to accomplish the purposes of this section.

(h) The state and the commission are not liable for the repayment of and may not repay a loan sold under this section.

Sec. 222.079. SOVEREIGN IMMUNITY. A public entity that receives financial assistance under this subchapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of a financial assistance agreement.

Amendment No. 53

Representative Phillips offered the following amendment to Amendment No. 52:

Amend Amendment No. 52 to **CSSB 1420** (82R21087) as follows:

Strike lines 8-12 on page 8 of the amendment, and substitute the following:

"(a-1) For a tolled highway improvement project, the revenue from a project may be shared between an entity and the department. The entity and the department may enter into an agreement specifying the terms of the revenue sharing."

Amendment No. 53 was adopted.

Amendment No. 52, as amended, was adopted. (C. Anderson, Cain, Carter, Harless, Kleinschmidt, and Kolkhorst recorded voting no.)

Amendment No. 54

Representative Martinez offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 99

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter F, Chapter 201, Transportation Code, is amended by adding Section 201.407 to read as follows:

Sec. 201.407. EMPLOYEE SAFETY AWARDS. Notwithstanding Section 2113.201, Government Code, the department may award a cash safety bonus of not more than \$200 to an employee who:

(1) is at or below salary group B16 of the position classification schedule;

(2) holds a position that is classified by the executive director as safety-sensitive;

(3) works on a roadway for more than 50 percent of the hours worked by the employee; and

(4) during the preceding six months:

(A) exhibited exemplary safety performance and achievement; and

(B) did not receive a safety bonus under this section.

Amendment No. 55

Representative Martinez offered the following amendment to Amendment No. 54:

Amend Floor Amendment No. 54 by Martinez (page 99 of the prefiled amendment packet) on page 1, line 8, between "\$200" and "to" by inserting "per year".

Amendment No. 55 was adopted.

Amendment No. 54, as amended, was adopted. (Carter, P. King, and Zedler recorded voting no.)

Amendment No. 56

Representative Chisum offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 119

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 201.706, Transportation Code, is amended to read as follows:

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

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

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

~~(B) at least \$18~~ \$6 million [~~per year for a fiscal year other than 1998 or 1999~~];

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

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

(4) undertake cooperative and joint procurement of road materials with counties under procedures of the comptroller.

Amendment No. 57

Representative Chisum offered the following amendment to Amendment No. 56:

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 201.706, Transportation Code, is amended to read as follows:

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

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

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

~~(B) at least \$12~~ \$6 million [~~per year for a fiscal year other than 1998 or 1999~~];

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

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

(4) undertake cooperative and joint procurement of road materials with counties under procedures of the comptroller.

AMENDMENT NO. 57 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE JACKSON: Mr. Chisum, I was just looking at this \$18 million, or \$12 million now. We talked about earlier that being surplus materials—

REPRESENTATIVE CHISUM: That's correct.

JACKSON: I think it says from appropriated funds, departments shall assist counties with materials to repair and maintain county roads?

CHISUM: Yes, and it's the intent this is not money. This is just rock and dirt.

JACKSON: It's just—the intent is that this \$12 million is in surplus materials?

CHISUM: That's correct, Mr. Jackson. In counties that have 160,000 miles—160,000 miles of road and they get no road tax to do it with—so this just assists the counties a little bit.

JACKSON: Very good.

REMARKS ORDERED PRINTED

Representative Jackson moved to print remarks between Representative Chisum and Representative Jackson.

The motion prevailed.

Amendment No. 57 was adopted.

Amendment No. 56, as amended, was adopted.

Amendment No. 58

Representative Rodriguez offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 121

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter I, Chapter 201, Transportation Code, is amended by adding Section 201.711 to read as follows:

Sec. 201.711. FUNDING REPORT. Not later than December 1 of each even-numbered year, the department shall prepare and submit a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of each legislative standing committee with primary jurisdiction over appropriations, transportation, or state finance. The report must include:

(1) a list of viable funding sources for the department based on national and international surveys; and

(2) status updates on the practicality of and the technology available for implementing vehicle mileage fees.

Amendment No. 58 was adopted. (Burkett, Cain, P. King, and Zedler recorded voting no.)

(C. Anderson now present)

Amendment No. 59

On behalf of Representative Alonzo, Representative Y. Davis offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 144

Amend **CSSB 1420** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 222, Transportation Code, is amended by adding Section 222.005 to read as follows:

Sec. 222.005. USE OF EMERGING FUND MANAGERS FOR INVESTMENTS. (a) To the extent that the department may contract with private professional investment managers to manage or assist in managing the department's assets or otherwise acquire private financial services, the department shall make a good faith effort to award contracts to or acquire services from qualified emerging fund managers.

(b) For purposes of Subsection (a):

(1) "Emerging fund manager" means a private professional investment manager that manages assets of not more than \$5 billion.

(2) "Private financial services" includes pension fund management, consulting, investment advising, brokerage services, hedge fund management, private equity fund management, and real estate investment.

Amendment No. 60

On behalf of Representative Alonzo, Representative Y. Davis offered the following amendment to Amendment No. 59:

Amend Amendment No. 59 by Alonzo to **CSSB 1420** (page 144 of the prefiled amendments packet) on page 1, line 7 of the amendment, by striking "To" and substituting "At the department's discretion, and to".

Amendment No. 60 was adopted.

Amendment No. 59, as amended, was adopted. (Burkett, Cain, Carter, P. King, and Zedler recorded voting no.)

Amendment No. 61

Representative Pickett offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 155

Amend **CSSB 1420** by adding the following appropriately numbered new SECTIONS and renumbering subsequent SECTIONS appropriately:

SECTION _____. Section 222.105, Transportation Code, is amended to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

- (1) promote public safety;
- (2) facilitate the improvement, development, or redevelopment of property;
- (3) facilitate the movement of traffic; and
- (4) enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104.

SECTION _____. Section 222.106, Transportation Code, is amended by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(b) This section applies only to a municipality in which a transportation project is to be developed [the governing body of which intends to enter into an agreement with the department] under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project [described by Section 222.104 that cultivates development or redevelopment of the area].

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish an ad valorem tax increment account for the zone; and

(6) [(5)] contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone [an amount equal to] the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used

for other purposes as determined by the municipality [Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section].

(i-1) The governing body of a municipality may contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the governing body of the municipality may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1) and [Subsection] (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes [complies with] a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax increment account or the repayment of money owed under an [the] agreement for development, redevelopment, or improvement of the project for [under Section 222.104 in connection with] which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by [transportation projects of] the municipality [in or outside of the zone].

SECTION _____. The heading to Section 222.107, Transportation Code, is amended to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES[; TAX ABATEMENTS; ROAD UTILITY DISTRICTS].

SECTION _____. Section 222.107, Transportation Code, is amended by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1) to read as follows:

(b) This section applies only to a county in which a transportation project is to be developed [the commissioners court of which intends to enter into a pass-through toll agreement with the department] under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project [described by Section 222.104 that cultivates development or redevelopment of the area] and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; [and]

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation; and

(4) designate the base year for purposes of establishing the tax increment base of the county.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-1) To further the development of the transportation project for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project may be used for other purposes associated with the transportation project or in the zone.

(i) In the alternative, to [To] assist the county in developing a transportation project [authorized under Section 222.104], if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement [with the county to assume the obligation, if any, of the county] to fund development of a project [under Section 222.104] or to repay funds owed to the department [under Section 222.104]. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the commissioners court of the county complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments [of money] collected under this section.

SECTION _____. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.108 and 222.109 to read as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, a municipality or county may establish a transportation reinvestment zone for any transportation project. If all or part of the transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department, to the extent permitted by law, shall delegate full responsibility for the development, design, letting of bids, and construction of the project, including project inspection, to the municipality or county. After assuming responsibility for a project under this subsection, a municipality or county shall enter into an agreement with the department that prescribes:

- (1) the development process;
- (2) the roles and responsibilities of the parties; and
- (3) the timelines for any required reviews or approvals.

(b) Any portion of a transportation project developed under Subsection (a) that is on the state highway system or is located in the state highway right-of-way must comply with applicable state and federal requirements and criteria for project development, design, and construction, unless the department grants an exception to the municipality or county.

(c) The development, design, and construction plans and specifications for the portions of a project described by Subsection (b) must be reviewed and approved by the department under the agreement entered into under Subsection (a).

(d) In this section, "transportation project" has the meaning assigned by Section 370.003.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone under this chapter. Any funding from the department committed to a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

SECTION _____. Sections 222.106(h), (i), (j), (k), and (l) and 222.107(h), (i), (k), and (l), Transportation Code, as amended by this Act, and Sections 222.106(i-1) and (i-2), 222.107(h-1) and (k-1), 222.108, and 222.109, Transportation Code, as added by this Act, apply to a transportation reinvestment zone that is governed by those sections designated before the effective date of this Act.

Amendment No. 62

Representative Pickett offered the following amendment to Amendment No. 61:

Amend Floor Amendment No. 61 by Pickett (p. 155-164 of the prefiled amendment packet) to **CSSB 1420** (house committee printing) on page 1, by striking the text beginning on line 4 through 10, line 13 and substitute the following:

SECTION _____. Section 222.105, Transportation Code, is amended to read as follows:

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

- (1) promote public safety;
- (2) facilitate the improvement, development, or redevelopment of property;
- (3) facilitate the movement of traffic; and
- (4) enhance a local entity's ability to sponsor a transportation project authorized under Section 222.104.

SECTION _____. Section 222.106, Transportation Code, is amended by amending Subsections (b), (c), (g), (h), (i), (j), (k), and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(b) This section applies only to a municipality in which a transportation project is to be developed ~~[the governing body of which intends to enter into an agreement with the department]~~ under Section 222.104.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote a transportation project ~~[described by Section 222.104 that cultivates development or redevelopment of the area].~~

(g) The ordinance designating an area as a transportation reinvestment zone must:

- (1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;
- (2) provide that the zone takes effect immediately on passage of the ordinance;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish an ad valorem tax increment account for the zone; and

(6) ~~(5)~~ contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone [an amount equal to] the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality [Money deposited to a tax increment account must be used to fund projects authorized under Section 222.104, including the repayment of amounts owed under an agreement entered into under that section].

(i-1) The governing body of a municipality may contract with a public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the governing body of the municipality may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged.

(i-2) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1) and [Subsection] (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes [complies with] a contractual requirement, if any, that included the pledge or assignment of all or a portion of money deposited to a tax

increment account or the repayment of money owed under an ~~the~~ agreement for development, redevelopment, or improvement of the project for ~~under Section 222.104 in connection with~~ which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by ~~transportation projects of~~ the municipality ~~in or outside of the zone~~.

SECTION _____. The heading to Section 222.107, Transportation Code, is amended to read as follows:

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES~~;~~ ~~TAX ABATEMENTS;~~ ~~ROAD UTILITY DISTRICTS~~].

SECTION 4. Section 222.107, Transportation Code, is amended by amending Subsections (b), (c), (e), (f), (h), (i), (k), and (l) and adding Subsections (h-1) and (k-1) to read as follows:

(b) This section applies only to a county in which a transportation project is to be developed ~~the commissioners court of which intends to enter into a pass-through toll agreement with the department~~ under Section 222.104.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote a transportation project ~~described by Section 222.104 that cultivates development or redevelopment of the area~~ and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution; ~~and~~

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation; and

(4) designate the base year for purposes of establishing the tax increment base of the county.

(h) The commissioners court by order or resolution may enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under Subsection (a)(1) for that year. All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In the alternative, the commissioners court by order or resolution may elect to abate a portion of the ad valorem taxes or otherwise grant relief from the taxes imposed by the county on all real property located in the zone. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-1) To further the development of the transportation project for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from installment payments of the assessments for the payment of the costs of that transportation project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the transportation project, the commissioners court of the county may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the transportation project may be used for other purposes associated with the transportation project or in the zone.

(i) In the alternative, to ~~To~~ assist the county in developing a transportation project ~~[authorized under Section 222.104]~~, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement [with the county to assume the obligation, if any, of the county] to fund development of a project ~~[under Section 222.104]~~ or to repay funds owed to the department ~~[under Section 222.104]~~. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of the project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the commissioners court of the county complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection, terminates on December 31 of the year in which the county completes any contractual requirement that included the pledge or assignment of assessments ~~[of money]~~ collected under this section.

