

By: Slaton

H.B. No. 28

A BILL TO BE ENTITLED

AN ACT

relating to border security enhancement projects, a fund to pay for those projects, and a study on certain projects; allocating the earnings on the fund balance and reimbursement of related expenditures; granting the power of eminent domain.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter W to read as follows:

SUBCHAPTER W. BORDER SECURITY ENHANCEMENT

Sec. 411.801. DEFINITION. In this subchapter, "fund" means the border security enhancement fund.

Sec. 411.802. BORDER SECURITY ENHANCEMENT FUND. (a) The border security enhancement fund is a special fund in the state treasury outside the general revenue fund to be administered by the department under this subchapter and rules adopted by the commission under this subchapter.

(b) The fund consists of:

(1) appropriations of money made by the legislature for deposit to the credit of the fund; and

(2) gifts, grants, and donations received by this state for the purposes of the fund, including gifts, grants, and donations made by other states or through a publicly accessible Internet website created and maintained by the department.

Sec. 411.803. FUND INTEREST. The comptroller shall deposit

1 to the credit of the economic stabilization fund the interest and
2 other earnings made on the balance of the border security
3 enhancement fund.

4 Sec. 411.804. USE OF FUND. (a) The department may use
5 money in the fund to prevent human trafficking and the illegal entry
6 into the United States of aliens without an appropriate federal
7 governmental authority's official approval, terrorists,
8 instruments of terrorism, and contraband, including narcotics and
9 other controlled substances, provided that use is only for:

10 (1) planning, designing, constructing, and
11 maintaining:

12 (A) technology and water and transportation
13 infrastructure along this state's international border; and

14 (B) commercial vehicle inspection infrastructure
15 at ports of entry on the border; and

16 (2) clearing nonindigenous plants.

17 (b) The department must include as part of the technology
18 and transportation infrastructure along this state's international
19 border and commercial vehicle inspection infrastructure at ports of
20 entry on the border the construction to department specifications
21 and to federal specifications for similar infrastructure of a wall
22 to be named the "President Donald J. Trump Wall."

23 Sec. 411.805. CONTRACTS AND AGREEMENTS. The department may
24 enter into any contract or agreement necessary to implement this
25 subchapter.

26 Sec. 411.806. CONSULTATION. (a) The department may not use
27 money from the fund to perform the activities described by Sections

1 411.804(a)(1) or (2) or to contract with a third party to perform
2 those activities, unless the department consults with the
3 commissioner of agriculture to coordinate border security efforts.

4 (b) The department shall consult with the commissioner of
5 agriculture for the acquisition of any land necessary to implement
6 this subchapter.

7 Sec. 411.807. TEXAS CONTRACTOR PREFERENCE. (a) If the
8 department seeks to contract with a private entity using money from
9 the fund, the department must give preference to an entity that:

10 (1) is incorporated or otherwise formed under the laws
11 of this state; or

12 (2) has a headquarters or other principal office
13 located in this state.

14 (b) A private entity described by Subsection (a) that
15 contracts with subcontractors shall give preference to a
16 subcontractor that:

17 (1) is incorporated or otherwise formed under the laws
18 of this state; or

19 (2) has a headquarters or other principal office
20 located in this state.

21 Sec. 411.808. VERIFICATION BY CONTRACTORS. (a) In this
22 section, "E-verify program" has the meaning assigned by Section
23 [673.001](#).

24 (b) The department may not award a contract under this
25 subchapter unless the proposed contractor and any subcontractor
26 register with and participate in the E-verify program to verify
27 employee information. The contractor and any subcontractor must

1 continue to participate in the program during the term of the
2 contract.

3 (c) The commission shall adopt procedures for the
4 administration of this section.

5 Sec. 411.809. REIMBURSEMENT. (a) The governor shall
6 submit a request to the federal government for reimbursement of
7 amounts expended from the fund, including any appropriate interest
8 and late fees.

9 (b) The comptroller shall deposit to the credit of the
10 economic stabilization fund an amount received from the federal
11 government as a reimbursement of an amount expended from the border
12 security enhancement fund.

13 Sec. 411.810. ADOPTION OF RULES. The commission shall
14 adopt the rules necessary to implement this subchapter.

15 SECTION 2. Chapter 12, Agriculture Code, is amended by
16 adding Section 12.052 to read as follows:

17 Sec. 12.052. EMINENT DOMAIN. (a) The department may
18 exercise the power of eminent domain to acquire:

19 (1) land in fee simple; or

20 (2) any interest less than fee simple in, on, under, or
21 above land, including an easement, right-of-way, or right of use of
22 airspace or subsurface space.

23 (b) An eminent domain proceeding brought by the department
24 is governed by Chapter 21, Property Code, except to the extent
25 inconsistent with this section.

26 (c) An eminent domain proceeding begins with the
27 commissioner's adoption of a resolution declaring that the

1 department's acquisition of the property or interest described in
2 the resolution:

3 (1) is a public necessity; and

4 (2) is necessary and proper for the construction,
5 extension, improvement, or development of a wall described by
6 Section 411.804, Government Code, and is in the public interest.

7 (d) The resolution is conclusive evidence of the public
8 necessity of the proposed acquisition and that the real property or
9 interest in property is necessary for public use.

10 SECTION 3. (a) In this section, "department" means the
11 Department of Public Safety of the State of Texas.

12 (b) The department shall conduct a study on the construction
13 of a wall along this state's international border as described by
14 Section 411.804, Government Code, as added by this Act. In
15 conducting the study, the department shall:

16 (1) estimate the cost for completing an operational
17 wall;

18 (2) determine the geographic areas along the border
19 most in need of the wall; and

20 (3) calculate the total distance in miles of the
21 geographic areas described by Subdivision (2) of this subsection.

22 (c) Not later than December 1, 2022, the department shall
23 submit a report of the study conducted under this section to the
24 governor, the lieutenant governor, the speaker of the house of
25 representatives, and each member of the legislature.

26 SECTION 4. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect on the 91st day after the last day of the
4 legislative session.