STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2038 By: Weese

AS INTRODUCED

An Act relating to roads, bridges and ferries; amending 69 O.S. 1991, Section 1705, as last amended by Section 3, Chapter 303, O.S.L. 1993 (69 O.S. Supp. 1993, Section 1705), which relates to the powers and duties of the Oklahoma Turnpike Authority; providing for Legislative approval of certain turnpike studies and reports; modifying powers of the Oklahoma Turnpike Authority; deleting requirement of single bond issue for certain proposed turnpikes; requiring legislative approval for certain tolls; determining feasibility or economic soundness; providing for independent review of each turnpike project or highway; prohibiting use of certain funds to pay for certain bonds; providing for calculation of certain costs; providing for proration of certain costs for each turnpike project; amending 69 O.S. 1991, Section 1711, which relates to turnpike tolls; requiring legislative approval for certain tolls; modifying powers of the Oklahoma Turnpike Authority; amending 69 O.S. 1991, Section 1717, which relates to continuation of tolls until bonds paid; providing exception; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 69 O.S. 1991, Section 1705, as last amended by Section 3, Chapter 303, O.S.L. 1993 (69 O.S. Supp. 1993, Section 1705), is amended to read as follows:

Section 1705. The Authority is hereby authorized and empowered:

(a) To adopt bylaws for the regulation of its affairs and conduct of its business.

(b) To adopt an official seal and alter the same at pleasure.

(c) To maintain an office at such place or places within the state as it may designate.

(d) To sue and be sued in contract, reverse condemnation, equity, mandamus and similar actions in its own name, plead and be impleaded; provided, that any and all actions at law or in equity against the Authority shall be brought in the county in which the principal office of the Authority shall be located, or in the county of the residence of the plaintiff, or the county where the cause of action arose. All privileges granted to the Authority and duties enjoined upon the Authority by the provisions of Sections 1701 through 1734 of this title may be enforced in a court of competent jurisdiction in an action in mandamus.

(e) To construct, maintain, repair and operate turnpike projects and highways, with their access and connecting roads, at such locations and on such routes as it shall determine to be feasible and economically sound~~; provided, that until~~. The Oklahoma Turnpike Authority, prior to the issuance of any bonds for the purpose of paying all or any part of the cost of any one or more turnpike projects specifically authorized by the Legislature pursuant to this section, shall submit to the Legislature for approval by concurrent resolution all turnpike studies or reports conducted pursuant to this section which determine the feasibility

or economic soundness of a proposed route or location of a turnpike project or highway. Until specifically authorized by the Legislature, the Authority shall be authorized to construct and operate toll turnpikes only at the following locations:

(1) The Turner Turnpike between Oklahoma City and Tulsa.

(2) The Southwestern (H.E. Bailey) Turnpike between Oklahoma City and Wichita Falls, Texas.

(3) The Northeastern (Will Rogers) Turnpike between Tulsa and Joplin, Missouri.

(4) The Eastern (Indian Nation) Turnpike between Tulsa and Paris, Texas, including all or any part thereof between McAlester and the Red River south of Hugo.

(5) The Cimarron Turnpike between Tulsa and Interstate Highway 35 north of Perry, including a connection to Stillwater.

(6) The Muskogee Turnpike between Broken Arrow and Interstate Highway 40 west of Webbers Falls.

(7) All or any part of an extension of the Muskogee Turnpike, beginning at a point on Interstate Highway 40 near the present south terminus of the Muskogee Turnpike, and extending in a southeasterly direction on an alignment near Stigler, Poteau and Heavener to the vicinity of the Arkansas State Line to furnish access to Hot Springs, Texarkana, Shreveport and New Orleans.

(8) A tollgate on the Turner Turnpike in the vicinity of Luther, Oklahoma, and in the vicinity of the intersection of State Highway 33 and Turner Turnpike in Creek County, Oklahoma, or in the vicinity of the intersection of State Highway 33 and Turner Turnpike or U.S. Highway 66 in Creek County, Oklahoma, from any monies available to the Turnpike Authority.

(9) Add on the Will Rogers Turnpike a northbound automatic tollgate onto State Highway 28 and a southbound on-ramp from State Highway 28.

