

BILL ANALYSIS

C.S.H.B. 2239
By: Deshotel
Culture, Recreation, & Tourism
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1991, the United States Department of Transportation established the National Scenic Byways program. Under this program, the Secretary of Transportation recognizes certain roads as National Scenic Byways or All-American Roads based on their archaeological, cultural, historic, natural, recreational, and scenic qualities. Although federal grants for state byways have been given to nearly 1,500 projects in 48 states, there are currently 96 such designated byways in 39 states. These roads are shown and marked on a National Scenic Byways Map and a website, www.byways.org. Currently, Texas does not have a Scenic Byways program and can not access these grants. The program is one that honors locally significant roads and promotes tourism for the participating states.

CSHB 2239 establishes a Scenic Byways program for Texas. The Texas Department of Transportation (TxDOT) will plan, design, and establish a program for designating highways as State Scenic Byways. Political subdivisions and community groups approved by TxDOT will be allowed to apply for federal grants under 23 U.S.C., Section 162, to be used for a number of eligible projects. The federal grant covers 80 percent of the project costs with the applicant or state providing the remaining 20 percent. These grant funds could be used for a number of eligible projects such as construction of a byway facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facilities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1 of this bill, and to the Texas Department of Transportation in SECTION 1 of this bill.

ANALYSIS

SECTION 1: Amends Chapter 201, Transportation Code, by adding Subchapter P, Section 201.981, as follows:

Sec. 201.981. SCENIC BYWAYS PROGRAM. (a) Requires the Texas Department of Transportation (department) in conjunction with the Texas Historical Commission and the Department of Parks and Wildlife's Texas Trails System, to plan, design, and establish a program for designating highways as State Scenic Byways.

(b) Requires the program to include a process to enable the department to perform certain functions.

(c) Requires the department to designate a highway as a State Scenic Byway under the program established by this section before the department applies for a grant under Subsection (b)(2) for a project related to the highway.

(d) Authorizes the department to use money from the state highway fund to pay for the costs of a project not covered by a grant made under 23 U.S.C. Section 162.

(e) Requires the department to adopt rules to implement this section.

Sec. 201.982. REGULATION OF OUTDOOR ADVERTISING ON CERTAIN HIGHWAYS. (a) Requires the Texas Transportation Commission by rule, except as provided by Subsection (b), to prohibit outdoor advertising in a manner consistent with 23 U.S.C. Section 131(s) on a State Scenic Byway designated under Section 201.981.

(b) Prohibits a rule adopted under Subsection (a) from applying to certain outdoor advertising.

Sec. 201.983. NOTICE AND EXCLUSION. (a) requires the department to include a process to notify landowners along the proposed state highway through newspapers in each county, and requires the department to notify the county clerk of the proposed highway's county.

(b) The county clerk in each county shall send notice by certified mail within 15 days of being notified. The notice shall include notification of the proposed designation as a State Scenic Byway and inform the landowners of the restrictions. To exclude their land from the designation as a scenic byway, the landowner shall, by certified mail, inform the department of their intention before the 30th day before the date the department designates the highway. The property is excluded when the notice is received by the department.

SECTION 2. Section 391.068(a), of the Transportation Code, is amended to provide an exception for Subchapter P, Chapter 201, the Scenic Byways Program.

SECTION 3. Section 394.022, Transportation Code, is amended to provide an exception for Subchapter P, Chapter 201, the Scenic Byways Program.

SECTION 4. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2239 differs from the original bill to include coordination with the Texas Historical Commission and the Department of Parks and Wildlife's Texas Trails System, and modifies the regulation of outdoor advertising language to state that a rule adopted under the Subsection may not apply to outdoor advertising permitted under 23 U.S.C. Section 131 instead of the previously stated subsections. It also includes the notice and exclusion language, as well as landowner response language. C.S.H.B. 2239 amends the Transportation Code to address potential conflicts of permit issuance by providing an exception for State Scenic Byways. C.S.H.B. 2239 also amends language to be included in a more appropriate section of the Transportation Code.