SECTION _____. Subchapter E, Chapter 222, Transportation Code, is amended by adding Sections 222.108 and 222.109 to read as follows:

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) Notwithstanding the requirement in Sections 222.106(b) and 222.107(b) that a transportation reinvestment zone be established in connection with a project under Section 222.104, a municipality or county may establish a transportation reinvestment zone for any transportation project. If all or part of the transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department, to the extent permitted by law, shall delegate full responsibility for the development, design, letting of bids, and construction of the project, including project inspection, to the municipality or county. After assuming responsibility for a project under this subsection, a municipality or county shall enter into an agreement with the department that prescribes:

- (1) the development process;
- (2) the roles and responsibilities of the parties; and
- (3) the timelines for any required reviews or approvals.

(b) Any portion of a transportation project developed under Subsection (a) that is on the state highway system or is located in the state highway right-of-way must comply with applicable state and federal requirements and criteria for project development, design, and construction, unless the department grants an exception to the municipality or county.

(c) The development, design, and construction plans and specifications for the portions of a project described by Subsection (b) must be reviewed and approved by the department under the agreement entered into under Subsection (a).

(d) In this section, "transportation project" has the meaning assigned by Section 370.003.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone under this chapter. Any funding from the department committed to a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

SECTION _____. Sections 222.106(h), (i), (j), (k), and (l) and 222.107(h), (i), (k), and (l), Transportation Code, as amended by this Act, and Sections 222.106(i-1) and (i-2), 222.107(h-1) and (k-1), 222.108, and 222.109, Transportation Code, as added by this Act, apply to a transportation reinvestment zone that is governed by those sections designated before the effective date of this Act.

AMENDMENT NO. 62 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE WEBER: Joe, I haven't had a chance to go through all of this, but I'm reading—would you tell us exactly what your amendment, prefiled, does?

REPRESENTATIVE PICKETT: Yes, sir. Four years ago, when we passed the transportation reinvestment zone—this would allow the economic development of a commercial area to set a base on the property values. Anything over that could be put into a special fund for transportation infrastructure. At that time, the only way that your community or my community could do one is if it was also tied to a pass-through financing program through the Texas Department of Transportation. And pass-through means that you or I went to them and they borrowed the money, built the project, and then it was paid by an allotment that you would get annually to your community. Well, there are transportation reinvestment zones that can stand on their own, and this would uncouple it, and actually free up Fund 6 dollars. And so, if your community wanted to do their own project and felt that if you increased the infrastructure somewhere and a big box came, a JCPenney's came, that you could actually use those—this is a TIF

district by the way, that cities use all the time. You could do this without having to wait for a call for projects from TxDOT, that's the biggest change that this does. It also has a provision to make it easier for counties to participate. As you know, counties don't have ordinance authority. Cities create these. Counties, the only way can put money aside is to abate the taxes on your property and then reassess the same amount, and this makes it easier for a county to do that in the bill, as well.

WEBER: Okay, I'm reading on page one here where it talks about undeveloped areas, but this in no way, how do I phrase this, this in no way is going to enhance or encourage—

PICKETT: TLO? No, sir, not whatsoever. In fact, this has gone even more the other direction and realizes that blight isn't anywhere in this. So we don't even get into any of those terms. But, absolutely, you're correct, it has nothing to do with additional eminent domain powers whatsoever.

WEBER: Okay.

REMARKS ORDERED PRINTED

Representative Weber moved to print remarks between Representative Pickett and Representative Weber.

The motion prevailed.

Amendment No. 62 was adopted.

Amendment No. 61, as amended, was adopted. (C. Anderson, Carter, and Kleinschmidt recorded voting no.)

Amendment No. 63

Representative Kolkhorst offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 166

Amend **CSSB 1420** (house committee report) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.210 to read as follows:

Sec. 223.210. APPROVAL AND CERTIFICATION. A comprehensive development agreement entered into by the department or another governmental entity, including a facility agreement under a comprehensive development agreement, under which a private entity will operate a toll project or be entitled to receive revenue from the project must be:

(1) reviewed by the attorney general for legal sufficiency under Section 371.051 and signed by the attorney general, if approved;

(2) reviewed by the comptroller for financial viability and signed and certified by the comptroller, if approved; and

(3) signed by each member of the commission.

(b) Section 223.210, Transportation Code, as added by this section, applies only to a comprehensive development agreement entered into on or after the effective date of this Act.

Amendment No. 64

Representative Y. Davis offered the following amendment to Amendment No. 63:

Amend Amendment No. 63 by Kolkhorst to **CSSB 1420** (page 166 of the prefiled amendments packet) on page 1, line 15, between "comptroller" and "for", by inserting "and the Legislative Budget Board".

Amendment No. 64 was adopted.

Amendment No. 63, as amended, was adopted.

(Sheets now present)

Amendment No. 65

Representative McClendon offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 178

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 228.004, Transportation Code, is amended to read as follows:

Sec. 228.004. ~~[PROMOTION OF]~~ TOLL PROJECT INFORMATION. (a) The department may, notwithstanding Chapter 2113, Government Code:

(1) ~~[]~~ engage in marketing, advertising, and other activities to provide information relating to:

(A) the status of pending or ongoing ~~[promote the development and use of]~~ toll projects; or

(B) the use and availability of toll tags or other toll-related resources available to the public; and

(2) ~~[may]~~ enter into contracts or agreements necessary to procure marketing, advertising, or informational ~~[other promotional]~~ services from outside service providers to provide the information described by Subdivision (1).

(b) This section does not authorize the department to engage in marketing, advertising, or other activities for the purpose of influencing public opinion about the use of toll roads or the use of tolls as a financial mechanism or promoting or advocating for the benefits of toll roads.

(b) Section 228.004, Transportation Code, as amended by this section, applies only to a contract or agreement entered into or renewed under Section 228.004, Transportation Code, on or after the effective date of this Act. A contract or agreement entered into or renewed under Section 228.004, Transportation Code, before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Amendment No. 65 was adopted.

Amendment No. 66

Representative Rodriguez offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 180

Amend **CSSB 1420** (house committee printing) by inserting the following appropriately-numbered SECTION and renumbering any subsequent SECTIONS accordingly:

SECTION _____. Subchapter Z, Chapter 311, Transportation Code, is amended by adding Section 311.905 to read as follows:

Sec. 311.905. NOTICE OF TRANSPORTATION USER'S FEE BY MUNICIPALITY. (a) A municipality that imposes a fee on the user of a benefited property equal to the prorated annual cost of the transportation system owned by the municipality that can reasonably be attributed to the benefited property must provide notice to the department and the user of the fee.

(b) The notice to the department shall be given to the executive director by any commercially acceptable form of business communication. The notice to the user required under Subsection (a) is adequate if the fee amount is stated on monthly billing statements to the user for metered utility service provided by the municipality to the user.

(Geren in the chair)

Amendment No. 66 was adopted. (Cain, P. King, and Zedler recorded voting no.)

(Castro, Hardcastle, Isaac, Johnson, Kleinschmidt, and Lewis now present)

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Martinez Fischer on motion of Castro.

The following member was granted leave of absence temporarily for today because of important business:

Dutton on motion of Castro.

CSSB 1420 - (consideration continued)**Amendment No. 67**

Representative Phillips offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 181

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 370.305, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) ~~[An authority may use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project.]~~

~~(b)~~ A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project and may also provide for the financing, acquisition, maintenance, or operation of a transportation project.

(b) Except as provided by Subsection (b-1), an authority may enter into a comprehensive development agreement with a private entity for the design and construction of a transportation project that may also provide for the financing of the project.

(b-1) Unless specifically authorized by the legislature, an authority may not enter into a comprehensive development agreement with a private entity for the design and construction of a transportation project if the comprehensive development agreement entitles the private entity:

(1) to an ownership or leasehold interest in the transportation project; or

(2) to the right to operate or retain revenue from the transportation project.

(b) Sections 370.305(d), (e), and (f), Transportation Code, are repealed.

(c) The changes in law made by Section 370.305, Transportation Code, as amended by this section, apply only to a comprehensive development agreement entered into on or after the effective date of this section. A comprehensive development agreement entered into before the effective date of this section is governed by the law in effect on that date, and that law is continued in effect for that purpose.

Amendment No. 68

Representative Phillips offered the following amendment to Amendment No. 67:

Amend Floor Amendment No. 67 by Phillips to **CSSB 1420** (house committee printing) on page 1 by striking lines 4-29 and on page 2 by striking lines 1-7 and substituting the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Sections 370.305, Transportation Code, is amended to read as follows:

~~(a) [An authority may use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project.~~

~~(b)~~ A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project, that [and] may [also] provide for the financing, acquisition, maintenance, or operation of a transportation project, and that entitles the private entity to:

(1) a leasehold interest in the transportation project; or

(2) the right to operate or retain revenue from the operation of the transportation project.

~~(b)~~~~(c)~~ An authority may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

~~(c)(d)~~ Except as provided by this chapter ~~Subsections (e) and (f), the authority to enter into comprehensive development agreements under this section expires on August 31, 2009.~~

~~(e) Subsection (d) does not apply to a comprehensive development agreement that does not grant a private entity right to finance a toll project or a comprehensive development agreement in connection with a project:~~

~~(1) that includes one or more managed lane facilities to be added to an existing controlled-access highway;~~

~~(2) the major portion of which is located in a nonattainment or near nonattainment air quality area as designated by the United States Environmental Protection Agency; and~~

~~(3) for which the department has issued a request for qualifications before the effective date of this subsection.~~

~~(f) T[h]e authority to enter into a comprehensive development agreement for a project exempted from Subsection (d) or Section 223.210(b) expires August 31, 2011.~~

SECTION _____. Chapter 370, Transportation Code, is amended by adding Subchapter G-1 to read as follows:

SUBCHAPTER G-1. DESIGN-BUILD CONTRACTS

Sec. 370.318. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Notwithstanding the requirements of Chapter 2254, Government Code, an authority may use the design-build method for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project.

(b) A design-build contract under this subchapter may not grant to a private entity:

(1) a leasehold interest in the transportation project; or

(2) the right to operate or retain revenue from the operation of the transportation project.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the authority and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) An authority may enter into not more than two design-build contracts for transportation projects in any fiscal year.

Sec. 370.319. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of transportation projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Sec. 370.320. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as an authority's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a transportation project, an authority shall select or designate:

- (1) an engineer;
- (2) a qualified firm, selected in accordance with Section 2254.004, Government Code, who is independent of the design-build contractor; or
- (3) a general engineering consultant that was previously selected by an authority and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Sec. 370.321. OTHER PROFESSIONAL SERVICES. (a) An authority shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the transportation project by the authority:

- (1) inspection services;
- (2) construction materials engineering and testing; and
- (3) verification testing services.

(b) An authority shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude the design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Sec. 370.322. REQUEST FOR QUALIFICATIONS. (a) For any transportation project to be delivered through the design-build method, an authority must prepare and issue a request for qualifications. A request for qualifications must include:

- (1) information regarding the proposed project's location, scope, and limits;
- (2) information regarding funding that may be available for the project and a description of the financing to be requested from the design-build contractor, as applicable;
- (3) criteria that will be used to evaluate the proposals, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;
- (4) the relative weight to be given to the criteria; and
- (5) the deadline by which proposals must be received by the authority.

(b) An authority shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on an Internet website maintained by the authority.

(c) An authority shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. An authority may interview responding proposers. Based on the authority's evaluation of qualifications statements and interviews, if any, an authority shall qualify or short-list proposers to submit detailed proposals.

(d) An authority shall qualify or short-list at least two, but no more than five, firms to submit detailed proposals under Section 370.323. If an authority receives only one responsive proposal to a request for qualifications, the authority shall terminate the procurement.

(e) An authority may withdraw a request for qualifications or request for detailed proposals at any time.

Sec. 370.323. REQUEST FOR DETAILED PROPOSALS. (a) An authority shall issue a request for detailed proposals to proposers short-listed under Section 370.322. A request for detailed proposals must include:

(1) information on the overall project goals;
(2) the authority's cost estimates for the design-build portion of the work;

(3) materials specifications;
(4) special material requirements;
(5) a schematic design approximately 30 percent complete;
(6) known utilities, provided that an authority is not required to undertake an effort to locate utilities;

(7) quality assurance and quality control requirements;
(8) the location of relevant structures;
(9) notice of any rules or goals adopted by the authority pursuant to Section 370.183 relating to awarding contracts to disadvantaged businesses;

(10) available geotechnical or other information related to the project;
(11) the status of any environmental review of the project;
(12) detailed instructions for preparing the technical proposal required under Subsection (c), including a description of the form and level of completeness of drawings expected;

(13) the relative weighting of the technical and cost proposals required under Subsection (c) and the formula by which the proposals will be evaluated and ranked, provided that the formula shall allocate at least 70 percent of the weighting to the cost proposal; and

(14) the criteria and weighting for each element of the technical proposal.

(b) A request for detailed proposals shall also include a general form of the design-build contract that the authority proposes if the terms of the contract may be modified as a result of negotiations prior to contract execution.

(c) Each response to a request for detailed proposals must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:
(1) the proposer's qualifications and demonstrated technical competence, provided that the proposer shall not be requested to re-submit any information that was submitted and evaluated pursuant to Section 370.322(a)(3);

(2) the feasibility of developing the project as proposed, including identification of anticipated problems;

(3) the proposed solutions to anticipated problems;
(4) the ability of the proposer to meet schedules;
(5) the conceptual engineering design proposed; and

(6) any other information requested by the authority.

(e) An authority may provide for the submission of alternative technical concepts by a proposer. If an authority provides for the submission of alternative technical concepts, the authority must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(f) The cost proposal must include:

(1) the cost of delivering the project;

(2) the estimated number of days required to complete the project; and

(3) any terms for financing for the project that the proposer plans to

provide.

(g) A response to a request for detailed proposals shall be due not later than the 180th day after the final request for detailed proposals is issued by the authority. This subsection does not preclude the release by the authority of a draft request for detailed proposals for purposes of receiving input from short-listed proposers.

(h) An authority shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for detailed proposals and assign points on the basis of the weighting specified in the request for detailed proposals. The authority may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the authority as provided in the request for detailed proposals. The authority shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for detailed proposals. The authority shall rank the proposers in accordance with the formula provided in the request for detailed proposals.

Sec. 370.324. NEGOTIATION. (a) After ranking the proposers under Section 370.323(h), an authority shall first attempt to negotiate a contract with the highest ranked proposer. If an authority has committed to paying a stipend to unsuccessful proposers in accordance with Section 370.326, an authority may include in the negotiations alternative technical concepts proposed by other proposers.

(b) If an authority is unable to negotiate a satisfactory contract with the highest ranked proposer, the authority shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Sec. 370.325. ASSUMPTION OF RISKS. (a) Unless otherwise provided in the final request for detailed proposals, including all addenda and supplements thereto, the authority shall assume:

(1) all risks and costs associated with:

(A) scope changes and modifications, as requested by the authority;

(B) unknown or differing site conditions;

(C) environmental clearance and other regulatory permitting for the project;

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

(b) Nothing herein shall prevent the parties from agreeing that the design-build contractor should assume some or all of the risks or costs set forth in subsection (a) provided that such agreement is reflected in the final request for detailed proposals, including all addenda and supplements thereto.

Sec. 370.326. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS. (a) Pursuant to the provisions of the request for detailed proposals, an authority shall pay an unsuccessful proposer that submits a responsive proposal to the request for detailed proposals a stipend for work product contained in the proposal. The stipend must be specified in the initial request for detailed proposals in an amount of at least two tenths of one percent of the contract amount, but may not exceed the value of the work product contained in the proposal to the authority. In the event the authority determines that the value of the work product is less than the stipend amount the authority must provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used in determining value. After payment of the stipend, the authority may make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipend under this subsection.

(b) An authority may provide in a request for detailed proposals for the payment of a partial stipend in the event a procurement is terminated prior to securing project financing and execution of a design-build contract.

Sec. 370.327. PERFORMANCE OR PAYMENT BOND. (a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a design-build contractor to provide a performance and payment bond or an alternative form of security or a combination of forms of security.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) A payment or performance bond is not required for the portion of a design-build contract under this section that includes design services only.

(d) In addition to performance and payment bonds, an authority may require the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the authority;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit drawn from a National or Texas chartered bank; or

(4) any other form of security determined suitable by the authority.
SECTION _____. Section 370.314, Transportation Code, is repealed.

Amendment No. 68 was adopted.

(Alonzo, Branch, Dutton, D. Howard, Hughes, and Patrick now present)

Amendment No. 67, as amended, failed of adoption by (Record 607): 65 Yeas, 69 Nays, 2 Present, not voting. (The vote was reconsidered later today, and Amendment No. 67, as amended, was adopted by Record No. 608.)

Yeas — Alonzo; Anchia; Branch; Burnam; Button; Callegari; Carter; Castro; Chisum; Cook; Craddick; Creighton; Darby; Davis, S.; Deshotel; Driver; Eiland; Fletcher; Frullo; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harper-Brown; Howard, D.; Jackson; Johnson; Keffer; King, S.; Lavender; Legler; Lozano; Lucio; Lyne; Margo; Marquez; Menendez; Miller, S.; Muñoz; Murphy; Naishtat; Oliveira; Orr; Parker; Phillips; Pickett; Pitts; Price; Quintanilla; Rodriguez; Scott; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Veasey; Villarreal; Woolley.

Nays — Allen; Alvarado; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Burkett; Cain; Christian; Davis, J.; Davis, Y.; Dukes; Dutton; Eissler; Farias; Farrar; Flynn; Gallego; Giddings; Gonzales, L.; Hardcastle; Harless; Hartnett; Hernandez Luna; Hochberg; Hopson; Huberty; Hughes; Hunter; Isaac; King, P.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lewis; Madden; Martinez; McClendon; Miles; Miller, D.; Morrison; Nash; Otto; Patrick; Paxton; Perry; Raymond; Reynolds; Riddle; Ritter; Schwertner; Sheets; Simpson; Smith, T.; Taylor, V.; Turner; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Geren(C).

Absent, Excused — Gonzales, V.; Martinez Fischer.

Absent, Excused, Committee Meeting — Bonnen; Brown; Coleman; Howard, C.

Absent — Aliseda; Crownover; Elkins; Garza; Hilderbran; Mallory Caraway; Peña; Taylor, L.

STATEMENTS OF VOTE

When Record No. 607 was taken, I was in the house but away from my desk. I would have voted no.

Aliseda

I was shown voting yes on Record No. 607. I intended to vote no.

Carter

When Record No. 607 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 607 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

I was shown voting yes on Record No. 607. I intended to vote no.

Sheffield

I was shown voting no on Record No. 607. I intended to vote yes.

T. Smith

When Record No. 607 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

Amendment No. 69

Representative Kolkhorst offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 186

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 371.051, Transportation Code, is amended to read as follows:

Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE. (a) A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

(b) A toll project entity shall pay a nonrefundable examination fee to the attorney general on submitting a proposed comprehensive development agreement for review. At the time the examination fee is paid, the toll project entity shall also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

(c) If the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll project for review, the entity shall pay the examination fee under Subsection (b) for each proposed comprehensive development agreement.

(d) The attorney general shall provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings required under Subsection (b) are received. If the attorney general cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the toll project entity in writing of the reason for the delay and may extend the review period for not more than 30 business days.

(e) After the attorney general issues a legal sufficiency determination, a toll project entity may supplement the transcript of proceedings or amend the comprehensive development agreement to facilitate a redetermination by the attorney general of the prior legal sufficiency determination issued under this section.

(f) The toll project entity may collect or seek reimbursement of the examination fee under Subsection (b) from the private participant.

(g) The attorney general by rule shall set the examination fee required under Subsection (b) in a reasonable amount and may adopt other rules as necessary to implement this section. The fee may not be set in an amount that is determined by a percentage of the cost of the toll project. The amount of the fee may not exceed reasonable attorney's fees charged for similar legal services in the private sector.

SECTION _____. The requirements of Section 371.051, Transportation Code, as amended by this Act, apply only to a comprehensive development agreement submitted to the office of the attorney general on or after the effective date of this Act.

Amendment No. 69 was withdrawn.

Amendment No. 70

Representative Paxton offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 188

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 372, Transportation Code, is amended by adding Sections 372.054 and 372.055 to read as follows:

Sec. 372.054. ANNUAL AUDIT. (a) In this section, "toll project entity" does not include the department.

(b) A toll project entity shall have an annual audit of the affairs of the toll project entity prepared by an independent certified public accountant or a firm of independent certified public accountants.

Sec. 372.055. ELECTRONIC CHECKING ACCOUNT TRANSACTION REGISTER. (a) In this section, "toll project entity" does not include the department.

(b) Except as provided by Subsection (f), a toll project entity shall designate a person to maintain an electronic checking account transaction register for the entity's checking account. The register must:

(1) be in a searchable, electronic spreadsheet format; and
(2) be available without a fee for viewing and downloading by the public at all times on the entity's Internet website.

(c) The electronic checking account transaction register must include for each expense transaction from the toll project entity's account:

- (1) the transaction amount;
- (2) the name of the payee; and

(3) a statement describing the purpose of the expenditure.

(d) A toll project entity may not include in the entity's electronic checking account transaction register a check issued to an entity employee in payment of salary, wages, or an employment stipend.

(e) A toll project entity shall:

(1) update the electronic checking account transaction register at least once each month, not later than the 30th day after the closing date of the most recent monthly statement for the checking account; and

(2) maintain each transaction or listing in the electronic checking account transaction register on the entity's Internet website until the first anniversary of the date of the transaction or listing.

(f) The person designated to maintain the electronic checking account transaction register under Subsection (b) may consult with the comptroller in developing the register.

SECTION _____. A toll project entity required to maintain an electronic checking account transaction register under Section 372.055, Transportation Code, as added by this Act, shall make the register available for public viewing or downloading not later than January 1, 2012. The register must contain the information required by Section 372.055(c), Transportation Code, as added by this Act, with regard to each transaction occurring on or after the effective date of this Act.

Amendment No. 70 was withdrawn.

Amendment No. 71

Representative Flynn offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 190

SECTION 6.04, Subchapter D, Chapter 391, Section 391.099, Transportation Code, is amended to read as follows:

(c) Except as provided by Subsection (f), the commission shall:

(1) regulate the content, composition, design, placement, erection, and maintenance of tourist-oriented directional signs and supports on eligible highway rights-of-way and ensure signs are placed in designated areas no more than 90 days after the eligible facility signs a contract;

(2) in lieu of a tourist-oriented directional sign, direct the department to erect General Service signs upon request of owners of recreational vehicle or camping areas;

(3) create rules as to the viable alternatives to the current tourist-oriented directional sign program pricing methodology of total traffic counts to include, but not limited to, actual visitor counts or cost plus maintenance fees of the sign; and,

(4) adopts rules necessary to administer and enforce this section.

Amendment No. 71 was adopted. (Cain recorded voting no.)

Amendment No. 72

Representative Martinez offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 194

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The heading to Section 545.157, Transportation Code, is amended to read as follows:

Sec. 545.157. PASSING AUTHORIZED EMERGENCY VEHICLE OR DEPARTMENT VEHICLE.

(b) Section 545.157, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) On approaching a stationary authorized emergency vehicle using visual signals that meet the requirements of Sections 547.305 and 547.702 or a department vehicle that is using visual signals described by Section 547.305 and is not separated from the roadway by a traffic control channelizing device, an operator, unless otherwise directed by a police officer, shall:

(1) vacate the lane closest to the emergency vehicle or department vehicle when driving on a highway with two or more lanes traveling in the direction of the emergency vehicle or department vehicle; or

(2) slow to a speed not to exceed:

(A) 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or more; or

(B) five miles per hour when the posted speed limit is less than 25 miles per hour.

(b) A violation of this section is:

(1) a misdemeanor punishable under Section 542.401;

(2) a misdemeanor punishable by a fine of \$500 if the violation results in property damage; ~~or~~

(3) a Class B misdemeanor if the violation results in bodily injury; or

(4) a felony of the third degree if the violation results in serious bodily injury or death.

