

TRANSPORTATION CODE

CHAPTER 224. ACQUISITION, CONSTRUCTION, AND MAINTENANCE
SUBCHAPTER A. ACQUISITION GENERALLY

Sec. 224.001. ACQUISITION BY DEPARTMENT. The department shall acquire by purchase, gift, or eminent domain any right-of-way necessary for the national system of interstate and defense highways.

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

Sec. 224.002. ACQUISITION BY COUNTY OR MUNICIPALITY GENERALLY. (a) A county or municipality shall acquire, in the manner provided by law, the highway right-of-way that is requested by the department.

(b) Chapter 21, Property Code, governs the procedure for an acquisition by eminent domain.

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

Sec. 224.003. ACQUISITION BY COMMISSIONERS COURT. (a) The commissioners court of a county may acquire by purchase or eminent domain any real property, including a right-of-way, or material, including timber, earth, stone, or gravel, that the commission determines is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended. Real property acquired for streambed diversion may not exceed 100 feet in width.

(b) The commission shall furnish to the commissioners court the plats or field notes of the real property and the description of any required materials. After receiving the plats, notes, or description, the commissioners court may make the acquisition in accordance with those documents.

(c) The acquisition is on behalf of the state with title to the State of Texas.

(d) The commissioners court may exercise the power of eminent domain within the limits of a municipality only with the prior consent of the municipality's governing body.

(e) The county may pay for the acquisition from the county road and bridge fund, a special road fund, or any other available county fund.

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

Sec. 224.004. STATE'S USE OF EMINENT DOMAIN. (a) If the commissioners court does not acquire a right-of-way under Section 224.003, the commission shall immediately serve the commissioners court with an order identifying the right-of-way by field notes and requesting the commissioners court to acquire the right-of-way.

(b) Not later than the 10th day after the date the order is served, the commission shall direct the attorney general to initiate eminent domain proceedings on behalf of the state to acquire the right-of-way.

(c) Venue is in the county in which the right-of-way is located. The district or county attorney for that county shall initiate the eminent domain proceedings.

(d) Chapter 21, Property Code, governs the procedure for the eminent domain proceeding except that the county judge appoints the special commissioners.

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

Sec. 224.005. PARTICIPATION BY DEPARTMENT. (a) In the acquisition of a right-of-way requested by the department in cooperation with local officials for a highway designated by the commission as a United States highway or state highway, the department shall pay to the county or municipality not less than 90 percent of the value, as determined by the department, of the right-of-way or the net cost of the right-of-way, whichever amount is less.

(b) If the acquisition is by eminent domain, the participation by the department shall be based on the final judgment if the department has been notified in writing before the filing of the suit and given prompt notice as to all action taken in the suit. The department is entitled to become a party at any time for any purpose, including the right of appeal.

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

Sec. 224.006. PAYMENT TO COUNTY OR MUNICIPALITY. (a) On delivery to the department of acceptable instruments conveying to the state the requested right-of-way, the department shall prepare and transmit to the comptroller vouchers covering the payment to the county or municipality of the department's share of the cost of acquiring the right-of-way.

(b) The comptroller shall issue warrants on the appropriate

account covering the state's obligation as evidenced by the vouchers.

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

Sec. 224.007. PURCHASE OF LEASE RIGHTS. (a) Before acquiring property under this subchapter, the department may purchase the right to lease the property to a third party.

(b) The department may make a purchase under Subsection (a) only if the department first determines that the owner is unable to lease or rent the property because of the impending acquisition by the department.

(c) The consideration for the purchase of a lease right under this section may not exceed the fair market rental value of the property as determined by the department and shall be credited against the total compensation due the owner when the department acquires the property.

(d) Payment under this section may be made in periodic increments until the property is acquired by the department. The aggregate total of payments before acquisition may not exceed the department's appraised value of the property.

(e) This section shall be implemented in accordance with applicable administrative rules and policies of the department.

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

Sec. 224.008. UTILITY RELOCATION COSTS. In the acquisition of a highway right-of-way by or for the department, the cost of relocating or adjusting utility facilities, which cost may be eligible under law, is a cost of the acquisition.

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

SUBCHAPTER B. CONSTRUCTION AND MAINTENANCE GENERALLY

Sec. 224.031. DUTY OF DEPARTMENT. (a) The department has exclusive and direct control of all improvement of the state highway system.

(b) The department shall prepare and pay for surveys, plans, specifications, and estimates for all construction and improvement of the state highway system.

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

Sec. 224.032. DUTY OF COMMISSION. (a) In the development and maintenance of the state highway system, the commission shall provide for the:

(1) efficient maintenance of the system;
(2) construction, in cooperation with the United States to the extent of federal aid to the state, of durable highways of the greatest public necessity;

(3) construction of highways to perfect and extend a correlated system of state highways, independently from state funds; and

(4) construction of highways to provide access to significant new naval military facilities and to provide for the state highway system in impacted regions.

(b) Subsection (a) shall be implemented from funds available to the department except that Subsection (a)(4) shall be implemented only from the state highway fund.

