

By: Slaton

H.B. No. 209

A BILL TO BE ENTITLED

AN ACT

relating to border security enhancement projects, the creation of 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 established outside the general revenue fund and administered by the department under this subchapter and rules adopted by the commission under this subchapter.

(b) The fund consists of:

(1) money the legislature appropriates for deposit to the credit of the fund; and

(2) gifts, grants, and donations this state receives for the purposes of the fund, including gifts, grants, and donations made by other states or through crowdfunding.

Sec. 411.803. FUND INTEREST. The comptroller shall deposit to the credit of the economic stabilization fund the interest and

1 other earnings made on the balance of the border security
2 enhancement fund.

3 Sec. 411.804. USE OF FUND. (a) The department may use
4 money in the fund only for:

5 (1) the purposes of preventing:

6 (A) human trafficking; and

7 (B) illegal entry into the United States of:

8 (i) aliens without an appropriate federal
9 governmental authority's official approval;

10 (ii) terrorists;

11 (iii) instruments of terrorism; and

12 (iv) contraband, including narcotics and
13 other controlled substances; and

14 (2) the following activities:

15 (A) planning, designing, constructing, and
16 maintaining along this state's international border water and
17 transportation infrastructure, technology, and commercial vehicle
18 inspection infrastructure at ports of entry; and

19 (B) clearing nonindigenous plants.

20 (b) Using money from the fund, the department shall
21 construct a wall along this state's international border to be
22 named the "President Donald J. Trump Wall." The wall must be
23 constructed to department specifications and to federal
24 specifications as provided in Executive Order 13767 (82 Fed. Reg.
25 8793 (January 30, 2017)).

26 Sec. 411.805. CONTRACTS AND AGREEMENTS. The department may
27 enter into contracts and agreements as necessary to implement this

1 subchapter.

2 Sec. 411.806. CONSULTATION. (a) The department may not use
3 money from the fund to plan, design, construct, or maintain along
4 this state's international border water and transportation
5 infrastructure, technology, or commercial vehicle inspection
6 infrastructure, to clear nonindigenous plants, or to contract with
7 a third party to perform those activities, unless the department
8 consults with the commissioner of agriculture to coordinate border
9 security efforts.

10 (b) The department shall consult with the commissioner of
11 agriculture for the acquisition of any land necessary to implement
12 this subchapter.

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

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

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

20 (b) A private entity described by Subsection (a) that
21 contracts with subcontractors shall give preference to a
22 subcontractor that:

23 (1) is incorporated or otherwise formed under the laws
24 of this state; or

25 (2) has a headquarters or other principal office
26 located in this state.

27 Sec. 411.808. VERIFICATION BY CONTRACTORS. (a) In this

1 section, "E-verify program" has the meaning assigned by Section
2 673.001.

3 (b) The department may not award a contract under this
4 subchapter unless the proposed contractor and any subcontractor
5 register with and participate in the E-verify program to verify
6 employee information. The contractor and any subcontractor must
7 continue to participate in the program during the term of the
8 contract.

9 (c) The commission shall adopt procedures for the
10 administration of this section.

11 Sec. 411.809. REIMBURSEMENT. (a) The governor shall
12 submit to the federal government a request for reimbursement of
13 amounts expended from the fund, including any appropriate interest
14 and late fees.

15 (b) The comptroller shall deposit to the credit of the
16 economic stabilization fund an amount received from the federal
17 government as a reimbursement of an amount expended from the border
18 security enhancement fund.

19 Sec. 411.810. ADOPTION OF RULES. The commission shall
20 adopt rules necessary to implement this subchapter.

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

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

25 (1) land in fee simple; or

26 (2) any interest less than fee simple in, on, under, or
27 above land, including an easement, right-of-way, or right of use of

1 airspace or subsurface space.

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

5 (c) An eminent domain proceeding begins with the
6 commissioner's adoption of a resolution declaring that the
7 department's acquisition of the property or interest described in
8 the resolution:

9 (1) is a public necessity; and

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

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

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

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

22 (1) estimate the cost for completing an operational
23 wall;

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

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

1 (c) Not later than December 1, 2024, the department shall
2 submit a report of the study conducted under this section to the
3 governor, the lieutenant governor, the speaker of the house of
4 representatives, and each member of the legislature.

5 SECTION 4. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2023.