(d) In this section:

(1) "Department vehicle" means a vehicle owned or operated by the Texas Department of Transportation.

(2) "Traffic control channelizing device" means equipment used to warn and alert an operator of conditions created by work activities in or near the traveled part of a highway, to protect workers in a temporary traffic control zone, or to safely guide operators and pedestrians. The term includes a traffic cone, tubular marker, vertical panel, drum, barricade, temporary raised island, concrete or cable barrier, or guardrail.

(c) The changes in law made by Section 545.157, Transportation Code, as amended by this section, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

Amendment No. 73

Representative Harper-Brown offered the following amendment to Amendment No. 72:

Amend Amendment No. 72 by Martinez to **CSSB 1420** (page 194, prefiled floor amendment packet) as follows:

(1) On page 1, line 6, between "VEHICLE" and "OR" insert ", TOW TRUCK,".

(2) On page 1, line 13, between "547.702" and "or", insert ", a stationary tow truck using equipment authorized by Section 347.305(d),".

(3) On page 1, line 18, immediately before "or department" insert ", tow truck,".

(4) On page 1, line 19, between "vehicle" and "or" insert ", tow truck,".

(5) On page 2, between lines 7 and 8, insert the following:

(2) "Tow truck" means a vehicle that:

(A) has been issued a permit under Subchapter C, Chapter 2308, Occupations Code; and

(B) is operated by a person licensed under Subchapter D, Chapter 2308, Occupations Code.

(6) On page 2, line 8, strike "(2)" and substitute "(3)".

Amendment No. 73 was adopted.

Amendment No. 72, as amended, was adopted. (Cain recorded voting no.)

Amendment No. 74

Representative Gallego offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 196

Amend **CSSB 1420** (house committee printing) by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 707, Transportation Code, is amended by adding Section 707.0035 to read as follows:

Sec. 707.0035. DEPARTMENT APPROVAL. (a) A local authority may not install a photographic traffic signal enforcement system at an intersection approach located on a state highway under the jurisdiction of the Texas Department of Transportation unless the department, after notice and a public hearing, approves the installation of the system.

(b) The department may not approve the installation of a photographic traffic signal enforcement system under Subsection (a) in a municipality with a population of less than 40,000.

Amendment No. 74 was adopted. (Button, Cain, and Carter recorded voting no.)

Amendment No. 75

Representative Gallego offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 198

Amend **CSSB 1420** by adding the appropriately numbered section to read as follows:

SECTION _____. PRESIDIO INTERNATIONAL BRIDGE. Upon verification that the County of Presidio and the City of Presidio have obtained the appropriate financing, the Department shall sell and convey the Presidio International Bridge to the City and County of Presidio at cost. Such sale shall be expeditiously handled in accordance with applicable state and federal laws. The Department may maintain up to a 10% minority share of ownership so long as such ownership does not preclude the City and County from charging a toll for use of the bridge by passenger, commercial, pedestrian or other traffic.

Amendment No. 75 was adopted. (Burkett, Cain, Carter, P. King, and Zedler recorded voting no.)

Amendment No. 76

Representative Gallego offered the following amendment to **CSSB 1420**:
Floor Packet Page No. 199

Amend **CSSB 1420** by adding the appropriately numbered section to read as follows:

SECTION _____. REPRESENTATIVE RICHARD C. SLACK BRIDGE.
(a) The Presidio International Bridge is designated as the Representative Richard C. Slack Bridge.

(b) The department shall erect markers indicating the designation of the bridge as the Representative Richard C. Slack Bridge, and any other appropriate information at appropriate locations on or along the bridge.

(c) Section 225.021(c) does not apply to this section.

Amendment No. 77

Representative Gallego offered the following amendment to Amendment No. 76:

Amend Amendment No. 76 by Gallego to **CSSB 1420** (page 199 of the prefiled amendments packet) by adding the following at the end of the amendment:

(d) Notwithstanding Subsection (b), the department is not required to design or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of designing and erecting the marker.

Amendment No. 77 was adopted.

Amendment No. 76, as amended, was adopted. (Cain recorded voting no.)

Amendment No. 78

Representative Gallego offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 200

Amend **CSSB 1420** by adding the appropriately numbered section to read as follows:

SECTION _____. Hilary B. Doran Jr. Building. The Texas Department of Transportation Building located in Val Verde County shall be known as the Hilary B. Doran Building.

Amendment No. 78 was adopted. (Cain recorded voting no.)

Amendment No. 79

Representative Castro offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 202

Amend **CSSB 1420** (house committee printing) by striking SECTION 24 of the bill and renumbering the subsequent SECTIONS accordingly.

Amendment No. 79 was withdrawn.

Amendment No. 80

Representative Castro offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 89

Amend **CSSB 1420** (house committee printing) as follows:

- (1) On page 22, line 20, between "bridges" and ",", insert "and overpasses".
- (2) On page 22, line 23, strike "and".
- (3) On page 22, line 24, after "scores;" insert "and".
- (4) On page 22, between lines 24 and 25, insert the following:

(C) the height of guardrails on bridges and overpasses and information about the number of accidents, injuries, and fatalities resulting from guardrail failure.

Amendment No. 81

Representative Castro offered the following amendment to Amendment No. 80:

Amend Floor Amendment No. 80 by Castro (amendment packet, page 89) on page 1 by striking lines 1-10, and substituting the following:

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill, and renumber subsequent SECTIONS accordingly:

SECTION _____. The Texas Department of Transportation shall conduct a study of best practices for retrofitting rail on bridges and overpasses that includes information about the number of accidents, injuries, and fatalities resulting from rail failure, and shall submit the study to the Legislature by September 30, 2012.

Amendment No. 81 was adopted.

Amendment No. 80, as amended, was adopted. (Cain, P. King and Zedler recorded voting no.)

Amendment No. 82

Representative Lucio offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 203

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATE. The gasoline tax rate is 25 [~~20~~] cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

(b) Section 162.202, Tax Code, is amended to read as follows:

Sec. 162.202. TAX RATE. The diesel fuel tax rate is 25 [~~20~~] cents for each net gallon or fractional part on which the tax is imposed under Section 162.201.

(c) The change in law made by this section does not affect taxes imposed before the effective date of this section, and the law in effect before that date is continued in effect for purposes of the liability for and collection of those taxes.

Amendment No. 82 was withdrawn.

Amendment No. 36 - Vote Reconsidered

Representative Phillips moved to reconsider the vote by which Amendment No. 36 was adopted.

The motion to reconsider prevailed.

Amendment No. 36 was withdrawn.

(Speaker in the chair)

Amendment No. 67 - Vote Reconsidered

Representative Patrick moved to reconsider the vote by which Amendment No. 67, as amended, failed of adoption.

The motion to reconsider prevailed.

(Brown now present)

Amendment No. 67, as amended, was adopted by (Record 608): 101 Yeas, 36 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burnam; Button; Castro; Chisum; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Davis, Y.; Dutton; Eiland; Elkins; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, D.; Huberty; Jackson; Keffer; King, S.; Kuempel; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Menendez; Miles; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez;

Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Villarreal; Vo; Walle; Woolley; Workman; Zedler.

Nays — Allen; Aycock; Burkett; Cain; Carter; Christian; Darby; Deshotel; Driver; Eissler; Farias; Harless; Hilderbran; Hughes; Hunter; Isaac; King, P.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; McClendon; Miller, D.; Miller, S.; Morrison; Perry; Raymond; Schwertner; Simpson; Taylor, V.; Turner; Veasey; Weber; White; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales, V.; Martinez Fischer.

Absent, Excused, Committee Meeting — Bonnen; Coleman; Howard, C.

Absent — Aliseda; Callegari; Dukes; Flynn; Gutierrez; Johnson; Mallory Caraway.

STATEMENTS OF VOTE

When Record No. 608 was taken, I was in the house but away from my desk. I would have voted no.

Aliseda

I was shown voting yes on Record No. 608. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 608. I intended to vote no.

Bohac

When Record No. 608 was taken, I was in the house but away from my desk. I would have voted yes.

Callegari

When Record No. 608 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

I was shown voting no on Record No. 608. I intended to vote yes.

Eissler

When Record No. 608 was taken, my vote failed to register. I would have voted no.

Flynn

I was shown voting yes on Record No. 608. I intended to vote no.

Frullo

Amendment No. 83

Representative Harper-Brown offered the following amendment to CSSB 1420:

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Amend **CSSB 1420** (house committee report) by striking page 10, line 9, through page 12, line 6 and substituting the following:

Sec. 201.451. DEFINITIONS. In this subchapter:

(1) "Fraud" has the meaning assigned by Section 531.1011, Government Code.

(2) "Inspector general" means the person appointed under this subchapter to serve as inspector general for the department.

(3) "Office" means the office of inspector general for the department.

(4) "Review" includes an inspection, investigation, audit, or similar activity.

(5) "State funds" or "state money" includes federal funds or money received and appropriated by the state or for which the state has oversight responsibility.

Sec. 201.452. ESTABLISHMENT OF OFFICE. (a) The department shall establish an office of inspector general.

(b) The office is governed by the inspector general for the department.

(c) The inspector general shall:

(1) manage daily operations of the office;

(2) supervise office staff;

(3) create office operating procedures, personnel policies, and employment policies;

(4) allocate resources in the office;

(5) oversee office information resources systems;

(6) determine the location of office facilities; and

(7) coordinate office activities with the activities of other state agencies.

(d) The inspector general is responsible for office procurement and contracts.

Sec. 201.453. INDEPENDENCE OF OFFICE. Except as otherwise provided by this subchapter, the office and inspector general operate independently of the department.

Sec. 201.454. ADMINISTRATIVE ATTACHMENT. The office is administratively attached to the department. The department shall provide to the office administrative support services.

Sec. 201.455. SERVICE LEVEL AGREEMENT. (a) The department and the office shall enter into a service level agreement that establishes the performance standards and deliverables with regard to administrative support by the department.

(b) The service level agreement must be reviewed at least annually to ensure that services and deliverables are provided in accordance with the agreement.

Sec. 201.456. APPROPRIATIONS AND BUDGET. (a) The inspector general shall submit a budget for the office in accordance with the reporting requirements of the General Appropriations Act.

(b) The inspector general shall submit to the Legislative Budget Board and the department a legislative appropriations request and an operating budget in accordance with the service level agreement entered into under Section 201.455 and applicable law.

(c) If required by or under law, the department shall submit the operating budget to the legislature. The budget is not subject to review, alteration, or modification by the department or the commission before submission to the legislature.

Sec. 201.457. DUTIES OF DEPARTMENT. (a) The department shall:

(1) provide administrative assistance to the office; and

(2) coordinate administrative responsibilities with the office to avoid unnecessary duplication of duties.

(b) The department may not take an action that affects or relates to the validity, status, or terms of an interagency agreement or a contract to which the office is a party without the office's approval.

Sec. 201.458. APPOINTMENT; STATE OFFICER. (a) The commission shall appoint an inspector general to serve as director of the office.

(b) The appointment shall be made without regard to political affiliation, race, color, disability, sex, religion, age, or national origin.

(c) In making the appointment, the commission shall consider the person's integrity, education, training, knowledge of law, experience in the enforcement of law, executive ability, capability for strong leadership, and demonstrated ability in accounting, auditing, financial analysis, management analysis, public administration, investigation, criminal justice administration, or other closely related fields.

(d) The inspector general is a state officer.

Sec. 201.459. TERM. The inspector general serves a two-year term that expires on February 1 of each odd-numbered year.

Sec. 201.460. ELIGIBILITY. (a) To be eligible for appointment as inspector general, a person must:

(1) have unquestioned integrity and moral character;

(2) hold a bachelor's degree;

(3) have either:

(A) at least five years of experience as a certified public accountant, certified internal auditor, or certified inspector general; or

(B) a peace officer certification issued by the Commission on Law Enforcement Officer Standards and Education that the person has held for at least five years; and

(4) have either:

(A) at least five years of experience in a professional or administrative position that included as a major duty fiscal management, the review of fiscal management, or the auditing or review of operational efficiency or program performance; or

(B) experience carrying out law enforcement duties to prevent fraud, waste, and abuse.

(b) The person appointed as inspector general must obtain certification as a certified inspector general within the time required by rules adopted by the commission.

(c) A person formerly employed by the department as an executive or manager may not serve as inspector general before the fifth anniversary of the date of the termination of that person's employment with the department.

(d) A person is not eligible for appointment as inspector general if the person or the person's spouse:

(1) is an officer or paid consultant of a business entity or other organization that holds a license, certificate of authority, or other authorization from the department or that receives funds from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the department; or

(3) uses or receives a substantial amount of tangible goods or funds from the department, other than compensation or reimbursement authorized by law.

(e) A person is not eligible to serve as inspector general if the person or the person's spouse is required to register as a lobbyist under Chapter 305, Government Code, because of the person's or spouse's activities for compensation related to the operation of the department.

Sec. 201.461. CONFLICT OF INTEREST. (a) The inspector general may not serve as an ex officio member on the governing body of a governmental entity.

(b) The inspector general may not have a financial interest in the transactions of the office, the department, or a contractor with the department or office.

(c) The inspector general and office staff may not participate in partisan political activities related to the work of the inspector general's office. The inspector general may select the most efficient personnel available for each position in the inspector general's office. It is against the public policy of this state for an officer or employee of this state to recommend a person to serve on the staff of the inspector general.

Sec. 201.462. PEACE OFFICERS. (a) The office may employ and commission peace officers to assist the inspector general in carrying out the duties of the office relating to detection, investigation, and prevention of fraud, waste, and abuse in department programs or in programs receiving state or federal funds that are implemented, administered, or overseen by or for the department.

(b) A commissioned peace officer or otherwise designated law enforcement officer employed by the office is not entitled to supplemental benefits from the law enforcement and custodial officer supplemental retirement fund unless the officer transfers from a position, without a break in service, that qualifies for supplemental retirement benefits from the fund.

Sec. 201.463. EXPERTS. Subject to the availability of funds, the inspector general may contract with certified public accountants, qualified management consultants, or other professional experts as necessary to independently perform the functions of the office.

Sec. 201.464. EMPLOYEES; TRAINING. (a) The inspector general may employ personnel as necessary to implement the duties of the office.

(b) The inspector general shall train office personnel to pursue, efficiently and as necessary, fraud, waste, and abuse cases in department programs or other state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.465. ASSISTANCE BY DEPARTMENT EMPLOYEES. The inspector general may require employees of the department to provide assistance to the office in connection with the office's duties relating to conducting reviews of fraud, waste, and abuse in the provision of services for department programs or state or federally funded programs implemented, administered, or overseen by or for the department.

Sec. 201.466. GENERAL RESPONSIBILITIES. The office is responsible for:

(1) conducting reviews of fraud, waste, and abuse in the provision or funding of services by or for the department or under a program implemented, administered, or overseen by or for the department;

(2) the enforcement of state law and the protection of the public relating to the provision of those services; and

(3) the prevention and detection of crime relating to the provision of those services.

Sec. 201.467. RULEMAKING BY INSPECTOR GENERAL. (a) Notwithstanding Section 201.101 and any other law, the inspector general shall adopt the rules necessary to administer the functions of the office, including rules to address the imposition of sanctions and penalties for violations and due process requirements for imposing sanctions and penalties.

(b) A rule, standard, or form of the department that is necessary to accomplish the duties of the office is considered to also be a rule, standard, or form of the office and remains in effect as a rule, standard, or form of the office until changed by the inspector general.

(c) The office shall submit proposed rules and adopted rules to the department for publication. The department shall promptly provide for the publication of the proposed or adopted rules in accordance with law. The department, including the commission, may not amend or modify a rule submitted by the office.

(d) The rules must include standards for the office that emphasize:

(1) coordinating reviews and investigative efforts to aggressively recover money;

(2) allocating resources to cases that have the strongest supportive evidence and the greatest potential for recovery of money; and

(3) maximizing opportunities for referral of cases to the office of attorney general.

Sec. 201.468. PUBLIC INTEREST INFORMATION AND COMPLAINTS. (a) The office shall develop and implement policies that provide the public a reasonable opportunity to appear before the office and to speak on any issue under the office's jurisdiction.

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

(c) The office shall keep an information file about each complaint filed with the office relating to the department or an entity receiving state or federal money and falling under the investigatory jurisdiction of the office.

Sec. 201.469. REVIEW, INVESTIGATION, AND AUDIT AUTHORITY.

(a) The inspector general may review any activity or operation of the department or a person in this state that is related to the investigation, detection, or prevention of fraud, waste, abuse, or employee misconduct in a department program or state or federally funded program implemented, administered, or overseen by or for the department. A review may include an investigation or other inquiry into a specific act or allegation of, or a specific financial transaction or practice that may involve, impropriety, malfeasance, or nonfeasance in the obligation, spending, receipt, or other use of state or federal money.

(b) The office shall conduct reviews to protect the public and detect and prevent fraud, waste, and abuse in the provision or funding of services or programs.

(c) The office shall conduct internal affairs investigations in instances of suspected fraud, waste, and abuse and in instances of suspected misconduct by employees, contractors, subcontractors, and vendors.

(d) The department or the commission may not impair or prohibit the inspector general from initiating or completing a review, or attempt to influence the inspector general in conducting a review.

(e) The inspector general may review the use and effectiveness of state or federal funds, including contract and grant funds, administered by a person receiving the funds in connection with a department or state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.470. INITIATION OF REVIEW. The inspector general may initiate a review:

(1) on the inspector general's own initiative;

(2) at the request of the department or the commission; or

(3) based on a complaint from any source concerning a matter described by Section 201.469.

Sec. 201.471. ACCESS TO INFORMATION. To further a review conducted by the office, the inspector general is entitled to access all books, records, accounts, documents, reports, vouchers, databases, systems, or other information, including confidential information, electronic data, and internal records relevant to the functions of the office that are maintained by or for a

person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.472. COOPERATION REQUIRED. To further a review conducted by the inspector general's office, the inspector general is entitled to full and unrestricted access to all offices, limited access or restricted areas, employees, equipment, and computers, including areas, equipment, and computers that contain confidential information and internal records, relevant to the functions of the office that are maintained by or for a person or the department in connection with a department or a state or federally funded program implemented, administered, or overseen by or for the department.

Sec. 201.473. SUBPOENAS. (a) The inspector general may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence in connection with a review conducted under this subchapter.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the inspector general, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may hold in contempt a person who fails to obey the court order.

(e) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

Sec. 201.474. INTERNAL AUDITOR. (a) In this section, "internal auditor" means a person appointed under Section 201.108.

(b) The internal auditor shall provide the inspector general with a copy of the department's internal audit plan to:

(1) assist in the coordination of efforts between the inspector general and the internal auditor; and

(2) limit duplication of effort regarding reviews by the inspector general and internal auditor.

(c) The internal auditor shall provide to the inspector general all final audit reports concerning audits of any:

(1) division of the department;

(2) contract, procurement, or grant; and

(3) program conducted by the department.

Sec. 201.475. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The inspector general may provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The inspector general may refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

(c) The inspector general may enter into a memorandum of understanding with a law enforcement or prosecutorial agency, including the office of the attorney general, to assist in conducting a review under this subchapter.

Sec. 201.476. COOPERATION AND COORDINATION WITH STATE AUDITOR. (a) The state auditor may, on request of the inspector general, provide appropriate information or other assistance to the inspector general or office, as determined by the state auditor.

(b) The inspector general may meet with the state auditor's office to coordinate a review conducted under this subchapter, share information, or schedule work plans.

(c) The state auditor is entitled to access all information maintained by the inspector general, including vouchers, electronic data, internal records, and information obtained under Section 201.471 or subject to Section 201.482.

(d) Any information obtained or provided by the state auditor under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Sec. 201.477. AUTHORITY OF STATE AUDITOR AND SUNSET ADVISORY COMMISSION NOT IMPAIRED. (a) This subchapter does not take precedence over the authority of the state auditor to conduct an audit under Chapter 321, Government Code, or other law.

(b) This subchapter does not take precedence over the authority of the Sunset Advisory Commission or other legislative bodies to review the department under other law.

Sec. 201.478. PREVENTION. (a) The inspector general may recommend to the department policies on:

(1) promoting economical and efficient administration of state or federal funds administered by an individual or entity that received the funds from the department; and

(2) preventing and detecting fraud, waste, and abuse in the administration of those funds.

(b) The inspector general may provide training or other education regarding the prevention of fraud, waste, or abuse to employees of the department. The training or education provided must be approved by the commission.

Sec. 201.479. PERIODIC REPORTING TO STATE AUDITOR AND COMMISSION REQUIRED. The inspector general shall timely inform the state auditor and the commission of the initiation of a review of a department program and the ongoing status of each review.

Sec. 201.480. REPORTING OFFICE FINDINGS. The inspector general shall report the findings of the office for any review conducted under this subchapter to:

- (1) the commission;
- (2) the governor;
- (3) the lieutenant governor;
- (4) the speaker of the house of representatives;
- (5) the state auditor's office; and

(6) appropriate law enforcement and prosecutorial agencies, including the office of the attorney general, if the findings suggest the probability of criminal conduct.

Sec. 201.481. FLAGRANT VIOLATIONS; IMMEDIATE REPORT. The inspector general shall immediately report to the commission, the governor's general counsel, and the state auditor a problem that the inspector general determines is particularly serious or flagrant and that relates to the administration of a program, operation of the department, or interference with an inspector general review.

Sec. 201.482. INFORMATION CONFIDENTIAL. (a) Except as provided by this section and Sections 201.479, 201.480, 201.483, and 201.484, all information and material compiled or maintained by the inspector general during a review under this subchapter is:

(1) confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to anyone other than the state auditor's office, the department, or the office or its agents involved in the review related to that information or material.

(b) As the inspector general determines appropriate based on evidence sufficient to support an allegation, information relating to a review may be disclosed to:

- (1) a law enforcement agency;
- (2) a district or county attorney with jurisdiction;
- (3) the attorney general's office;
- (4) the state auditor's office; or
- (5) the department.

(c) A person that receives information under Subsection (b) may not disclose the information except to the extent that disclosure is consistent with the authorized purpose for which the person first obtained the information.

Sec. 201.483. DRAFT OF FINAL REVIEW REPORT; DEPARTMENT RESPONSE. (a) Except in cases in which the office has determined that fraud, waste, or abuse exists, the office shall provide a draft of the final review report of any review of the operations of the department to the director before publishing the office's final review report.

(b) The director may provide a response to the office's draft report in the manner prescribed by the office not later than the 10th day after the date the draft report is received by the director. The inspector general by rule shall specify the format and requirements of the department response.

(c) Notwithstanding Subsection (a), the office may not provide a draft report to the director if in the inspector general's opinion providing the draft report could negatively affect any anticipated civil or criminal proceedings.

(d) The office may include any portion of the department's response in the office's final report.

Sec. 201.484. FINAL REVIEW REPORTS; DEPARTMENT RESPONSE.

(a) The inspector general shall prepare a final report for each review conducted under this subchapter. The final report must include:

(1) a summary of the activities performed by the inspector general in conducting the review;

(2) a determination of whether wrongdoing or substantial waste was found; and

(3) a description of any findings of wrongdoing or substantial waste or, if no wrongdoing or substantial waste was found, a statement indicating that finding.

(b) The inspector general's final review reports are subject to disclosure under Chapter 552, Government Code.

(c) All working papers and other documents related to compiling the final review reports remain confidential and are not subject to disclosure under Chapter 552, Government Code.

(d) Not later than the 60th day after the date the office issues a final report that identifies deficiencies or inefficiencies in, or recommends corrective measures in the operations of, the department, the department shall file a response that includes:

(1) an implementation plan and timeline for implementing corrective measures; or

(2) the department's rationale for declining to implement corrective measures for the identified deficiencies or inefficiencies or the office's recommended corrective measures, as applicable.

(e) Unless otherwise prohibited by this subchapter, the inspector general shall deliver a copy of each final report to:

(1) the director;

(2) the commission;

(3) the governor;

(4) the lieutenant governor;

(5) the speaker of the house of representatives;

(6) any appropriate law enforcement and prosecutorial agencies; and

(7) the state auditor.

Sec. 201.485. COSTS. (a) The inspector general shall maintain information regarding the cost of reviews.