(c) In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).

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

Sec. 224.033. COUNTY IMPROVEMENT OF STATE SYSTEM. (a) The commission may enter into an agreement with the commissioners court of a county for the improvement by the county of the state highway system.

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.26, eff. Sept. 1, 1997.

SUBCHAPTER C. CONTRACT WITH TRANSPORTATION CORPORATION

Sec. 224.061. DEFINITIONS. In this subchapter:

(1) "Construction" includes improvement.

(2) "Highway" includes an improvement to a highway.

(3) "Improvement" includes landscaping.

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

Sec. 224.062. AUTHORITY TO CONTRACT. The commission may contract with a transportation corporation created by the commission under Chapter 431 for the purpose of acquiring highways to be constructed by the corporation.

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

Sec. 224.063. SUFFICIENCY OF FUNDS. (a) Before contracting under this subchapter, the commission shall determine that it will have sufficient funds available in the year of acquisition to meet its financial obligations under the contract.

(b) Payment of any obligation in the contract is contingent on a legislative appropriation for that purpose in the year the obligation is due, and the contract must state that fact.

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

Sec. 224.064. TERMS AND CONDITIONS. (a) The commission shall determine the terms of a contract under this subchapter.

(b) The contract may not extend for a period of more than six years after the date of execution.

(c) The contract must provide that:

(1) the highway to be acquired is free of debts, liens, or other encumbrances at the time of acquisition;

(2) the highway to be constructed meets minimum design criteria prescribed by the commission;

(3) construction contracts are awarded through competitive bidding to the low bidder;

(4) priority of construction is assigned to particular highway segments;

(5) particular highway segments are opened to the public on completion of construction under right of entry even if consideration has not been paid by the commission; and

(6) the highway right-of-way is fully landscaped before acquisition by the commission.

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

Sec. 224.065. CONSTRUCTION MANAGEMENT SERVICES. (a) The commission may contract with a transportation corporation constructing a highway for the commission to supervise the construction of the highway and provide construction management services for the corporation.

(b) The transportation corporation shall pay the commission for the supervision and management services at the time the services are provided.

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

Sec. 224.066. ADDITIONAL POWERS. In addition to the powers granted under this subchapter, the commission has any other power that is reasonable and necessary to allow it to contract with a transportation corporation for the construction of a highway as provided by this subchapter.

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

SUBCHAPTER D. DETOUR ROADS

Sec. 224.091. DETOUR ROAD REQUIRED. (a) If construction on a part of the state highway system causes the closing of a road to traffic, the department shall select, improve, and maintain an all-weather detour road for the convenience of the public.

(b) A detour road shall be used and controlled under the same conditions and authority as that exercised over the state highway system.

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

Sec. 224.092. DUTIES OF COMMISSION. The commission shall provide for the:

(1) equipment and maintenance of a detour road in a manner adequate for the convenience and safety of normal traffic using the road; and

(2) posting of necessary signs at each end of the detour road for the guidance and convenience of the public.

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

Sec. 224.093. DUTY OF COUNTY. A county shall cooperate with the commission as necessary to adequately provide for the traffic requirements of the public in the selection and maintenance of a detour road in the county.

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

SUBCHAPTER E. INTERSTATE BRIDGES

Sec. 224.121. CONDITION FOR IMPLEMENTATION. The department may implement this subchapter only if:

(1) another state has enacted a statute providing for the acquisition, construction, and maintenance of a bridge described by Section 224.122 and for the use of the bridge by the

public without charge; and

(2) the bridge connects designated highways of this state and the other state.

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

Sec. 224.122. INTERSTATE BRIDGE AUTHORIZED. The department may spend or allocate aid from any available money to acquire, construct, or maintain a bridge across a stream that is a boundary between this and another state in an amount not to exceed one-half of the amount necessary to acquire, construct, or maintain the bridge.

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

Sec. 224.123. AUTHORITY TO CONTRACT. The department by the authority of the governor may agree with appropriate departments of an adjoining state and the United States to implement this subchapter for the purpose of furnishing substantial bridges across this state's boundaries for the use of the traveling public without charge.

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

SUBCHAPTER F. CONGESTION MITIGATION PROJECTS AND FACILITIES

Sec. 224.151. DEFINITIONS. In this subchapter:

(1) "Congestion" means the level at which transportation system performance is no longer acceptable because of traffic interference. The level of acceptable system performance may vary by type of transportation facility, geographic location, or time of day.

(2) "Congestion mitigation" means projects and facilities used to reduce congestion by promoting the use of carpools and vanpools, improve air quality, conserve fuel, and enhance the use of existing highways and facilities on the state highway system.

(3) "High occupancy vehicle" means a bus or other motorized passenger vehicle such as a carpool or vanpool vehicle used for ridesharing purposes and occupied by a specified minimum number of persons.

(4) "High occupancy vehicle lane" means one or more lanes of a highway or an entire highway where high occupancy vehicles are given at all times, or at regularly scheduled times, a priority or preference over some or all other vehicles moving in the general stream of all highway traffic.