(10) A turnpike or any part or parts thereof beginning in the vicinity of Duncan extending east to the vicinity of the City of Davis, and extending in a northeasterly direction, by way of the vicinity of the City of Ada, to a connection in the vicinity of Henryetta or in the vicinity of the intersection of State Highway 48 and Interstate 40; and a turnpike or any part or parts thereof from the vicinity of Snyder extending north to the vicinity of Woodward.

(11) A turnpike or any part or parts thereof beginning at a point in the vicinity of Ponca City, or at a point on the Kansas-Oklahoma state boundary line east of the Arkansas River and west of the point where Oklahoma State Highway No. 18 intersects said state boundary line, and extending in a southeasterly direction to a connection with the Tulsa Urban Expressway System in the general area of the Port of Catoosa.

(12) All or any part of an Oklahoma City toll expressway system connecting the residential, industrial and State Capitol Complex in the north part of Oklahoma City with the residential, industrial and Will Rogers World Airport Complex in the south and southwest parts of Oklahoma City.

(13) A turnpike (The Industrial Parkway) or any part or parts thereof beginning at a point on the Oklahoma-Kansas state boundary line between the point where U.S. Highway 66 intersects said boundary line and the northeast corner of Oklahoma and ending by means of a connection or connections with Shreveport, Louisiana, and Houston, Texas, in southeastern Oklahoma and at no point to exceed thirty (30) miles west of the Missouri or Arkansas border.

(14) A turnpike or any part or parts thereof beginning in the vicinity of Velma or County Line to a point intersecting with Interstate 35 in the area south of Davis.

(15) A turnpike or any part or parts thereof beginning in the vicinity of Watonga and extending south and/or east to the vicinity of north and/or west Oklahoma City.

(16) A new turnpike or parts thereof from the Kansas State Line south to McAlester, in the vicinity of U.S. Highway 69.

(17) A tollgate on the Will Rogers Turnpike near the intersection of State Highway 137 and the Will Rogers Turnpike, located south of Quapaw.

(18) A tollgate on the Muskogee Turnpike in the vicinity of Porter, Oklahoma, a tollgate on the Will Rogers Turnpike in the vicinity of Adair, Oklahoma, a tollgate on the Turner Turnpike in the vicinity of Luther, Oklahoma, and a tollgate on the H.E. Bailey Turnpike at Elgin, Oklahoma, from any monies available to the Turnpike Authority.

(19) A tollgate on the Turner Turnpike in the vicinity of Wellston, Oklahoma, from any monies available to the Turnpike Authority.

(20) A tollgate on the Muskogee Turnpike in the vicinity of Brushy Mountain, Oklahoma, and in the vicinity of Elm Grove, Oklahoma, from any monies available to the Turnpike Authority.

(21) All or any part of an Oklahoma City Outer Loop expressway system beginning in the vicinity of I-35 and the Turner Turnpike and extending west into Canadian County and then south to I-40; and then south and east to I-35 in the vicinity of Moore and Norman; and then extending east and north to I-40 east of Tinker Field; and then extending north to the Turner Turnpike to complete the Outer Loop.

(22) All or any part of the Tulsa south bypass expressway system beginning in the vicinity of the Turner Turnpike near Sapulpa and extending south and east to U.S. 75 in the vicinity of 96th Street to 121st Street; and then east across the Arkansas River to a connection with the Mingo Valley Expressway; and then south and/or east to a point on the Tulsa-Wagoner County Line near 131st street south in the city of Broken Arrow.

(23) A new turnpike or any part thereof from near the west gate of the Will Rogers Turnpike south to the west end of south Tulsa Turnpike at the Tulsa-Wagoner County Line.

(24) A new turnpike or any parts thereof from the vicinity of the connection between State Highway 33 and U.S. 69 easterly to the Arkansas State Line.

(25) A four-lane extension of the Muskogee Turnpike from Interstate Highway 40 west of Webbers Falls to the Poteau vicinity.