(b) The inspector general may cooperate with appropriate administrative and prosecutorial agencies, including the office of the attorney general, in recovering costs incurred under this subchapter from nongovernmental entities, including contractors or individuals involved in:

(1) violations of applicable state or federal rules or statutes;

(2) abusive or wilful misconduct; or

(3) violations of a contract or program policy.

(c) In a criminal prosecution to which this subchapter applies, the attorney representing the state shall request that the court require restitution as a condition of a convicted person's community supervision or parole.

Sec. 201.486. ADMINISTRATIVE OR CIVIL PENALTY; INJUNCTION.(a) The office may:

(1) act for the department in the assessment by the office of administrative or civil penalties the department is authorized to assess under applicable law; and

(2) request that the attorney general obtain an injunction to prevent a person from disposing of an asset identified by the office as potentially subject to recovery by the office due to the person's fraud, waste, or abuse.

(b) If the office imposes an administrative or civil penalty under Subsection (a) for the department:

(1) the department may not impose an administrative or civil penalty against the same person for the same violation; and

(2) the office shall impose the penalty under applicable rules of the office, this subchapter, applicable laws governing the imposition of a penalty by the department, and any other applicable law.

Amendment No. 84

Representative Harper-Brown offered the following amendment to Amendment No. 83:

Amend Amendment No. 83 by Harper-Brown to **CSSB 1420** (page 6, prefiled amendments packet) as follows:

(1) On page 10 of the amendment, line 27, strike "may" and substitute "shall".

(2) On page 10 of the amendment, line 30, strike "may" and substitute "shall".

Amendment No. 84 was adopted.

Amendment No. 85

Representative Y. Davis offered the following amendment to Amendment No. 83:

Amend Amendment No. 83 by Harper-Brown to **CSSB 1420** (page 6, prefiled amendments packet) as follows:

(1) Strike page 2, lines 17-29.

(2) Renumber subsequent added sections of the Transportation Code in the amendment, as applicable.

Amendment No. 85 was adopted.

Amendment No. 83, as amended, was adopted.

Amendment No. 86

Representative Harper-Brown offered the following amendment to **CSSB 1420**:

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Amend **CSSB 1420** (house committee printing) by striking page 32, line 24, through page 33, line 17, and substituting:

Sec. 223.002. NOTICE OF BIDS [~~BY PUBLICATION~~]. (a) The department shall give [~~publish~~] notice to interested persons regarding [~~of~~] the time and place at which bids on a contract will be opened and the contract awarded. Subject to Subsections (b) and (c), the commission by rule shall determine the most effective method for providing the notice required by this section.

(b) The notice must be published in a newspaper published in the county in which the improvement is to be made and, at a minimum, must provide the address of an Internet website on which information regarding bids may be located [~~once a week for at least two weeks before the time set for awarding the contract and in two other newspapers that the department may designate~~].

(c) [~~Instead of the notice required by Subsection (b), if the department estimates that the contract involves an amount less than \$300,000, notice may be published in two successive issues of a newspaper published in the county in which the improvement is to be made.~~

[~~(d)~~] If a newspaper is not published in the county in which the improvement is to be made, notice shall be published in a newspaper published in the county:

(1) nearest the county seat of the county in which the improvement is to be made; and

(2) in which a newspaper is published.

Amendment No. 87

Representative Y. Davis offered the following amendment to Amendment No. 86:

Amend Amendment No. 86 by Harper-Brown to **CSSB 1420** (page 23 of the prefiled amendments packet) on page 1, line 5, by striking "to interested persons".

Amendment No. 87 was adopted.

Amendment No. 86, as amended, was adopted.

Amendment No. 88

On behalf of Representative Farrar, Representative Walle offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 86

Amend **CSSB 1420** as follows:

1. On page 6 (house committee printing) strike line 26 and 27;
2. On page 7 (house committee printing) strike lines 1-3 and;
3. On page 7, line 4 (house committee printing) strike "(e)" and substitute "(d)".

Representative Harper-Brown moved to table Amendment No. 88.

The motion to table prevailed by (Record 609): 102 Yeas, 39 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burnam; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Riddle; Ritter; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burkett; Carter; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzalez; Hernandez Luna; Hochberg; Howard, D.; Lozano; Lucio; Marquez; Martinez; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Raymond; Reynolds; Rodriguez; Scott; Strama; Thompson; Turner; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzales, V.; Martinez Fischer.

Absent, Excused, Committee Meeting — Bonnen; Coleman; Howard, C.

Absent — Johnson; Mallory Caraway; Veasey.

HR 1656 - ADOPTED
(by Dutton, Turner, and Giddings)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1656**.

The motion prevailed.

The following resolution was laid before the house:

HR 1656, In memory of Porter Renfro, Jr., of Houston.

HR 1656 was unanimously adopted by a rising vote.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 1656** as signers thereof.

COMMITTEE GRANTED PERMISSION TO MEET

Representative W. Smith requested permission for the Committee on Environmental Regulation to meet while the house is in session, at 3:45 p.m. today, in 3W.15, to consider **HB 3251** and pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Environmental Regulation, 3:45 p.m. today, 3W.15, for a formal meeting, to consider **HB 3251** and pending business.

HR 1508 - ADOPTED
(by Parker)

Representative Parker moved to suspend all necessary rules to take up and consider at this time **HR 1508**.

The motion prevailed.

The following resolution was laid before the house:

HR 1508, Congratulating the boys' basketball team of Marcus High School in Flower Mound on winning the 2010-2011 UIL 5A state championship and on being named the number one team in the country.

HR 1508 was adopted.

CSSB 1420 - (consideration continued)

Amendment No. 49 - Vote Reconsidered

Representative Smithee moved to reconsider the vote by which Amendment No. 49 was adopted.

The motion to reconsider prevailed.

Amendment No. 89

Representative McClendon offered the following amendment to Amendment No. 49:

Amend Amendment No. 49 by Smithee (page 141 of the prefiled amendment packet) to **CSSB 1420** as follows:

(1) Strike page 1, line 2, and substitute the following:
the following appropriately numbered SECTIONS to the bill and

(2) On page 1, line 5, strike "Section 201.2002" and substitute "Sections 201.2002 and 201.2003".

(3) At the end of the amendment, add the following:

Sec. 201.2003. EDMUND P. KUEMPEL REST AREAS. (a) The eastbound and westbound rest areas located on Interstate Highway 10 in Guadalupe County are designated as the Edmund P. Kuempel Rest Areas.

(b) The department shall design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the Edmund P. Kuempel Rest Areas and any other appropriate information.

(c) The department shall erect markers at appropriate locations at the rest areas.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Amendment No. 89 was adopted.

Amendment No. 49, as amended, was adopted.

Amendment No. 90

Representative Phillips offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 91

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 223.201, Transportation Code, is amended by amending Subsections (f) and (i) and adding Subsections (j), (k), (l), (m), (n), (o), (p), and (q) to read as follows:

(f) The department may ~~[Except as provided by Subsections (h) and (i), the authority to]~~ enter into a comprehensive development agreement only for all or part of:

- (1) the State Highway 99 (Grand Parkway) project;
- (2) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S. Highway 380;
- (3) the North Tarrant Express project in Tarrant and Dallas Counties, including:

(A) on State Highway 183 from State Highway 121 to State Highway 161 (Segment 2E);

(B) on Interstate Highway 35W from Interstate Highway 30 to State Highway 114 (Segments 3A, 3B, and 3C); and

(C) on Interstate Highway 820 from State Highway 183 North to south of Randol Mill Road (Segment 4);

(4) the State Highway 183 managed lanes project in Dallas County from State Highway 161 to Interstate Highway 35E; and

(5) the State Highway 249 project in Harris and Montgomery Counties from Spring Cypress Road to Farm-to-Market Road 1774 ~~[agreements provided by this section expires on August 31, 2009].~~

(i) The authority to enter into a comprehensive development agreement for a project described by Subsection (f), other than the State Highway 99 (Grand Parkway) project, or a project described by Section 91.054 ~~[exempted from Subsection (f) or Section 223.210(b)]~~ expires August 31, 2015 ~~[2011]~~.

(j) Before the department may enter into a comprehensive development agreement under Subsection (f), the department must:

(1) obtain the appropriate environmental clearance not later than September 1, 2012, for any project other than the State Highway 99 (Grand Parkway) project;

(2) present to the commission a full financial plan for the project, including costing methodology and cost proposals; and

(3) pay the full cost of procuring the agreement.

(k) A comprehensive development agreement for the North Tarrant Express project may be comprised of a combination of agreements with one or more private entities.

(l) A comprehensive development agreement for the North Tarrant Express project may provide for negotiating and entering into facility agreements for future phases or segments of the project at the times that the department considers advantageous to the department.

(m) The department is not required to use any further competitive procurement process to enter into one or more related facility agreements with the successful proposer or affiliates of the successful proposer for a comprehensive development agreement for the North Tarrant Express project.

(n) The department may include or negotiate any matter in a comprehensive development agreement for the North Tarrant Express project that the department considers advantageous to the department.

(o) A comprehensive development agreement for the North Tarrant Express project may provide the private participant with a right of first negotiation under which the private participant or its affiliates may elect to negotiate with the department and enter into one or more related facility agreements for future phases or segments of the project without the need to participate in any further competitive procurement process.

(p) The department has exclusive judgment to determine the terms of a comprehensive development agreement for the North Tarrant Express project, including the matters to be negotiated following selection of the private participant and the timing of negotiations.

(q) The department may not develop a project under this section as a project under Chapter 227.

SECTION _____. Subchapter E, Chapter 223, Transportation Code, is amended by adding Section 223.2011 to read as follows:

Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding Section 223.201(f) and Sections 370.305(d) and (f), the department or an authority under Section 370.003 may enter into a comprehensive development agreement relating to improvements to, or construction of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street;

(2) a project consisting of the construction of:

(A) the Outer Parkway Project from U.S. Highway 77/83 to Farm-to-Market Road 1847; and

(B) the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100; or

(3) a project identified as part of the Hidalgo County Loop System or the La Joya Bypass project.

(b) Before the department or an authority may enter into a comprehensive development agreement under this section, the department or the authority, as applicable, must meet the requirements under Section 223.201(j).

(c) The authority to enter into a comprehensive development agreement under this section expires August 31, 2015.

SECTION _____. Section 223.201(h), Transportation Code, is repealed.

SECTION _____. (a) A governmental act taken or a decision made by the Texas Department of Transportation and the Texas Transportation Commission under Subchapter E, Chapter 223, Transportation Code, before the effective date of this Act, to negotiate, execute, or otherwise enter into a comprehensive development agreement or facility agreement relating to the North Tarrant Express Project is conclusively presumed, as of the date the act or decision occurred, to be valid and to have occurred in accordance with all applicable law.

(b) This Act does not validate any governmental act or decision that:

- (1) was void at the time the act or decision occurred;
- (2) violates the terms of federal law or a federal waiver; or
- (3) was a misdemeanor or a felony under a statute of this state or the

United States at the time the act or decision occurred.

(c) This Act does not apply to any matter that on the effective date of this Act:

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

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

Amendment No. 91

Representative Pickett offered the following amendment to Amendment No. 90:

Amend Floor Amendment No. 90 by Phillips (page 91 of the prefiled amendment packet, draft number 82R25237) by adding a new SECTION, appropriately numbered, to read as follows:

SECTION _____. Section 223.203, Transportation Code, is amended by amending Subsections (g), and adding Subsections (f-2), (l-1), (l-2), (p), and (q) to read as follows:

(f-2) A private entity responding to a request for detailed proposals issued under Subsection (f) must identify:

(1) companies that will fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and

(2) entities that will serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.

(g) In issuing a request for detailed proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f). A technical solution presented with a proposal must be fully responsive to, and have demonstrated resources to be able to fulfill, all technical requirements for the project, including specified quality assurance and quality control program

requirements, safety program requirements, and environmental program requirements. A proposal that includes a technical solution that does not meet those requirements is ineligible for further consideration.

(l-1) A private entity selected for a comprehensive development agreement may not make changes to the companies or entities identified under Subsection (f-2) unless the original company or entity:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the private entity;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(l-2) If the private entity makes team changes in violation of Subsection (1), any cost savings resulting from the change accrue to the state and not to the private entity.

