

BILL ANALYSIS

C.S.H.B. 2894
By: Phillips
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

As part of House Bill 2971, the 2003 78th Texas Legislature enacted new Subsection J, Chapter 504, Transportation Code, to authorize the Texas Department of Transportation (the Department) contract with a private vendor for the marketing and sale of personalized vehicle license plates, other specialized license plates specifically authorized by statute, and new specialized license plates created by the Vendor and approved by the Department. The purpose of the new Subchapter was to satisfy the interest and demands of the motoring public for personalized and specialized vehicle license plates and to increase the revenues generated by their marketing and sale for the financial benefit of the State of Texas. However, the program is not yet been implemented.

CSHB 2894 clarifies and streamlines the 2003 legislation with regard to the responsibilities of the Vendor and the Department under the statute and the contract. The bill addresses issues that have arisen during the rulemaking and Request for Information procedures that have occurred to date to implement the provision.

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 §504.851, Transportation Code, by amending Subsections (a) - (c) and (e) - (h) and adding new Subsections (g-1) and (k).

- (a) Requires the Department to enter into a contract with a private vendor for the marketing and sale of personalized license plates and, if the Vendor agrees, of souvenir license plates, current statutorily-authorized specialty license plates, and new specialty license plates approved by the Department for marketing and sale by the Vendor under the contract.
- (b) Clarifies that the costs which the Department is authorized to recover shall be those reasonable costs associated with the development, implementation and enforcement of the program.
- (c) Clarifies that the costs which the Department is authorized to recover shall be those reasonable costs associated with the development, implementation and enforcement of the program.
- (e) Specifies that the compensation of the Vendor is to be derived solely from the revenues generated by the marketing and sale of souvenir license plates, specialty license plates currently authorized by statute, souvenir or statutorily-authorized specialty license plates that are personalized or new specialty license plates that are the subject of the marketing and sales contract with the Vendor.
- (f) Clarifies that the Department may approve new design or color combinations for any type of souvenir, specialty or personalized plates authorized by the chapter which are marketed and sold by the Vendor.

(g) Clarifies that the Department may approve new design or color combinations for any type of souvenir, specialty or personalized plates authorized by the chapter which are marketed and sold by the Vendor

(g-1) Directs the Department to not treat the proposed design or color combination for a new specialized license plate as a rule of the Department but publish the proposal on its website for a period not to exceed 10 days.

(g-2) Directs the Department to not restrict background color, color combinations or color alphanumeric license plate numbers except as necessary for law enforcement purposes as determined by the Department of Public Safety.

(h) Clarifies that the Department may cancel a license plate or require discontinuation of a license plate design or color combination marketed and sold by the Vendor if it determines that the cancellation or discontinuation is in the best interest of the State or the motoring public, but not on the basis of license plate color, color combinations or color alphanumeric plate numbers.

(k) Directs the Department to certify to the Comptroller a detailed explanation of the basis upon which it estimates its costs associated with the development, implementation and enforcement of the Vendor contract.

SECTION 2: Adds §504.852, Transportation Code to prohibit certain actions by the Department. The Department may not require the Vendor to meet a minimum sales volume. Allows the Department to require a \$100,000 security deposit. Prohibits the Department from unreasonably limiting or interfering with the details of the Vendor's marketing and sales plan or operations. Prohibits the Department from requiring the Vendor to market and sell souvenir license plates, current statutorily-authorized specialty license plates, and/or souvenir or statutorily-authorized specialty license plates which are personalized.

Provides for a five year term for a contract under the bill with an option for a second five year term. Prohibits the Vendor from issuing souvenir license plates, specialty license plates, or souvenir specialty license plates that are personalized which compete directly with the sale of specialized license plates previously authorized by statute unless the Department and the sponsoring agency or organization agree to such a new specialty plate.

SECTION 3: The effective date is immediate if the Bill receives a vote of two-thirds of all members of each house or otherwise effective September 1, 2005

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

CSHB 2894 modifies the original bill by:

- specifying that the Department may require the Vendor to provide security or other deposits in an amount not greater than \$100,000 to secure the Vendor's performance and protect the state against loss;
- clarifying that the Vendor may not market or sell souvenir, specialty or personalized souvenir or specialty plates which compete directly with the sponsored license plates without that the sponsor's agreement;
- adding a provision specifying that the Vendor may be compensated for the marketing and sale of souvenir, specialty or personalized souvenir or specialty license plates only from the revenues derived from the fees;

- In the quoted subsections (f) and (g), substitutes the word “approved” for the word “create” for consistency and to clarify and distinguish the roles of the Department and Vendor under the program; and
- clarifies that, as the Department may not limit the background color, color combinations or color alphanumeric license plate numbers of a new specialized license plate except as necessary for law enforcement purposes, it may not cancel or require the discontinuation of a specialized license plate design or color combination on that basis;
- removes the section on legislative intent; and
- various numbering changes.