(26) A new turnpike or any part or parts thereof beginning at a point in the vicinity of northwest Tulsa, and extending in a northwesterly direction, by means of a connection or connections with the cities of Pawhuska and Newkirk, to a point intersecting in the vicinity of US Highway No. 77 and the Kansas State Line.

(27) A full access interchange on the Indian Nation Turnpike south of Interstate 40, in the vicinity of Henryetta, Oklahoma, and in the vicinity of the proposed theme park, from any monies available to the Turnpike Authority.

(28) A new turnpike beginning at a point directly west of the Arkansas line and four-laning Highway 70 from that point to the farthest western reach of Highway 70 creating a southern route through Oklahoma.

(29) A new turnpike and bridge or any parts thereof from a point in the vicinity of the city of Mustang southerly across the South Canadian River to the H.E. Bailey Turnpike in the vicinity of the city of Tuttle; and then easterly across the South Canadian River to a point in the vicinity of the city of Norman.

(30) A new turnpike or any parts thereof beginning at a point in the vicinity of the city of Altus and extending in a northwesterly direction to a point in the vicinity of the city of Sayre.

(31) A new turnpike or any parts thereof beginning at a point in the vicinity of the city of Enid and extending in a westerly direction to a point in the vicinity of the city of Woodward.

All access roads, interchanges, or lead roads connecting such turnpikes with existing highways must be built by funds furnished by the Authority.

The minimum and maximum wages for the construction of the roads, highways and projects provided for in Sections 1701 through 1734 of this title shall be in accordance with the schedules of wages used or adopted by the Commission in construction of state highways.

The Authority is hereby authorized to enter into contracts or agreements with agencies and instrumentalities of other states or the national government for construction, maintenance and operation of interstate turnpikes or highways.

The Authority is hereby required to construct and install automatic tollgates on the Will Rogers Turnpike at State Highway No. 28 near Adair.

(f) To issue turnpike revenue bonds of the Authority, payable solely from revenues, including the revenues accruing to the trust fund created by Sections 1701 through 1734 of this title, for the purpose of paying all or any part of the cost of any one or more turnpike projects. ~~Provided that any bonds issued for the construction of the proposed turnpike referred to in subparagraphs (10), (20), (21) and (22) of paragraph (c) of this section shall be issued as one issue for all four of the proposed turnpikes and shall be financed, constructed and operated under one bond indenture.~~

(g) To fix and revise from time to time tolls for the use of any turnpike projects. <u>However, the Oklahoma Turnpike Authority shall submit to the Legislature for approval by concurrent resolution all proposed or revised tolls on any new or existing turnpike project or projects. The Authority shall have no power to</u>

proceed to charge and collect such tolls without prior Legislative approval.

Any common carrier having authority at the time of opening any turnpike project to operate upon a highway approximately paralleling the turnpike project shall be granted without further showing authority to operate over the turnpike project to all municipalities which such carrier is serving at the time the turnpike project is opened to traffic. But nothing herein shall be construed as granting any new operation rights to any common carriers.

(h) To acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties.

(i) To acquire in the name of the Authority by purchase or otherwise on such terms and conditions and in such manner as it may deem proper, or by exercise of the right of condemnation in manner hereinafter provided, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests, as it may deem necessary for carrying out the provisions of Sections 1701 through 1734 of this title; provided, that all public property damaged in carrying out the powers granted by Sections 1701 through 1734 of this title shall be restored or repaired and placed in its original condition as nearly as practicable.

(j) To designate, except as is provided for herein, the location, and establish, limit and control such points of ingress to and egress from each turnpike project as may be necessary or desirable in the judgment of the Authority to insure the proper operation and maintenance of such project, and to prohibit entrance to such project from any point or points not so designated.

(k) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, and to employ consulting engineers, attorneys, accountants, construction and financial experts,

superintendents, managers, and such other employees and agents as may be necessary in its judgment, and to fix their compensation; provided, that all such expenses shall be payable solely from the proceeds of turnpike revenue bonds issued under the provisions of Sections 1701 through 1734 of this title or from revenues; provided, further, no attorney employed by the Authority, nor any member of any law firm of which he may be connected, shall ever be paid any fee or compensation for any special or extraordinary services.

