

**TxDOT Commissioners Meeting**

January 26, 2006, in Conroe, Texas.

**COMMISSION MEMBERS:**

RIC WILLIAMSON, CHAIRMAN

JOHN W. JOHNSON

HOPE ANDRADE

TED HOUGHTON, JR.

**STAFF:**

MICHAEL W. BEHRENS, P.E., Executive Director

STEVE SIMMONS, Deputy Executive Director

RICHARD MONROE, General Counsel

ROGER POLSON, Executive Assistant to the Deputy Executive Director

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MR. BEHRENS: Stay where you are, Rebecca, because now we're going to go back to our proposed rules and go back to item 5(a)(2) which also is a Vehicle Titles and Registration rule and this concerns specialty license plates and also some things that we were asked to look at by legislation.

MS. DAVIO: That's correct, Mr. Behrens.

Last fiscal year, the registration fees contributed \$825 million to enhancing and building our roads. Of that, approximately \$2 million came from specialty and personalized license plates. That's roughly about 2 percent of the 19 million registered vehicles that we have in Texas. The legislature looked at that and saw that there might be some additional opportunities, so House Bill 2894 was passed last session, and it directed TxDOT to enter into a contract with a private vendor to market and sell specialty license plates.

Effective Teleservices, Inc. was selected through a competitive RFP process, and they are going to sell and market all non-qualifying specialty plates. Non-qualifying, just so that everybody is clear, means any plate that a member of the general public could buy, so military plates, for example, Purple Heart plates will not be affected by what we're talking about today.

And what we're bringing before you, the proposed rules are to adopt the new fees.

Effective Teleservices has looked at the specialty marketing campaign and recommended a fee increase of \$25 for all specialty plates. This will increase the majority of the special plates cost from \$30 to \$55. The "God Bless Texas" and "God Bless America" plates will go to \$65.

In addition to this increase, also for your consideration today is a plate cost of \$100 for a whole new category of plates, and these will be collector plates, if you will, that ETI will create and market, and these plates, if you want an example of what something like this might be, they would be very limited sales plates but think "National Champion Football" plates.

MR. HOUGHTON: That would be very limited.

(General laughter.)

MS. DAVIO: Said by a non-Longhorn.

MR. WILLIAMSON: I thought all of us that graduated from there, they were just going to give us those plates.

MS. DAVIO: I do not believe we have the authority to do that.

MR. WILLIAMSON: Wait a second now. I'm listening to you and you're giving us a lot of information, but I want to go back to the beginning. Did you say that the fee for new plates are going to go up by \$25, or did I hear you say, for example, if Alan has a specialty plate right now and he doesn't want to change it, he just wants his same specialty plate, his fee is going to go up 25 bucks?

MS. DAVIO: Yes, sir, that's correct.

MR. WILLIAMSON: Why would his fee go up 25 bucks?

MS. DAVIO: Because a new marketing campaign will be developed so that there will be a lot of new holders of speciality license plates, so his cause, the cause that he's supporting would get more, whether that's his university --

MR. WILLIAMSON: Well, where does that \$25 go?

MS. DAVIO: The money is going to be split. The vendor obviously gets paid for their services, and then the state will also get some additional revenue because more plates are being sold.

MR. HOUGHTON: On my specialty plate, if I have an increase of \$25, where does that \$25 go?

MS. DAVIO: The first year that you get that plate and pay your additional \$25, that money goes to the vendor, the selected vendor, Effective Teleservices, Inc. The second year through the fifth year -- and this is a five-year contract for this service -- the second through the fifth year of that, 30 percent of that \$25, approximately \$7.50, will come back to the state in general revenue.

MR. WILLIAMSON: General revenue?

MS. DAVIO: Yes, sir. That was in the legislation.

MR. JOHNSON: What about the 70 percent of the \$25? If 30 percent goes into GR, the 70 percent, where does it go?

MS. DAVIO: That will go to the vendor for their services.

MR. WILLIAMSON: So you mean the highway transportation fund is paying for the cost of administering motor vehicle license plates and we're going to start selling specialty license plates and we're going to raise the fees on the consumer, and 100 percent of that in the first year is going to the vendor, and 70 percent in the second year is going to the vendor, and the other 30 percent is not even coming back to the highway fund?

MS. DAVIO: That's correct. The vendor is projecting an increase in sales, and I should tell you also that this is the first effort of this kind in the country to market specialty license plates, and the vendor is projecting that there will be an increase in sales, that there's a lot more people that just simply don't understand that specialty license plates are available or they don't know how to get them or that kind of thing.

