

## **BILL ANALYSIS**

C.S.H.B. 2659  
By: Krusee  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Prior to last session, Texas law required that all projects let by TxDOT had to be covered by a bond for the full dollar amount of the contract. This was required to protect the state of Texas in case of a default by the contractor. Recently, TxDOT has decided to let multi-year contracts for asset maintenance, the management of roadways. This includes such functions as right-of-way mowing, sign, light and guardrail maintenance and highway stripping to name a few. Due to the repetitive nature of these functions over the life of the contract and the difficulty in acquiring a multi-year bond, a new bonding mechanism to protect the state was necessary.

The 78th legislature passed SB 1580 by Wentworth/Krusee. This allowed TxDOT to shorten the minimum time length of a bond of two years. Upon subsequent letting of a maintenance contract by TxDOT it was discovered the language in SB 1580 shortened the time frame for performance bonds but did not apply to payment bonds, both required by TxDOT of a maintenance contractor.

CSHB 2659 would correct this oversight in SB 1580, 78th regular session, by having the two-year minimum bond coverage period apply to payment bonds.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Amends Section 223.042, Transportation Code by amending Subsection (i) and (j) and adding Subsections (k) and (l)

Subsection (j) is amended by adding "performance or payment" bonds.

Subsection (k) is amended by omitting subsections (1) and (2), and adding language noting that a claim against a performance or payment bond must be filed against the bond in effect on the date the basis for the claim arose.

SECTION 2. Effective date.

### **EFFECTIVE DATE**

Upon passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 2659 deletes the Section 2 of H.B. 2659, which specified that contracts entered into before the effective date of this act were governed by the old statute. This language is deleted, allowing TxDOT to renegotiate bonds with terms specified under this chapter.

