

BILL ANALYSIS

C.S.H.B. 2268
By: Murphy
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, under Subchapter F, Chapter 202, Transportation Code, the Texas Department of Transportation's (TxDOT) express authority for advance acquisition is limited to purchasing options. Options to purchase have a limited appeal to landowners. There is an uncertainty as to if the property will be acquired by the department, when it will be acquired, and what will be the purchase price. The uncertainty increases with a longer option period. Landowners may be very reluctant to sell an option that will affect their and their children's or grandchildren's use or disposition of the property. To allow the department to purchase an interest in the property as an alternative would prevent these parcels from being developed, saving the department millions in later acquisition costs and damages. It also provides willing landowners with certainty: immediate receipt of sale proceeds and the ability to develop their remaining property without waiting on the normal acquisition process. This would also help local governments plan development in their areas, and allows the department flexibility.

Further, under current law, the department is required to complete a state environmental review of a project prior to determining the final location or alignment of a transportation facility.

The purpose of C.S.H.B. 2268 is to amend Section 202.112, Transportation Code, by adding language to subsections (a) and (e) to authorize TxDOT to purchase interests in real property before the location or alignment of the highway has been determined. The prohibition against making an advance acquisition by condemnation would remain.

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.

ANALYSIS

SECTION 1. Amends Section 202.112, Transportation Code as follows:

Authorizes the department in Subsection (a) to purchase fee title, an easement, a leasehold, or any other interest in real property or an option to purchase fee title or a lesser interest in real property, and adds Subsection (e) to clarify that the legal requirement that an environmental review of a department project be conducted before the location or alignment of the project has been determined does not prevent the advance acquisition of property.

SECTION 2. Amends Section 227.041(a), Transportation Code as follows:

Removes language in this Section dealing with the Trans-Texas Corridor to simplify references to advance acquisition and to conform that provision to SECTION 1.

SECTION 3. Effective Date.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

- SECTION 1. H.B. 2268 added Section 224.0011, Transportation Code to authorize the department to contract to acquire real property for a highway purpose before the final location or alignment subject to two conditions.
- C.S.H.B. 2268 moves the authorization from Section 224.0011 to Section 202.112, Transportation Code, clarifies that it includes the purchase of any interest in real property whether fee title, easement or otherwise, and makes it subject to the same conditions that currently apply to the use of options to purchase. One of those conditions is that condemnation can not be used. This bill also clarifies that environmental laws related to the final determination of alignment for the entire project do not apply to the advance acquisition of individual parcels.
- SECTION 2. H.B. 2268 included the Effective Date provision in this Section.
- C.S.H.B. 2268 moves the Effective Date provision to SECTION 3 and deletes language from Section 227.041(a), Transportation Code to simplify and clarify the application of advance acquisition to the Trans-Texas Corridor.
- SECTION 3. C.S.H.B. 2268 includes the Effective Date.