MR. HOUGHTON: Let me ask a question, and I'm not familiar with this. What's the number one specialty plate?

MS. DAVIO: That's the "State of the Arts" plate.

MR. HOUGHTON: And when I get a "State of the Arts" plate, I buy one, where does that revenue go?

MS. DAVIO: A portion of the revenue goes to the sponsoring agency, and that will continue to go to the sponsoring agency.

MR. HOUGHTON: My question is have we talked to the people at "State of the Arts" or that sponsoring agency on how they feel about this \$25 increase which may somewhat

limit their renewals back to the "State of the Arts" and corresponding other specialty plates?

MS. DAVIO: We have not talked to them yet, we do definitely plan on notifying them. If you choose to approve these proposed rules today, we do plan on having that conversation. The benefit that would come to the sponsoring organizations is the increase in plate sales.

MR. HOUGHTON: That's an anticipated increase.

MS. DAVIO: Yes, sir, that's correct.

MR. WILLIAMSON: Well, I've been flipping through the rules, and I guess it occurs to me -- I need to word this correctly for the record -- this may or may not be a good program but this really isn't our program, apparently the legislature passed this and told us to do it.

MS. DAVIO: Yes, sir, that's correct.

MR. WILLIAMSON: So you were kind of under the burden of adopting rules, going out for contract, making the best decision you could about who responded.

MS. DAVIO: Yes, sir.

MR. WILLIAMSON: I don't necessarily hear you saying this is a good idea, we need to go do this, you're just laying out for me my options.

MS. DAVIO: Yes, sir, that's correct.

MR. WILLIAMSON: Well, let me just tell you, I don't mean this personally, Steve, I'm not interested in voting on something that increases somebody's fees 25 bucks for what they're already getting in order to capitalize somebody else's business. I'm not interested in doing that at all. Maybe I'm by myself.

MR. HOUGHTON: Well, I think we need to talk to our partners that are going to be affected by this negatively and potentially positively on the top ten specialty plates and bring them into the room and say, What do you think about this?

MR. WILLIAMSON: We're asking consumers, I think, across the state to do enough in our road program, and even for that 2 percent of the guys and gals who are buying those specialty plates. I mean, we're saying market forces need to drive decisions, but poor old Alan here is fixing to pay 25 bucks more for his UT plate and he didn't get anything out of it at all, he just got to pay 25 more bucks.

MR. JOHNSON: Mr. Chairman, UT for Alan is located in Knoxville, Tennessee.

(General laughter.)

MS. DAVIO: The colors are still right, though, aren't they.

MR. WILLIAMSON: You know what you say if you graduated from UT Austin, don't you, John?

MR. JOHNSON: No.

MR. WILLIAMSON: I understand that, he just wants to associate himself with the great university.

MR. JOHNSON: And a lot of people do.

(General laughter.)

MR. WILLIAMSON: But what about this \$25, are you not bothered by this?

MR. JOHNSON: No. I concur with everything that you've said. My question, Rebecca, how many presenters were there for the RFP, how many participants?

MS. DAVIO: There were two companies that competed.

MR. JOHNSON: Two?

MS. DAVIO: Yes, sir.

MR. JOHNSON: And what has Effective Teleservices said that puts them at the top of the heap in terms of what will they do in the marketing aspect where they will deserve the money that they're going to get paid? And we have high expectations, like the "State of the Arts" group or the others who have specialty tags that will be affected by this that it's going to benefit them from a revenue standpoint. What are they going to do, are they going on TV or are they going to use direct mail?

MS. DAVIO: They're proposing to use a variety of media and to really go out. One of the things, they had a higher revenue projection so more revenue would come to the state because they were going to market and sell all existing specialty plates in addition to any new plates that they would develop and any new collector plates that they would develop.

MR. JOHNSON: Is their contract tied to performance?

MS. DAVIO: Yes, sir, there is a clause in the contract that they must meet 90 percent of their revenue projections. There's some other performance criteria as well, they have to have minimal drop time on their calls and such.

MR. JOHNSON: The university plates, did you mention them, are they affected by this program?

MS. DAVIO: Yes, sir, they are. They are part of the existing specialty plates.

MR. JOHNSON: "State of the Arts" sells more than Texas A&M?

MS. DAVIO: I believe that they do.

MR. WILLIAMSON: Does that surprise you?

MR. JOHNSON: It does. I thought Texas A&M was the largest.

MS. ANDRADE: Rebecca, let me ask you, let me start from the beginning and so we're using the "State of the Arts". If this private vendor sells more license plates for "State of the Arts", "State of the Arts" will get more revenue.

