

BILL ANALYSIS

C.S.H.B. 2887
By: Fletcher
Homeland Security & Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties report that Mexican drug cartels and the gangs that support the cartels are motivated by making a profit rather than by ideology and that they use their enormous profits to battle each other and the government of Mexico for control of the smuggling corridors into Texas. Seizing the illicit profits of the cartels and gangs is a key element of an overarching strategy to combat organized criminal activity in Texas. The parties note that the majority of contraband forfeitures under state law result in default judgments and believe that state administrative forfeiture would streamline the process without any loss of due process rights for potential claims to property. C.S.H.B. 2887 seeks to address concerns about the disposition of certain property seized by the Texas Department of Public Safety.

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

C.S.H.B. 2887 amends the Code of Criminal Procedure to require an attorney representing the state, with respect to forfeited property seized in connection with a violation of the Texas Controlled Substances Act by a peace officer employed by the Department of Public Safety (DPS), to enter into a local agreement with DPS that allows the attorney either to transfer forfeited property to DPS to maintain, repair, use, and operate for official purposes in the manner prescribed by law or allocate proceeds from the sale of forfeited property in the manner prescribed by law, after the required deduction of court costs, in the following proportions: 40 percent to a special fund in DPS to be use solely for law enforcement purposes; 30 percent to a special fund in the county treasury for the benefit of the office of the attorney representing the state, to be used by the attorney solely for the official purposes of the attorney's office; and 30 percent to the general revenue fund.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2887 differs from the original by requiring an attorney representing the state to enter into a local agreement with the Department of Public Safety (DPS) that allows the attorney to transfer to DPS forfeited property seized by a DPS peace officer in connection with a violation of the Texas Controlled Substances Act to maintain, repair, use, and operate for official purposes or allocate proceeds from the sale of such forfeited property to certain funds in specified proportions, whereas the original requires the public safety director of DPS by rule to establish and implement procedures relating to the disposition of forfeited contraband seized by DPS in connection with an investigation of such a violation. The substitute omits provisions included in

the original requiring the administration of that seized property by the public safety director in accordance with applicable rules and establishing a deadline by which the public safety director is required to adopt those rules.