(l) To receive and accept from any federal agency grants for or in aid of the construction of any turnpike project, provided, the acceptance of such grants will not reduce the amount of federal aid for the construction, repair, or maintenance of farm-to-market roads and other highways and bridges in this state; and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(m) To adopt such rules and regulations, and to do any and all things necessary to comply with rules, regulations, or requirements of the Bureau of Public Roads, Multistate Economic Development Regional Commission, as defined in Sections 1151 through 1153, inclusive, of Title 74 of the Oklahoma Statutes, Ozarka Region Commission or any other federal agency administering any law enacted by the Congress of the United States to aid or encourage the construction of highways.

(n) To do all things necessary or convenient to carry out the powers expressly granted in Sections 1701 through 1734 of this title. On all turnpike projects alternate bids for paving work shall be taken on asphalt concrete and portland cement concrete and the design standards for such paving shall comply with the design standards of the American Association of State Highway and Transportation Officials as modified by the Oklahoma Department of

Transportation. All contracts for construction work on turnpike projects shall be let to the lowest responsible bidder, or bidders, after notice by publication in a newspaper published in the county where the work is to be done in two consecutive weekly issues of the newspaper. In all cases where more than eight (8) miles of construction is let at the same time, such advertisement shall provide for bids on sections of the turnpike not to exceed eight (8) miles. Subject to the following restrictions and limitations: The Authority shall, when contracting for construction work, divide such work into paving projects, bridge projects, including underpasses and overpasses, and earthmoving or miscellaneous projects, according to the type of work to be done and each project shall be let under a separate contract or contracts and no contract or project shall include more than one of such types of construction work. Each contract for construction work shall contain a provision that ninety percent (90%) of all labor employed on the project shall be residents of Oklahoma. Provided, however, that no tie bids shall be accepted, and provided, further, that contracts for bridges may include earthwork and structures for the approaches thereto, and provided, further, that any one bridge or tunnel and the approaches thereto may be included in one contract.

(o) It shall be unlawful for any member, officer or employee of the Authority to transact with the Authority, either directly or indirectly, any business for profit of such member, officer, or employee; and any person, firm, or corporation knowingly participating therein shall be equally liable for violation of this provision.

The term "business for profit" shall include, but not be limited to, the acceptance or payment of any fee, commission, gift, or consideration to such member, officer, or employee.

Violation of this provision shall constitute a felony and shall be punishable by a fine of not less than Five Hundred Dollars

($500.00) and not more than Five Thousand Dollars ($5,000.00), or by imprisonment in the State Penitentiary for not more than five (5) years, or by both such fine and imprisonment.

(p) In the event of a national emergency, the Authority, subject to any vested rights or claims, may enter into contracts with the federal government or any authorized agency thereof to allow the federal government or agency thereof to use such turnpikes partly or exclusively during the existence of such emergency, provided, that the federal government agrees in such contract to pay, during the term of such contract, an amount sufficient, when added to any tolls collected, to meet all operating and maintenance expenses, interest payments, and the minimum sinking fund and reserve requirements of the trust agreement for the turnpike covered by the contract.

(q) All meetings of the Authority shall be open public meetings, and all records shall be public records, except when considering personnel or litigation.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1705.7 of Title 69, unless there is created a duplication in numbering, reads as follows:

A. In determining the feasibility or economic soundness of any turnpike project or highway as required by Section 1705 of Title 69 of the Oklahoma Statutes, where construction begins after January 1, 1994, the toll or other revenue for each turnpike project or highway shall be determined based on the revenue necessary to:

1. Pay the principal and interest of any bonds or other revenue raising measures issued for the construction of such turnpike project or highway as the bonds shall become due and payable;

2. Pay the full cost of operating, maintaining and repairing the turnpike project or highway;

3. Pay the full cost of all general, administrative and overhead costs attributable to the turnpike project or highway; and

4. Create reserves for such purposes.

Each turnpike project or highway where construction begins after January 1, 1994, shall be reviewed independently of any other turnpike project or highway for the purpose of determining the necessary toll rate or other revenue. No tolls or revenues collected from any other turnpike project where construction began prior to January 1, 1994, shall be used to pay for any bonds issued by the Authority for any projects where construction begins on or after January 1, 1994.