MS. DAVIO: That is correct, and that is the basis of the revenue projections that they will in fact get an estimated -- over the five-year term of the contract, the sponsoring agencies are supposed to get \$38 million.

MS. ANDRADE: And the way they work now is that whatever we charge, the agency that manufactures the license plate would get paid and the "State of the Arts" would get paid, and that was all the revenue we were collecting before. Right? Currently?

MS. DAVIO: I'm sorry? I want to make sure I agree with the revenue split.

MS. ANDRADE: Currently how do we operate? My understanding was that the agency that manufactured the license plate got paid and the "State of the Arts" received the rest. Is that the way we're handling it right now?

MS. DAVIO: Yes, and Fund 6 also gets a portion of that.

MS. ANDRADE: Fund 6.

MS. DAVIO: Yes, ma'am. Currently the sponsoring agencies, I believe, get \$8 from the current \$30 fee.

MR. HOUGHTON: Have we run numbers on this? Let's just take "State of the Arts". Steve, how many "State of the Arts" license plates have been issued? Do you know, Steve?

MR. WILLIAMSON: You don't know off the top of your head, Steve?

MR. SIMMONS: For the record, my name is Steve Simmons, deputy executive director. I'm looking back to Mike Craig, I'm sure he's got those numbers.

I want to clarify the fee structure for Commissioner Andrade real quick. Out of the \$30 currently, \$22 of that goes to the sponsoring agency, \$8 of that goes to the department.

MS. ANDRADE: And that's it.

MR. SIMMONS: And that's it. Well, and then a little bit of that goes to the county, 50 cents out of that goes to the county.

MS. ANDRADE: And now?

MR. SIMMONS: And if this was enacted, the \$25 would go to the marketing firm.

MR. WILLIAMSON: The additional \$25.

MR. JOHNSON: In year one.

MR. SIMMONS: The additional \$25 would go to the marketing firm, \$22 would still go to the sponsoring agency and \$8 would still go to the department. The second year of the contract, 30 percent of that \$25 would then go to general revenue and 70 percent of that \$25 would still remain with the marketing firm.

MS. ANDRADE: So what's our benefit?

MR. SIMMONS: Increased sales. So if we're selling 100 University of Texas at Austin plates -- which I think we sell a few more than that -- and they now have a company that's going to market it, that marketing number may go up to 200, and so rather than just getting the \$22 off the 100, they're getting \$22 off the 200.

MS. ANDRADE: And what happens if it doesn't happen?

MR. SIMMONS: That's what the performance measures in there, to make sure they're pursuing it.

MR. WILLIAMSON: Is 90 percent of their projections higher than what we're selling now? Is the baseline higher?

MS. DAVIO: Yes, sir, it is.

MR. HOUGHTON: And what's their track record?

MS. DAVIO: This is the first of its kind effort in the country so we don't know.

MR. HOUGHTON: So we don't know it, there is no track record.

MS. DAVIO: No, sir.

MR. WILLIAMSON: They won the contract on a competitive proposal.

MR. JOHNSON: With one other firm.

MR. WILLIAMSON: Well, granted it was one other firm.

MR. HOUGHTON: I mean, do they have a history of performance?

MS. DAVIO: Effective Teleservices, Inc. provides telemarketing services, I believe, and their partnered with an advertising agency, Miroch Partners.

MR. HOUGHTON: They have no history of performance in this field.

MS. DAVIO: That's correct, sir.

MR. WILLIAMSON: But Ted, we need to be careful and not create on the record that any objection we have is related to that because they've already won the contract according to objective criteria.

MS. DAVIO: That is correct. They were deemed to be the proposal that was the most advantageous to the state.

MR. WILLIAMSON: The commission's formal query about this is related to the 25 bucks, whether our partners know it's coming and whether or not we're willing to accept that. And I can't poll, all we can do is vote.

Mike, how do you want me to make my proposal? Do you want me to make it in the form of a bring this minute order back to us and let's delay it, do you want a straight up or down vote, how do you want to do this?

MR. BEHRENS: I think I would recommend that we defer this minute order and some of the points that have been brought up, like I think was brought up have we talked to our partners and some of these people that may or may not be impacted, give us some time to do some of that, and then at the appropriate time we'd bring it back to the commission.

MR. WILLIAMSON: Let me cogitate with my commission members. What do you think about that, Ted?

MR. HOUGHTON: I'm fine with that.

MR. JOHNSON: This is a proposed adoption, I mean, this is not final.

