

## **BILL ANALYSIS**

C.S.H.B. 2991  
By: Murphy  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 2003, local developers and municipalities were encountering problems associated with the new manner in which TxDOT was acquiring property and granting access to roadways and its resulting effect upon access for the abutting property to the adjacent roadway. In an effort to create a quicker response to local developer and municipality needs, Senator Shapiro authored S.B. 361 which authorized cities to take over the decision making authority related to access to roadways within their jurisdictions provided that they did not do anything that would jeopardize federal funds and that TxDOT did not own the access from the abutting property.

This solution worked well for cities but failed to address the needs of local governments and developers in the Houston area where 90% of the development activity occurs outside city limits of cities. Therefore, in 2005, Senator Lindsay authored S.B. 637 which gave to Harris County, and the five counties which bordered Harris County, the same decision making authority relative to access management decisions for roadways that S. B. 361 had given to cities in 2003.

During implementation of S.B. 637 by Harris County, the question was raised as to whether the counties covered by S.B. 637 had been adequately empowered to make these access decisions because the legislation did not specifically use the phrase "by order or resolution." Since counties are creations of the State and do not have any powers except those that are specifically granted to them, they can only pass "orders" or "resolutions" when specifically granted that authority.

C.S.H.B. 2991 amends Subchapter A, Chapter 251 of the Transportation Code and seeks to clarify that the authority granted to the subject counties in the 2005 legislation is complete with the authority to pass a "resolution or order" on the subject of access management.

The Committee Substitute adds (b) to Section 1 to clarify that CSHB 2991 does not apply to the placement or access to a utility facility in or near a right-of-way.

### **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.** Adds Section 251.0165 to Subchapter A, Chapter 251 of the Transportation Code:

Sec. 251.0165. (a) states that this section applies only to counties with a population of 3.3 million or more population and to counties adjacent to a county with a population of 3.3 million or more population;

(1) These counties may deny access to or from a controlled access highway, including a state highway, within the county and outside the limits of a municipality. The access can be denied from or to adjoining public or private real property and from or to a public or private way intersecting the highway, except at specified locations.

(2) These counties may also designate locations on a controlled access highway, including a state highway, that is within the county and outside the limits of a municipality, at

which access to or from the highway is permitted and determine the type and extent of access permitted.

(b) Clarifies that this bill does not apply to the placement of or access to a utility facility in or near a highway right-of-way.

**SECTION 2.** The Act could become effective immediately with a two-thirds vote of each house otherwise the bill would become effective on September 1, 2007.

**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**

The Committee Substitute simply adds (b) to Section 251.0165 to clearly state that this piece of legislation does not apply to the placement of or access to a utility facility in or near a highway right-of-way.