(p) All teaming agreements and subconsultant agreements must be executed and provided to the department before the execution of the comprehensive development agreement.

Amendment No. 91 was adopted.

Amendment No. 92

Representative Lucio offered the following amendment to Amendment No. 90:

Amend Floor Amendment No. 90 by Phillips (page 91, prefiled amendments packet) to **CSSB 1420** (house committee report) by inserting the following:

SECTION _____. Subchapter G, Chapter 370, Transportation Code, is amended by adding Section 370.3055 to read as follows:

Sec. 370.3055. LIMITED AUTHORITY FOR STATE HIGHWAY 550 PROJECT USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. Notwithstanding Sections 370.305(d) and (f), an authority may enter into a comprehensive development agreement relating to improvements to State Highway 550 from U.S. Highway 77/83 to State Highway 48.

Amendment No. 92 was adopted.

Amendment No. 93

Representative Hamilton offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendments packet) as follows:

(1) On page 1, line 23, strike "and".

(2) On page 1, line 26, between "1774" and "agreements", insert: ; and

(6) managed lane improvements to the Interstate Highway 69 project from Interstate Highway 10 to the Tyler County line

Amendment No. 93 was adopted.

Amendment No. 94

Representative Lavender offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendments packet) as follows:

(1) On page 1, line 23, strike "and".

(2) On page 1, line 26, between "1774" and "agreements", insert:

; and

(6) the Interstate Highway 69 project in Bowie County from the Sulphur River Bridge to Interstate Highway 30

Amendment No. 94 was adopted.

Amendment No. 95

Representative Fletcher offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 to **CSSB 1420** (82R2) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION. _____. is amended by adding Section 223.2018 to read as follows:

Sec. 223.2018. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) Notwithstanding Sections 223.201(f) and (i), the department may enter into a comprehensive development agreement relating to managed lane improvements to the U.S. Highway 290 Hempstead managed lanes project in Harris County from Interstate Highway 610 to State Highway 99.

(b) This section expires August 31, 2015.

Amendment No. 95 was adopted.

Amendment No. 96

Representative Phillips offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 to **CSSB 1420** (82R25237) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. is amended by adding Section 223.2017 to read as follows:

Sec. 223.2017. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a)

Notwithstanding Section 223.201(f) and Sections 370.305(d) and (f), the

department or an authority under Section 370.003 may enter into a comprehensive development agreement relating to improvements or construction of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street; and

(2) the U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue.

(b) The authority to enter into a comprehensive development agreement under this section expires August 31, 2015.

Amendment No. 96 was adopted.

Amendment No. 97

Representative Phillips offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 to **CSSB 1420** (82R2) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ is amended by adding Section 223.2013 to read as follows:

Sec. 223.2013. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS.

(a) Notwithstanding Sections 223.201(f) and (i), the department may enter into a comprehensive development agreement relating to managed lane improvements to the Grayson County Tollway project, an extension of the Dallas North Tollway in Grayson County;

AMENDMENT NO. 90 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KOLKHORST: Larry, I'm trying to keep up with how many we're adding. How many highways are we up to now?

REPRESENTATIVE PHILLIPS: I think—I don't know the number. I think we've added four.

KOLKHORST: Let's get a final count. One of the things I've noticed on the amendments is some have expiration dates, like Representative Fletcher added one that had an expiration date of 2015. You had one in here in Travis County that had an expiration date—

PHILLIPS: They all have expiration dates. The only one that doesn't have a Sunset date is the Grand Parkway.

KOLKHORST: Okay, but I didn't see that, so it may be popping up on my screen. The one that's currently there, I don't see an expiration date.

PHILLIPS: It's in the—and I don't know why some—

KOLKHORST: It's in preceding language, and I know it's very confusing. We're adding lots and lots.

PHILLIPS: Right, right.

KOLKHORST: We're adding, I think, all the highways in Texas.

PHILLIPS: No. Well, they're not actually—but, Ms. Kolkhorst—

KOLKHORST: We'll get a full count when we finish, but where do I find the expiration date?

PHILLIPS: There's only one, they all sunset on August 31, 2015.

KOLKHORST: They all do? Even though some say that and some don't?

PHILLIPS: Yes. That is the intent. All of them except for the Grand Parkway, and that's what Mr. Otto and I talked about earlier.

KOLKHORST: I just didn't see that, and I don't know how they're filtering in—

PHILLIPS: That is exactly the intent of this author.

KOLKHORST: So, we may need to add that as we—

PHILLIPS: Well, it's actually there, and that's the—

KOLKHORST: So I'll ask the question again, Mr. Phillips, do all of these amendments have Sunset dates?

PHILLIPS: Every project in here is going to have a sunset of August 31, 2015, except for the Grand Parkway, and, Ms. Kolkhorst, even further than this, some of these projects may not meet the further requirements that we have here. We have specific requirements here, and if you want to go through those, I think we have a few more to add. But quite frankly, we have to have—the environmental clearance has to be related by September 1, 2012. We're talking about a year away.

KOLKHORST: Yeah, I just didn't see it popping up on those amendments. Why don't you finish, and we'll see what the count is?

REMARKS ORDERED PRINTED

Representative Kolkhorst moved to print remarks between Representative Phillips and Representative Kolkhorst.

The motion prevailed.

Amendment No. 97 was adopted.

Amendment No. 98

Representative Branch offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 by Phillips to **CSSB 1420** (on page 91 of the prefiled floor amendment packet) by adding the following appropriately numbered item and renumbering subsequent items of the amendment appropriately:

() Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 228, Transportation Code, is amended by adding Section 228.0571 to read as follows:

Sec. 228.0571. INFORMATION ABOUT PAYMENT OF TOLLS. (a) In this section:

(1) "Toll project" has the meaning assigned by Section 372.001.

(2) "Toll project entity" has the meaning assigned by Section 372.001.

(3) "Transponder" has the meaning assigned by Section 228.057.

(b) A toll project entity shall post signs in appropriate locations along a toll project operated by the department or entity, as appropriate, stating whether a transponder issued by another toll project entity may be used to pay the tolls of the toll project.

Amendment No. 98 was adopted.

Amendment No. 99

Representative Y. Davis offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91, prefiled amendments packet) by striking page 2, line 13 through page 3, line 12 and substituting:

(k) The department may not develop a project under this section as a project under Chapter 227.

Amendment No. 99 was adopted.

Amendment No. 100

Representative Weber offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of prefiled amendment packet) as follows:

(1) On page 1, line 26, between "1774" and "[agreements]", insert:

(6) The Highway 288 project in Brazoria & Harris Counties

Amendment No. 100 was adopted.

Amendment No. 101

Representatives Laubenberg, Paxton, Frullo, Flynn, Weber, Perry, Strama, Simpson, Cain, P. King, Torres, Driver, Burkett, Jackson, Nash, Isaac, Sheets, Beck, and Lavender offered the following amendment to Amendment No. 90:

Amend Amendment No. 90 by Phillips to **CSSB 1420** (page 91 of the prefiled amendments packet) by adding the following appropriately numbered items to the amendment and renumbering subsequent items accordingly:

() Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 371, Transportation Code, is amended by adding Section 371.053 to read as follows:

Sec. 371.053. SUNSET REVIEW FOR ENTITIES RECEIVING DEPARTMENT FINANCIAL ASSISTANCE. (a) The governing body of a local toll project entity that receives or has received financial assistance from the department and that has authority to enter into a comprehensive development agreement shall either:

(1) undergo review under Chapter 325, Government Code (Texas Sunset Act) as if it were a state agency; or

(2) undergo an audit by the state auditor in accordance with Chapter 321, Government Code.

(b) A local toll project entity that is subject to review under Subsection (a)(1) may not be abolished.

(c) The local toll project entity that is subject to review under Subsection (a)(1) shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the local toll project entity shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Amendment No. 101 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Bohac on motion of Brown.

CSSB 1420 - (consideration continued)

AMENDMENT NO. 90 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE FLETCHER: Chairman Phillips, this bill does not call for the tolling of any existing roadways?

REPRESENTATIVE PHILLIPS: No. You cannot toll existing roads under our current law.

FLETCHER: This will just reduce congestion in these heavily trafficked areas without any taxes on the citizens?

PHILLIPS: That's exactly right.

AMENDMENT NO. 90 - REMARKS

REPRESENTATIVE Y. DAVIS: Thank you, Mr. Speaker and members, and Chairman Phillips, and all of the colleagues who have added amendments. I'm not opposed to recognizing that. I'm not opposing, or, I recognize we need various tools to deal with the need for resources to build our transportation system out. I just think that the way we've done this amendment is embarrassing, at best. I don't think it was—we know what we have done to our state transportation system. I think it's a fragmented approach to how we deal with what our needs are for the state. I think we've left a department with challenges in terms of blending all of this stuff, so that we will have comprehensive transportation across the State of Texas. And at the end of the day, I think we ought to be more responsible in the approach that we take when we do these kinds of legislative initiatives. I understand everybody has to go home, and they need to say they brought bacon back to the homefront. I will tell you the bacon ought not to be to the extent that it harms what we need to do in terms of the whole pig, and right now this looks pretty shabby, as I see it.

I think that we have differing procedures. When you can talk about projects that eliminate competitive bidding, when you can talk about projects that have differing dates—one of the amendments that we put on this bill probably has the

effect of cutting off all of the CDAs that are on here because they won't make the timeline. I think that's what Chairman Pickett was trying to suggest in minimizing what's actually out there. So what we've done members, and I expect this amendment to pass, but I wanted to be on the record that this is a poor way to do public policy. This is a poor way to look at our resources and what our needs are and come up with a comprehensive way to address it. And lastly, it's a poor way to have differing standards across the state.

You can't tell the department that you want them to create a competitive bid process so that we can create fairness across the state and then take out major projects. You can't tell people that they do projects in segments and other projects, entire projects, and then you can't take the discretion and give it to the department that you've already said the department doesn't perform very well. In this bill, we have a deal that says that the department has exclusive judgment to determine the terms of CDAs. Well, if CDAs are good for this state, then we, as a state, ought to figure out what terms should be in place for all of them so that it works. Lastly, we talked about whether or not the department can include and negotiate any matter. One of the issues that is before us now has to do with letting the department negotiate any matter and the question is whether or not they have that authority.

Members, I would suggest to you that, while I expected all of these amendments that are going to be taken up that deal with public policy, those members that put on their home CDAs, they will be there, but they won't have the ability to be implemented.

And so what we're doing is doing something we do consistently on this floor—misrepresent the honorable thing with regard to what they're doing. It saddens me that we would not be more serious about something that everyone says is so critical to the vibrancy of this state, which is transportation.

And with that members, I would ask that you at least consider, when you vote for this amendment, at least consider what you're doing, and what the long term effect will be for this state. Because right then, I don't know if Representative Kolkhorst phrased it this way, but I would just like to ask, do we know how many roads we own in Texas now? Do we know how many roads we sold, or auctioned off, or rented out to be built? And now, while I'm not suggesting that we shouldn't take private money and work within that framework, but I think there ought to be conditions. And there ought to be some way that we monitor what we're doing so that we're not at the urge of what somebody else wants to be done, but what's in the best interest for Texas. And what I would suggest is that a broken approach is not the way to get there. And with that members, I would ask that you consider voting no and requiring, requesting, expecting, and demanding more of the committee, as well as more of yourselves, because that's what we're talking about. With that members, I ask that you vote no on this amendment.

Amendment No. 90, as amended, was adopted by (Record 610): 110 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Anchia; Anderson, R.; Aycock; Beck; Berman; Branch; Brown; Burkett; Burnam; Button; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, D.; Huberty; Jackson; Johnson; Kuempel; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Price; Quintanilla; Riddle; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Aliseda; Alonzo; Anderson, C.; Cain; Carter; Castro; Davis, Y.; Farias; Hardcastle; Hughes; Hunter; Isaac; Keffer; King, P.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Lewis; Mallory Caraway; Perry; Pitts; Reynolds; Schwertner; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Gonzales, V.; Martinez Fischer.

Absent, Excused, Committee Meeting — Bonnen; Coleman; Howard, C.

Absent — Garza; Hilderbran; King, S.; Raymond; Smithee; Veasey.