MS. DAVIO: That's correct. We would go to the Texas Register as well and have a public comment period, and then we would bring them back.

MR. JOHNSON: I definitely think there are a lot of affected parties here that need to be informed, and whether that's the appropriate mechanism to do it, to pass the proposed adoption. Can we extend the comment deadline period? Would that be of any benefit?

MR. WILLIAMSON: I think what we're better off doing is deferring and let them notify everybody directly.

MS. DAVIO: Let them know it's coming before we do the proposed rules.

MR. WILLIAMSON: Right. That way when we ask her that question, she can say, Yes, every affected party, we sent them a letter and talked to them.

MR. JOHNSON: One other question.

MS. DAVIO: Yes, sir?

MR. JOHNSON: Do they have the authority to create new plates, Effective Teleservices?

MS. DAVIO: Yes, sir, they do, with TxDOT's approval.

MR. JOHNSON: There's no criteria or authority that would say you can't do that other than maybe a copyright infringement?

MS. DAVIO: TxDOT would have final approval on any plates that were proposed, and if they were going to propose a new collector's plate, for example, and it would be a "National Champion" plate, it might infringe.

MR. JOHNSON: I suspect that will be the first one they do and I suspect it will be a big seller.

MR. WILLIAMSON: It will become the number one seller in the nation. I think there's about 800,000 of us standing by to buy it.

MS. DAVIO: In that instance, ETI would have to work with the University of Texas, with the Big Twelve, anybody that had a say in that and get their approval on it.

MR. WILLIAMSON: Michael, I think that we would like to defer this matter.

MR. BEHRENS: All right.

MR. SIMMONS: Mr. Chairman, can I get clarification on exactly what your concerns are? I think, first off, you have concerns that \$25 is being placed on all the existing plates that are in existence today. Is that what I understand?

MR. WILLIAMSON: Now, in this regard I speak only for myself and not the commission; the other commission members will have to give you their concerns. My concern is we are not business unfriendly here, we understand the power of the private sector to help us accomplish our goals. I'm not saying that.

I'm just saying that if I owned a personal plate -- which, for the record, I don't -- but if I owned one and if the government sent me an almost 100 percent increase in my plate charge and then explained to me that the increase was necessary to capitalize a marketing effort that would simply get the cost of my plate back to where it was going to be five years from now if no one ever did this -- do you see what I'm saying -- I would have to ask myself a question as a consumer: Well, why do I care about that; you're going to increase my fee so that you can sell Hope a plate and my fee is never going to go down and you're never going to put it back into the transportation system; why would I be for that?

And my suspicion is -- you said 2 percent of our plates are personalized plates?

MS. DAVIO: Yes, sir.

MR. WILLIAMSON: Out of how many?

MS. DAVIO: Nineteen million registered vehicles.

MR. WILLIAMSON: And is that 400,000 people?

MS. DAVIO: Approximately 380,000.

MR. WILLIAMSON: That's going to be a lot of mad Texans. That's almost the size of the Texas Toll Party.

MR. SIMMONS: Yes, sir. I'm just trying to clarify. The second thing is the increase that's being proposed has not been discussed with the sponsoring agencies that will be affected by it, and you would like for staff to make sure they're aware of it during the comment period which they will make the effort.

And I was trying to think, there's was a third item that I thought I heard.

MS. ANDRADE: I think one of the concerns I have also is that because this company doesn't have any proven record --

MR. WILLIAMSON: No, we can't talk about that.

MS. ANDRADE: Oh, we can't? Okay.

MR. WILLIAMSON: We've already gone through a process where they've been awarded the contract, it's not for the commission to judge that.

MS. ANDRADE: Okay. Then my concern would be the sponsoring agencies.

MR. SIMMONS: The sponsoring agencies that it's going to impact their sales and that they have no opportunity whether to opt in or opt out of the marketing. Is that a correct statement?

MR. WILLIAMSON: Say it again.

MR. SIMMONS: That they have no opportunity -- they are automatically mandated they're going to have to be part of this marketing effort and not have an opportunity to opt in or opt out.

MR. WILLIAMSON: That's a fair statement, yes. And we're not springing this on you, we didn't know this was going to happen. Don't mean any offense to you on your first trip.

MS. DAVIO: You're the commission, sir. So we're going to defer?

MR. WILLIAMSON: Correct.

MS. DAVIO: Okay. We will visit with the sponsoring agencies and get their feeling.

MR. WILLIAMSON: Very good.

MS. DAVIO: Thank you.

MR. WILLIAMSON: Thank you.