B. All general, administrative and overhead costs of the Authority shall be calculated on a per-mile basis for the total turnpike system miles. The costs shall then be prorated to each individual turnpike project and each individual turnpike project shall be charged such general, administrative and overhead costs based on such calculation.

SECTION 3. AMENDATORY 69 O.S. 1991, Section 1711, is amended to read as follows:

Section 1711. The Authority, subject to the provisions hereof, is hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections thereof, except for use by law enforcement officers responsible for enforcing the traffic laws and the general laws of the state and federal governments on turnpikes, who shall be entitled to free use of every such project in the performance of official duties connected with such turnpike project, and to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, restaurants and advertising signs, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. ~~Such~~ The Authority shall submit to

the Legislature for approval by concurrent resolution all tolls so fixed or revised on all new or existing turnpike project or projects. The Authority shall have no power to proceed to charge and collect such tolls without prior Legislative approval. Except as otherwise provided in Section 2 of this act, such tolls, subject to the other restrictions hereof, shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued as to provide a fund sufficient with other revenues, if any, to pay (a) the cost of maintaining, repairing, and operating such turnpike project or projects, and (b) the principal of and the interest of such bonds as the same shall become due and payable, and to create reserves for such purposes. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of ~~(a)~~:

1. the interest upon such bonds as such interest shall fall due~~, (b)~~;

2. the principal of such bonds as the same shall fall due~~, (c)~~;

3. the necessary charges of paying agents for paying principal and interest~~,~~; and ~~(d)~~

4. the redemption price or the purchase price of bonds retired by call or purchase as therein provided, which are a charge against such fund.

The use and disposition of monies to the credit of such sinking fund shall be subject to the provisions of the resolution

authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another. The monies in the sinking fund, less such reserve as may be provided in such resolution or trust agreement, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds at the redemption price then applicable. Any person who leases, rents, or acquires control of any gas station, garage, store, hotel, or restaurant must have been a resident of, or been doing business in, Oklahoma for the past five (5) years. Notwithstanding anything else herein contained to the contrary, the Corporation Commission of the State of Oklahoma shall exercise the jurisdiction now or hereafter vested in it to regulate and control the operation of motor carriers of passengers and freight, using or desiring to use any turnpike project, in the manner and to the extent that it regulates or controls such carriers using the highways of the state. The Authority shall not discriminate against any group or class or individual member thereof in fixing the amount of toll, rents, or charge for the use of the turnpike project.

SECTION 4. AMENDATORY 69 O.S. 1991, Section 1717, is amended to read as follows:

Section 1717. When all bonds issued under the provisions of this article and the interest thereon shall have been paid or a sufficient amount for the payment of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the bondholders, such projects, if then in good condition and repair to the satisfaction of the Commission, shall become part of the state highway system and shall thereafter be maintained by the Commission free of tolls. ~~Provided, that~~ Except as provided in this section, when all bonds for any turnpike project

and the interest thereon shall have been paid or such provision for payment made, prior to payment of the bonds and interest on any other project or projects, such project shall continue to be operated as a toll facility at toll rates not less than the lowest rate being charged on any project, until all bonds issued by the Authority and the interest thereon shall have been paid or such provisions for payment made. The revenues of such paid-out projects shall be used and applied by the Authority in paying the obligations or depositing in the sinking fund of such other turnpike projects in the following order: (a) To any project or projects in default on interest: (b) to any project or projects in default on principal; (c) to any project or projects having insufficient reserves or sinking fund under its trust agreement. If all such other projects have sufficient reserves then the revenues from such paid-out project shall be prorated between such other projects on the basis of the outstanding bonds of each project. If two or more projects fall within any of the above categories, then the revenues shall be prorated between them on the basis of the outstanding bonds of each project.

All bonds issued by the Authority for any turnpike project, initiated on or after January 1, 1994, shall only be paid from the tolls collected from such project until the bonds and the interest thereon have been paid. No tolls collected from any other turnpike project shall be used to pay for any bonds issued by the Authority for any projects initiated on or after January 1, 1994.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-7443 JAF