STATEMENTS OF VOTE

When Record No. 610 was taken, my vote failed to register. I would have voted no.

Hilderbran

When Record No. 610 was taken, I was temporarily out of the house chamber. I would have voted yes.

S. King

I was shown voting yes on Record No. 610. I intended to vote no.

Sheffield

I was shown voting yes on Record No. 610. I intended to vote no.

Simpson

I was shown voting yes on Record No. 610. I intended to vote no.

Zedler

REMARKS ORDERED PRINTED

Representative Huberty moved to print remarks between Representative Phillips and Representative Fletcher.

The motion prevailed.

Amendment No. 102

Representative Lucio offered the following amendment to **CSSB 1420**:

Floor Packet Page No. 203

Amend **CSSB 1420** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 162.102, Tax Code, is amended to read as follows:

Sec. 162.102. TAX RATE. The gasoline tax rate is 25 [~~20~~] cents for each net gallon or fractional part on which the tax is imposed under Section 162.101.

(b) Section 162.202, Tax Code, is amended to read as follows:

Sec. 162.202. TAX RATE. The diesel fuel tax rate is 25 [~~20~~] cents for each net gallon or fractional part on which the tax is imposed under Section 162.201.

(c) The change in law made by this section does not affect taxes imposed before the effective date of this section, and the law in effect before that date is continued in effect for purposes of the liability for and collection of those taxes.

Amendment No. 102 was withdrawn.

REMARKS ORDERED PRINTED

Representative Alonzo moved to print remarks by Representative Y. Davis on Amendment No. 90.

The motion prevailed.

CSSB 1420, as amended, was passed to third reading. (Carter recorded voting no.)

HB 2675 - LAID ON THE TABLE SUBJECT TO CALL

Representative Harper-Brown moved to lay **HB 2675** on the table subject to call.

The motion prevailed.

FIVE-DAY POSTING RULE SUSPENDED

Representative W. Smith moved to suspend the five-day posting rule to allow the Committee on County Affairs to consider **HB 330**, **SB 310**, **SB 470**, **SB 801**, **SB 860**, **SB 1233**, and **SB 1243** at 8:30 a.m. Monday, May 2 in E2.026.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

County Affairs, 8:30 a.m. Monday, May 2, E2.026, for a public hearing, to consider **HB 330**, **SB 310**, **SB 470**, **SB 801**, **SB 860**, **SB 1233**, and **SB 1243**.

PROVIDING FOR ADJOURNMENT

Representative Otto moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. Monday, May 2.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(V. Taylor in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 4:51 p.m., adjourned until 10 a.m. Monday, May 2.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3860 (By Oliveira), Relating to the creation of the Port Isabel Improvement District No. 1; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Land and Resource Management.

HB 3861 (By Craddick), Relating to the creation of the Midland County Utility District; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

To Natural Resources.

HB 3862 (By W. Smith), Relating to temporary directors and the continuation in existence of the Harris County Municipal Utility District No. 510.

To Natural Resources.

SB 16 to State Affairs.

SB 218 to Human Services.

SB 365 to State Affairs.

SB 373 to County Affairs.
SB 529 to Licensing and Administrative Procedures.
SB 604 to Criminal Jurisprudence.
SB 627 to Ways and Means.
SB 631 to Technology.
SB 632 to Higher Education.
SB 714 to Natural Resources.
SB 736 to Public Health.
SB 779 to Criminal Jurisprudence.
SB 878 to Criminal Jurisprudence.
SB 879 to Criminal Jurisprudence.
SB 880 to Corrections.
SB 933 to Government Efficiency and Reform.
SB 945 to Higher Education.
SB 953 to Corrections.
SB 957 to Human Services.
SB 959 to Transportation.
SB 966 to Defense and Veterans' Affairs.
SB 987 to Natural Resources.
SB 997 to Elections.
SB 1002 to State Affairs.
SB 1003 to Environmental Regulation.
SB 1005 to Higher Education.
SB 1010 to Criminal Jurisprudence.
SB 1025 to Judiciary and Civil Jurisprudence.
SB 1034 to Elections.
SB 1035 to Transportation.
SB 1044 to Land and Resource Management.
SB 1046 to Elections.
SB 1047 to Economic and Small Business Development.
SB 1055 to Corrections.
SB 1058 to Natural Resources.
SB 1069 to State Affairs.
SB 1094 to Public Education.

- SB 1098** to Criminal Jurisprudence.
- SB 1103** to Criminal Jurisprudence.
- SB 1116** to Criminal Jurisprudence.
- SB 1130** to Ways and Means.
- SB 1132** to Natural Resources.
- SB 1133** to State Affairs.
- SB 1154** to Human Services.
- SB 1159** to Judiciary and Civil Jurisprudence.
- SB 1177** to Public Health.
- SB 1178** to Human Services.
- SB 1185** to Ways and Means.
- SB 1216** to Judiciary and Civil Jurisprudence.
- SB 1219** to State Affairs.
- SB 1225** to Natural Resources.
- SB 1228** to Judiciary and Civil Jurisprudence.
- SB 1236** to Judiciary and Civil Jurisprudence.
- SB 1240** to Business and Industry.
- SB 1248** to Transportation.
- SB 1257** to Land and Resource Management.
- SB 1267** to Judiciary and Civil Jurisprudence.
- SB 1270** to State Affairs.
- SB 1273** to Criminal Jurisprudence.
- SB 1290** to Natural Resources.
- SB 1291** to Insurance.
- SB 1292** to Homeland Security and Public Safety.
- SB 1293** to Energy Resources.
- SB 1295** to Natural Resources.
- SB 1302** to Elections.
- SB 1304** to Higher Education.
- SB 1307** to Transportation.
- SB 1319** to Pensions, Investments, and Financial Services.
- SB 1320** to Business and Industry.
- SB 1322** to Judiciary and Civil Jurisprudence.
- SB 1325** to Higher Education.

- SB 1331 to Criminal Jurisprudence.
- SB 1342 to Licensing and Administrative Procedures.
- SB 1349 to Public Education.
- SB 1361 to Natural Resources.
- SB 1368 to Business and Industry.
- SB 1385 to Ways and Means.
- SB 1393 to State Affairs.
- SB 1410 to Public Education.
- SB 1413 to Ways and Means.
- SB 1431 to Insurance.
- SB 1434 to Energy Resources.
- SB 1462 to Border and Intergovernmental Affairs.
- SB 1477 to Defense and Veterans' Affairs.
- SB 1478 to Energy Resources.
- SB 1480 to Agriculture and Livestock.
- SB 1484 to Public Education.
- SB 1494 to Judiciary and Civil Jurisprudence.
- SB 1504 to Environmental Regulation.
- SB 1545 to Judiciary and Civil Jurisprudence.
- SB 1578 to Transportation.
- SB 1596 to Natural Resources.
- SB 1600 to Homeland Security and Public Safety.
- SB 1605 to Environmental Regulation.
- SB 1612 to Pensions, Investments, and Financial Services.
- SB 1613 to State Affairs.
- SB 1617 to Corrections.
- SB 1618 to Government Efficiency and Reform.
- SB 1638 to State Affairs.
- SB 1650 to Transportation.
- SB 1655 to Insurance.
- SB 1660 to Defense and Veterans' Affairs.
- SB 1661 to Public Health.
- SB 1668 to Pensions, Investments, and Financial Services.
- SB 1669 to Pensions, Investments, and Financial Services.

SB 1692 to County Affairs.
SB 1701 to Criminal Jurisprudence.
SB 1702 to Criminal Jurisprudence.
SB 1706 to Transportation.
SB 1707 to Transportation.
SB 1708 to Transportation.
SB 1709 to Transportation.
SB 1710 to Transportation.
SB 1711 to Transportation.
SB 1714 to Economic and Small Business Development.
SB 1719 to Transportation.
SB 1733 to Licensing and Administrative Procedures.
SB 1734 to Higher Education.
SB 1736 to Economic and Small Business Development.
SB 1739 to Defense and Veterans' Affairs.
SB 1766 to Defense and Veterans' Affairs.
SB 1810 to Pensions, Investments, and Financial Services.
SB 1831 to Transportation.
SB 1885 to Transportation.
SB 1887 to Judiciary and Civil Jurisprudence.
SCR 2 to Natural Resources.
SCR 11 to Culture, Recreation, and Tourism.
SCR 16 to Culture, Recreation, and Tourism.
SCR 18 to Culture, Recreation, and Tourism.

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, April 29, 2011

The Honorable Speaker of the House
House Chamber
Austin, Texas
Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 4 Shapiro

Relating to certification, performance, continuing education, and appraisal of public school teachers.

SB 9 Williams

Relating to homeland security; providing penalties.

SB 23 Nelson

Relating to efficiency, cost-saving, fraud prevention, and funding measures for certain health and human services and health benefits programs, including the medical assistance and child health plan programs.

SB 1505 Uresti

Relating to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Friday, April 29, 2011 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 861 Patrick, Diane SPONSOR: Davis

Relating to membership of the state continuing advisory committee for special education services.

HB 906 Thompson SPONSOR: Rodriguez

Relating to appointments made in and the appeal of certain suits affecting the parent-child relationship.

(Amended)

HB 1956 Thompson SPONSOR: Carona

Relating to appeal of an order of the Texas Alcoholic Beverage Commission or the commission's administrator refusing, canceling, or suspending a license or permit.

(Amended)

HCR 140 Davis, Sarah SPONSOR: Ellis
Commemorating the 70th anniversary of MD Anderson Cancer Center.

SB 506 Deuell
Relating to consumption advisories for mercury contamination in fish, crustaceans, molluscan shellfish, and other aquatic and terrestrial animals.

SB 530 Huffman
Relating to granting limited state law enforcement authority to special agents of the Office of Inspector General of the United States Social Security Administration and to updating certain references related to the grant of that authority to other federal law enforcement personnel.

SB 533 Davis
Relating to the minimum standards for the certifications of sexual assault training programs and sexual assault nurse examiners and for certification renewal by those entities.

SB 637 Nichols
Relating to the recovery of certain rate case expenses by an investor-owned water and sewer utility.

SB 1066 Estes
Relating to adding certain synthetic stimulants to Penalty Group 2 of the Texas Controlled Substances Act.

SB 1104 Jackson
Relating to the operation, powers, and duties of ship channel districts.

SB 1443 Zaffirini
Relating to the mailing of notices, decisions, and reports by the Texas Ethics Commission.

SB 1511 West
Relating to minimum standards for approval of educator preparation programs.

SB 1560 Ellis
Relating to liability of certain local emergency management or homeland security organizations.

SB 1608 Carona
Relating to operating a motor vehicle without a driver's license or financial responsibility; creating a penalty.

SB 1686 Ellis
Relating to group health benefits coverage for persons wrongfully imprisoned.

SCR 25 Hinojosa
Expressing continued support for the construction of a monument on Capitol grounds recognizing Texans who served in the Vietnam War.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 423 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 28

Border and Intergovernmental Affairs - **SB 978**

Corrections - **SB 653**

County Affairs - **HB 2348**

Criminal Jurisprudence - **HB 1706, HB 1722, HB 1919, HB 2397, HB 3381**

Economic and Small Business Development - **HB 2493, HB 2755**

Elections - **HB 1036, HB 1502, HB 2752, HB 3582**

Energy Resources - **SB 655**

Higher Education - **HB 2825**

Homeland Security and Public Safety - **HB 1765, HB 2805**

Insurance - **HB 1355, HB 1554, HB 2604, HB 2834, HB 3017, HB 3117, HB 3161, HB 3458, HB 3589, SB 822, SB 918**

Judiciary and Civil Jurisprudence - **HB 1897, HB 1989, HB 2009, HB 2031, HB 2496, SB 428, SB 1160**

Licensing and Administrative Procedures - **HB 2728**

State Affairs - **HB 326, HB 519, HB 608, HB 751, HB 977, HB 1455, HB 1580, HB 1671, HB 1870, HB 1871, HB 2295, HB 2578, HB 2709, HB 2921, HJR 88, SB 327, SB 403, SB 1151, SB 1153**

ENGROSSED

April 28 - HB 150, HB 2624

SENT TO THE GOVERNOR

April 28 - HB 612, HB 613, HCR 120, HCR 134, HCR 136

