

HOUSE BILL 1204

By Pinion

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 9; Title 12; Title 54; Title 55 and Title 67, to  
enact the "Tennessee Tollway Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 54, is amended by adding Section 2 through Section 10 as a new, appropriately designed chapter.

SECTION 2. This chapter shall be known and may be cited as the "Tennessee Tollway Act".

SECTION 3.

(a) It is the intent of the general assembly to supplement this title by authorizing tolling as an additional and alternative method for funding or financing the development and operation of highways and appurtenant facilities or other transportation-related facilities.

(b) Any tollway or toll facility project developed and operated by or under the authority of the department shall be in accordance with the department's long-range statewide transportation plan and the department's future transportation improvement programs.

SECTION 4. When used in this chapter, unless the context otherwise requires:

(1) "Bonds" means any bonds, notes, renewal notes, refunding bonds, interim certificates, certificates of indebtedness, debentures, warrants, commercial paper, or other obligations or any other evidence of indebtedness or evidence of borrowed money issued or entered into by or on behalf of the department to finance tollway projects;

(2) "Commissioner" means the commissioner of transportation;

(3) "Department" means the department of transportation;

(4) “Develop” or “development” means the entire process of bringing a tollway or toll facility project to completion, including without limitation, planning, feasibility analysis, environmental assessment, preliminary engineering, design, acquisition of rights-of-way, relocation of utilities, permitting, environmental mitigation, contracting, financing, and construction;

(5) “Operate” or “operation” means any activity associated with the management of a completed tollway project, including without limitation collecting tolls; installing, repairing, or replacing equipment; maintenance, repair, or improvement of the tollway facility; contracting or administering contracts related to any such activity; and the funding or financing of any such activity;

(6) “State tollway account” means a separate account to be maintained as a part of the state highway fund that shall be available to defray costs associated with the development and operation of tollways or other toll facilities authorized under this chapter, and which may also be used in any other manner that the state highway fund may be lawfully used;

(7) “Toll” means any fee or charge for the use of a tollway or toll facility;

(8) “Tollway” or “toll facility” means any highway, bridge, tunnel, parking lot or garage, or other paved surface or structure designed to carry or contain land transportation vehicles, or any other transportation-related facility, the development or operation of which may be wholly or partially funded or financed with toll revenues;

(9) “Tollway project” or “toll facility project” means any capital project involving the development or operation, of a tollway or toll facility; and

(10) “Toll revenue” means revenues or moneys received by the department from the collection of tolls; from any lease, concession, franchise, license, or other agreement for the right to operate all or part of a tollway, toll facility, or an appurtenant facility; and

any other revenues or moneys received by the department from the operation of a tollway or toll facility.

#### SECTION 5.

(a) The department is authorized to develop tollway or toll facility projects and to operate tollways or toll facilities as further provided in this chapter.

(b) In order to develop and operate tollways or toll facilities, the department may expend funds from the state tollway account and the state highway fund as appropriated by the general assembly and any funds, grants, or loans received from or made available by the federal government or any other government agency for any tollway or toll facility project.

(c) The commissioner is authorized to set tolls, and to assign the authority to set tolls, for the use of tollways or toll facilities.

(d) The authority to set tolls and operate tollways or toll facilities as provided in this chapter shall not apply to any highway, bridge or other transportation-related facility constructed prior to the effective date of this chapter, except as may otherwise be provided or permitted by state or federal law, including without limitation the conversion of high occupancy vehicle lanes to high occupancy toll lanes on existing interstate highway facilities.

#### SECTION 6.

(a) In accordance with title 9, chapter 9, and as may otherwise be provided by law, the state funding board, at the request of the commissioner, may issue bonds, and the state may incur indebtedness, for the purpose of financing tollway or toll facility projects.

(b) At the request of the commissioner, the state funding board may pledge, encumber, transfer, or otherwise obligate funds held in the state tollway account as

security for bonds or other indebtedness incurred by the state on behalf of the department for the purpose of developing or operating a tollway or toll facility.

SECTION 7.

(a) There is established a state tollway account as a separate account within the state highway fund. The state tollway account shall consist of the following:

(1) All toll revenues received by the department;

(2) Any revenues or funds that the general assembly may appropriate to the state tollway account;

(3) Any funds the department may receive from the federal government or any other government agency or private entity that by grant, donation, loan, or otherwise is dedicated to the state tollway account and may be lawfully pledged as security for bonds or other indebtedness incurred by the state; and

(4) Any interest earnings on deposits of or investments made from any funds held in the state tollway account.

(b) The state tollway account may be used for the following purposes:

(1) To defray costs associated with the development and operation of tollways or toll facilities authorized under this chapter;

(2) To pay the principal, interest and any premium due with respect to any bonds issued or other indebtedness incurred by the state for any tollway or toll facility project, and to pay any costs incurred by the department or state funding board in connection with the issuance and payment of such bonds or other indebtedness;

(3) To be pledged as security for bonds or other indebtedness incurred by the state on behalf of the department for the purpose of developing or operating a tollway or toll facility; and

(4) Any other manner that the state highway fund may be lawfully used.

#### SECTION 8.

(a) In addition to and in conjunction with such other authority to enter into contracts as may be provided by law, the department is given full authority to enter into contracts, agreements or understandings with private parties, the federal government, or other governmental agencies for the purpose of developing or operating a tollway or toll facility, or any part thereof, including but not limited to the following:

(1) Design-build contracts or design-build-operate contracts with private entities pursuant to which all or part of the design, right-of-way acquisition, relocation of utilities, construction, and operation of a tollway or toll facility is accomplished by a private entity or entities on behalf of the department;

(2) Leases, licenses, franchises, concessions or other agreements for the operation of a tollway, toll facility, or appurtenant facility; and

(3) Agreements with the federal government or other governmental agencies for the purpose of undertaking all or any part of a tollway or toll facility project.

(b) Any private entity or other governmental agency that operates a tollway or toll facility may, pursuant to an agreement with the department, set and collect tolls and receive other toll revenues from the operation of a tollway or other toll facility, subject to such conditions as the department may establish.

SECTION 9. The commissioner is given full authority to promulgate and enforce any and all regulations as appropriate to carry out the provisions of this chapter.

SECTION 10. Any person who uses any tollway facility without paying the toll required for the use thereof shall commit a Class C misdemeanor.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12. This act shall take effect upon becoming a law, the public welfare requiring it.