(5) "Motor vehicle" has the meaning assigned by Section 522.003.

(6) "Transportation corporation" means a transportation corporation created by the state under Chapter 431.

(7) "Exclusive lane" means a lane of a highway or segment of a highway the use of which is restricted to one or more designated classifications of motor vehicle.

(8) "Low-emissions vehicle" means a vehicle that meets emissions standards established by commission rule.

(9) "Restricted lane" includes:

(A) a high occupancy vehicle lane;

(B) a toll lane under Section 228.007; and

(C) an exclusive lane.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1049, Sec. 1, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 2.22, eff. June 14, 2005.

Sec. 224.152. PURPOSE. (a) Subject to the availability of state and federal funds, it is the intent of the legislature to further the purposes of the United States Congress as expressed in 23 U.S.C. Sections 134, 135, 146, and 149 and in Section 1012(b) of Pub. L. No. 102-240, as amended, to improve safety, conserve fuel, decrease traffic congestion during rush hours, improve air quality, develop innovative techniques to finance transportation projects, and enhance the use of existing highways and facilities.

(b) The legislature declares that it is necessary, to further the purposes described by Subsection (a), to provide for the participation of the department, including the expenditure of available funds by the department, in projects and facilities for the purpose of congestion mitigation.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1049, Sec. 2, eff. June 20, 2003.

Sec. 224.153. HIGH OCCUPANCY VEHICLE LANES AUTHORIZED. (a) The department may finance, designate, design, construct, operate, or maintain one or more lanes on a multi-lane highway facility as

dedicated high occupancy vehicle lanes on the state highway system.

(b) The department may enter into an agreement with a transit authority under Chapter 451, 452, or 453, a regional mobility authority under Chapter 361, a coordinated county transportation authority under Chapter 460, a municipality, or a transportation corporation for the design, construction, operation, or maintenance of a high occupancy vehicle lane.

(c) The department may authorize a motorcycle or a low-emissions vehicle to use a high occupancy vehicle lane designated under this section regardless of the number of persons on the motorcycle or occupants in the vehicle.

Text of subsec. (d) as added by Acts 2003, 78th Leg., ch. 1049, Sec.

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(d) The department may not authorize the use of a high occupancy vehicle lane designed, constructed, operated, or maintained under Subsection (b) by a motorcycle or a low-emissions vehicle that is not occupied by the required minimum number of persons if the use would impair the receipt of federal transit funds.

Text of subsec. (d) as added by Acts 2003, 78th Leg., ch. 1331, Sec.

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(d) The department may not authorize vehicles addressed in Subsection (c) to use a high occupancy vehicle lane if such use would violate federal transit or highway funding restrictions.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 967, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1331, Sec. 23, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1049, Sec. 3, eff. June 20, 2003; Acts 2005, 79th Leg., ch. 991, Sec. 1, eff. Sept. 1, 2005.

Sec. 224.1541. EXCLUSIVE LANES. (a) The commission by order may designate and the department may finance, design, construct, operate, or maintain one or more lanes of a state highway facility as exclusive lanes.

(b) The commission may designate a lane as an exclusive lane under Subsection (a) only if the commission determines that:

(1) there:

(A) are two or more lanes adjacent to the proposed exclusive lane for the use of vehicles other than vehicles for which the lane is restricted; or

(B) is a multilane facility adjacent to the proposed exclusive lane for the use of vehicles other than vehicles for which the lane is restricted; and

(2) the use or operation of the exclusive lane is likely to enhance safety, mobility, or air quality.

(c) The adjacent lanes or adjacent multilane facility under Subsection (b) may be designated as exclusive lanes or an exclusive lane facility for the use of vehicles that are prohibited from using the exclusive lane.

(d) Renumbered as V.T.C.A., Transportation Code Sec. 228.008 by Acts 2005, 79th Leg., ch. 281, Sec. 2.37.

Added by Acts 2003, 78th Leg., ch. 1049, Sec. 5, eff. June 20, 2003. Amended by Acts 2005, 79th Leg., ch. 281, Sec. 2.37, eff. June 14, 2005.

Sec. 224.1542. POLICE AND EMERGENCY VEHICLES. A restriction imposed on a restricted lane under this subchapter does not apply to a police vehicle or an authorized emergency vehicle as defined by Section 541.201.

Added by Acts 2003, 78th Leg., ch. 1049, Sec. 6, eff. June 20, 2003.

Sec. 224.1543. TRAFFIC CONTROL DEVICES. (a) The department shall erect and maintain official traffic control devices necessary to implement and ensure compliance with lane restrictions designated under this subchapter. The department, in a contract to operate a toll lane under this subchapter, may authorize the contracted entity to erect and maintain necessary official traffic control devices.

(b) Section 544.004 applies to a traffic control device erected under this section.

Added by Acts 2003, 78th Leg., ch. 1049, Sec. 6, eff. June 20, 2003.

Sec. 224.159. ADOPTION OF RULES; PRESCRIBE FORMS. The commission shall adopt rules and prescribe forms to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997.