

AN ACT

relating to toll collection services provided by a regional tollway authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 366.038, Transportation Code, is amended to read as follows:

Sec. 366.038. TOLLING SERVICES [~~TOLL COLLECTION~~]. (a) In this section, "tolling services" means the tolling services normally provided through an authority's customer service center, including customer service, customer account maintenance, transponder supply, and toll collection and enforcement.

(b) An authority shall provide, for reasonable compensation, tolling [~~customer service and other toll collection and enforcement~~] services for a toll project in the boundaries of the authority, regardless of whether the toll project is developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the authority or another entity. This section does not restrict an authority from agreeing to provide additional tolling services in an agreement described in Subsection (d). Additional tolling services provided under an agreement under that subsection are subject to the provisions that apply to tolling services under this section.

(c) An authority may not provide financial security, including a cash collateral account, for the performance of tolling

1 services the authority provides under this section if:

2 (1) the authority determines that providing security
3 could restrict the amount, or increase the cost, of bonds or other
4 debt obligations the authority may subsequently issue under this
5 chapter; or

6 (2) the authority is not reimbursed its cost of
7 providing the security.

8 (d) Before providing tolling services for a toll project
9 under this section, an authority must enter into a written
10 agreement that sets out the terms and conditions for the tolling
11 services to be provided and the terms of compensation for those
12 services.

13 (e) Toll revenues are the property of the entity that is
14 entitled to the revenues under a tolling services agreement for the
15 toll project, regardless of who holds or collects the revenues.
16 Toll revenues that are held or collected by an authority under a
17 tolling services agreement and are not the property of the
18 authority are not subject to a claim adverse to the authority or a
19 lien on or encumbrance against property of the authority. Toll
20 revenues that are the property of the authority are not subject to a
21 claim adverse to any other entity or a lien on or encumbrance
22 against property of any other entity.

23 (f) An authority may agree in a tolling services agreement
24 that its right and obligation to provide tolling services for the
25 applicable toll project under this section are subject to
26 termination for default and that after a termination for default
27 this section does not apply to that toll project.

1 (g) Any public or private entity, including an authority or
2 the department, may agree to fund a cash collateral account for the
3 purpose of providing money that may be withdrawn as provided in the
4 tolling services agreement because of an authority's failure to
5 make any payment as required by the tolling services agreement. An
6 authority's written commitment to fully or partially fund a cash
7 collateral account is conclusive evidence of the authority's
8 determination that the commitment does not violate Subsection (c).
9 The department may use money from any available source to fund a
10 cash collateral account under this subsection.

11 SECTION 2. Subsection (c), Section 366.038, Transportation
12 Code, as added by this Act, does not apply to any project, or
13 portion of any project, described in a tolling services agreement a
14 regional tollway authority enters into with the Texas Department of
15 Transportation or a private participant in a comprehensive
16 development agreement before the effective date of this Act.

17 SECTION 3. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2011.

S.B. No. 246

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 246 passed the Senate on March 30, 2011, by the following vote: Yeas 30, Nays 1.

Secretary of the Senate

I hereby certify that S.B. No. 246 passed the House on May 20, 2011, by the following vote: Yeas 149, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor