

BILL ANALYSIS

S.B. 480
By: Carona
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Increasingly, environmental covenants are being used as part of the environmental remediation process for sale of contaminated real property. An environmental covenant is a legal agreement which restricts activities on sites where some contamination remains in place. The Texas Department of Transportation (TxDOT) enters into environmental covenants with the goal of returning a site to a condition where it can be safely used for any purpose before the property can be sold. However, many environmental covenants are used when the real property is to be cleaned up to a level determined for intended use so that property for sale that is intended for commercial or industrial use has brought up the contamination standards of commercial property. Commercial and industrial contamination levels are higher than those allowed for residential properties. Current law requires TxDOT to bring all contaminated property up to residential contamination levels before sale, regardless of intended use.

S.B. 480 adds Section 202.061, Transportation Code, to authorize the Texas Transportation Commission to enter into covenants for environmental remediation of real property owned by TxDOT.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 202, Transportation Code, by adding Section 202.061, as follows:

Sec. 202.061. ENVIRONMENTAL COVENANT. (a) Authorizes the Texas Transportation Commission (TTC) to enter into an environmental covenant for the purpose of subjecting real property in which the Texas Department of Transportation (TxDOT) has an ownership interest to a plan or the performance of work for environmental remediation if the plan or work performed is first approved by the Texas Commission on Environmental Quality or a federal agency with the authority to approve the plan or work under the applicable laws and regulations.

(b) Requires the environmental covenant to contain a legally sufficient description of the property subject to the covenant; describe the nature of the contamination on or under the property, including the contaminants, the source, if known, and the location and extent of the contamination; and describe the activity and use limitations on the property.

(c) Requires that the plan or performance of work for environmental remediation meet applicable state and federal standards for environmental remediation and bring the property into compliance with zoning or land use controls imposed on the property by each applicable local government.

(d) Authorizes TTC by order, for each property for which TTC is authorized to enter into an environmental covenant, to authorize the executive director of TxDOT to execute an environmental covenant on behalf of TTC. Requires TTC,

not less than 30 days before the date TTC considers a proposed order under this subsection, to mail to each owner of a property interest in the applicable property, each adjacent landowner, and each applicable local government a notice that includes a clear and concise description of the proposal to enter into the environmental covenant and a statement of the manner in which written comments are authorized to be submitted to TTC.

SECTION 2. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2009.