

THE 82nd LEGISLATURE

AND ITS IMPACT ON THE ENGINEERING INDUSTRY



**TEXAS COUNCIL OF ENGINEERING
COMPANIES**

**DALLAS AND TARRANT COUNTY
JOINT MEETING**

JUNE 30, 2011

WATER/NATURAL RESOURCES



- **Additional Water Development Bond Authority**
- **Narrowing of Dam Safety Exemptions**
 - Only lower hazard facilities impounding less than 500 a.f. located outside of incorporated areas and larger counties
- **Expedited Release From CCNs**
 - Landowners of 25 acres not receiving service
 - Counties of 1 million and adjacent counties

ARCHITECT–ENGINEER BUILDING DESIGN ISSUES



- Defines
 - Tasks within the practice of engineering (eg., structural, mechanical, plumbing, surface water management, etc.)
 - Tasks within the practice of architecture (eg., floor plans, ceiling plans, surface materials, etc.)
 - Tasks within both practices (eg., site plans, life safety plans, etc.)
 - Grandfathering process

TORT REFORM



- Enhanced “Motion to Dismiss” Options for Frivolous Claims
- Expedited Handling of Claims Less Than \$100,000
- Easier Mid-Case Appeals for Controlling Matters of Law

PROPOSITION 12 BONDS



- **\$3 Billion in New Projects**
 - \$300 million for planning, outsourced engineering, ROW on most congested segments in four largest metro areas
 - \$600 million urban and metro mobility distributed by formula
 - \$200 million statewide connectivity
 - \$1.4 billion rehab and safety
 - \$500 million for a list of bridge projects

CDAs



- Department authorized to use a CDA only for
 - SH 99 (Grand Parkway) project
 - IH 35E managed lanes project in Dallas and Denton Counties from IH 635 to US 380
 - North Tarrant Express project in Dallas and Tarrant Counties, including
 - ✦ SH 183 from SH 121 to SH 161 (Segment 2E)
 - ✦ IH 35W from IH 30 to SH 114 (Segments 3A, 3B, 3C)
 - ✦ IH 820 from SH 183 North to south of Randol Mill Road (Segment 4)
 - SH 183 managed lanes in Dallas County from SH 161 to I 35E
 - SH 249 project in Harris and Montgomery Counties from Spring-Cypress Road to FM 1774
 - Highway 288 project in Harris and Brazoria Counties

CDAs (cont.)



- The department or a regional mobility authority may use a CDA for
 - Loop 1 MoPac improvement project from FM 734 to Cesar Chavez St.
 - US 183 project from Springdale Road to Patton Avenue
 - A project consisting of the construction of the Outer Parkway project from US 77/83 to FM 1847 and the South Padre Island Second Causeway

CDAs (cont.)



- Other than SH 99, these authorizations expire 8/31/15
- Before proceeding on any of those listed, the department (or an authority) must obtain environmental clearance by 8/31/13 and present a full financial plan for the project.

CDAs (cont.)



- **Reforms to CDA procurement:**
 - A private entity proposing on a project must identify companies that will play key project roles, including lead design, QA/QC, task leaders for geotechnical, hydraulics and hydrology, structural, etc.
 - No changes may be made to the team after selection except for failure to perform or negotiate in good faith. Cost savings from changes accrue to the state.
 - Technical solutions presented with a proposal must be responsive to, and have demonstrated resources to be able to fulfill, all technical requirements for the project.
 - All teaming agreements and subconsultant agreements must be in place prior to the execution of the CDA.

DESIGN-BUILD TxDOT & RMAs



- Three projects per year for TxDOT with minimum estimated construction cost of \$50 million.
- Two projects per year for RMAs.
- RMAs allowed to use design-build-finance.
- Procurement process:
 - Independent engineer
 - Independent acceptance testing
 - Prequalification phase
 - Technical and cost proposals/minimum 70 percent weighting for cost
 - Negotiations in order of ranking
 - Limits on risk transfer
 - Mandatory stipend of 0.25%

TRANSPORTATION REINVESTMENT ZONES



- De-coupling of TRZs and pass-through tolls
- Authorizes both property and sales tax increments
- Requires delegation of project authority (design, letting, construction oversight) at request of sponsor and execution of agreement with DOT

ENVIRONMENTAL REVIEW



- DOT must promulgate standards for processing documents for highway projects addressing content, deadlines, other
- Establishes process for local sponsor to develop a document
- Limits on times for DOT review and decision-making (based on type of document) and review times for other review agencies

PROCUREMENT/PROJECT DELIVERY



- Comprehensive alternate project delivery consolidation (HB 628)
- Local government contracts with private entities to act as agents in the design and construction (including oversight) of civil works projects. Agent must comply with A/E laws, professional services procurement, and other procurement laws that apply to government entity (HB 2729)

PUBLIC-PRIVATE PARTNERSHIPS



- SB 1048 establishes a process for government entities to contract with private entities to construct, finance, and operate a range of facilities
- Solicited or unsolicited proposals
- Adoption of guidelines required before consideration of a proposal
- Assignment of fee/revenue streams
- Contracting person must comply with DB project delivery procedures in state law and owner and contracting person must comply with PSPA

DID NOT PASS



- Anti-QBS
- Structural engineering licensure
- Exemptions from drainage fees
- Consolidation of licensing agencies
- Exemption of local officials from Engineering Practice Act
- Prohibitions on local government competition with private sector in delivery of commercially available services

SUMMARY



- Status quo in transportation funding (for two years)
- Expanded DB in transportation
- More CDAs, with some reform
- Expanded PPP options
- Expanded loans for water projects
- Easier exit from CCNs for developers not receiving service
- Grandfathering for engineers doing building design
- Expedited environmental review
- Continued regulation of unsafe dams

WHAT'S NEXT?



- TBPE Sunset 2013
- Transportation Funding ????????