

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 20
By: Simmons et al. (Nichols)
Transportation
5/15/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 20 seeks to provide a framework to ensure that funds for transportation are administered in an objective and transparent manner with accountability for funds that are spent.

C.S.H.B. 20 requires the Texas Department of Transportation (TxDOT) to develop and implement and the Texas Transportation Commission (TTC) to approve a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward the attainment of all TxDOT goals and objectives established by the legislature and TTC. The bill requires TxDOT to develop and implement performance metrics and performance measures as part of the review of strategic planning in the statewide transportation plan, rural transportation plans, and the unified transportation program; as part of the evaluation of decision-making on projects selected for funding in the unified transportation program and the statewide transportation improvement program; and as part of the evaluation of project delivery for projects in TxDOT's letting schedule.

The bill requires all local transportation entities in Texas to develop, adopt, and submit to TxDOT guidelines governing the funding prioritization of the entities' transportation projects. The bill sets out the criteria a local transportation entity is required to consider at a minimum in developing the guidelines for funding prioritization. The bill requires each local transportation entity and TxDOT district, in prioritizing projects, to include projects that meet short-term and long-term needs of the entity's jurisdiction with emphasis given to projects already approved in a regional transportation plan. The bill requires each local transportation entity and TxDOT district to submit to TxDOT the funding prioritization for transportation projects in the entity's jurisdiction.

The bill requires TxDOT to prioritize and TTC to approve projects included in the statewide transportation plan in order to provide financial assistance. The bill requires TxDOT to establish and TTC to approve a performance-based process for setting funding levels for the categories of the projects in TxDOT's unified transportation program. The bill limits TTC authority to make discretionary funding decisions to no more than 10 percent of the current biennial budget of TxDOT.

C.S.H.B. 20 removes SECTION 4, which amended Section 201.992(b), Transportation Code. It was a drafting error; the section should have never been included in the bill

C.S.H.B. 20 removes SECTION 5, which amended Section 201.993, Transportation Code. It was a drafting error; the section should have never been included in the bill

C.S.H.B. 20 corrects SECTION 6, which incorrectly referenced and amended Section 201.9931.

C.S.H.B. 20 changes the effective date to read "August 31, 2015."

C.S.H.B. 20 amends current law relating to the operations of and transportation planning and expenditures by the Texas Department of Transportation and planning organizations.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1 (Section 201.809, Transportation Code), and SECTION 4 (Section 201.9991, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 201.809, Transportation Code, by adding Subsections (e) through (j), as follows:

(e) Requires the Texas Transportation Commission (TTC) by rule to develop and implement, a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward attaining all Texas Department of Transportation (TxDOT) goals and objectives established by the legislature and TTC.

(f) Requires TTC by rule to develop and implement performance metrics and performance measures as part of:

(1) the review of strategic planning in the statewide transportation plan, rural transportation plans, and unified transportation program;

(2) the evaluation of decision-making on projects selected for funding in the unified transportation program and statewide transportation improvement program; and

(3) the evaluation of project delivery for projects in TxDOT's letting schedule.

(g) Requires TTC by rule to adopt and periodically review performance metrics and measures to:

(1) assess how well the transportation system is performing and operating;

(2) provide TxDOT, legislature, stakeholders, and public with information to support decisions in a manner that is accessible and understandable to the public;

(3) assess the effectiveness and efficiency of transportation projects and service;

(4) demonstrate transparency and accountability; and

(5) address other issues TTC considers necessary.

(h) Provides that the requirement for TTC to develop and implement a performance-based planning and programming process does not replace or alter the requirement of TTC or TxDOT to comply with the budgetary performance measures for each biennium as established in the General Appropriations Act. Prohibits TTC from relying on its requirement to report budgetary performance measures as satisfying the requirements imposed under this section.

(i) Requires TTC to develop and implement periodic reporting schedules for all performance metrics and measures required under this section.

SECTION 2. Amends Subchapter P, Chapter 201, Transportation Code, by adding Section 201.9901, as follows:

Sec. 201.9901. DEFINITIONS. Defines "planning organization," "project," "region" and "transportation official," in this subchapter.

SECTION 3. Amends Subchapter P, Chapter 201, Transportation Code, by adding Section 201.9911, as follows:

Sec. 201.9911. PLANNING ORGANIZATION 10-YEAR PLAN. (a) Requires each planning organization to develop a 10-year transportation plan for the use of the funding allocated to the region. Requires TxDOT to assist the planning organizations by providing in a timely manner such information as is reasonably requested by the planning organizations.

(b) Requires that the first four years of the plan be developed to meet the transportation improvement plan requirements of 23 U.S.C. Section 134 or 135, as applicable.

(c) Requires the department district, for an area that is not within the boundaries of a metropolitan planning organization, to develop the 10-year transportation plan with input from municipal and county elected officials and transportation officials in the region.

SECTION 4. Amends Subchapter P, Chapter 201, Transportation Code, by adding Sections 201.9932 and 201.9991, as follows:

Sec. 201.9932. PROJECT RECOMMENDATION CRITERIA. Requires each planning organization to develop its own project recommendation criteria, which is required to include consideration of projected improvements to congestion and safety, projected effects on economic development opportunities for residents of the region, available funding, effects on the environment, including air quality, socioeconomic effects, including disproportionately high and adverse health or environmental effects on minority or low-income neighborhoods, and any other factors deemed appropriate by the planning organization.

Sec. 201.9991. PRIORITIZATION AND APPROVAL OF PROJECTS BY COMMISSION. (a) Requires TTC by rule to prioritize and approve projects included in the statewide transportation plan under Section 201.601 (Statewide Transportation Plan) in order to provide financial assistance under this chapter.

(b) Requires TTC by rule to establish a performance-based process for setting funding levels for the categories of projects in TxDOT's unified transportation program.

(c) Requires TTC by rule to establish a scoring system for prioritizing projects for which financial assistance is sought from TTC by planning organizations. Requires that the criteria used to score projects take into consideration TxDOT's strategic goals as approved by TTC. Requires that the system account for the diverse needs of the state so as to fairly allocate funding to all regions of the state.

(d) Authorizes TTC to make discretionary funding decisions for no more than 10 percent of the current biennial budget of TxDOT.

SECTION 5. Amends Section 223.241, Transportation Code, by adding Subdivision (3), to define "highway project."

SECTION 6. Amends Section 223.242, Transportation Code, by adding Subsections (b-1), (f), and (g) and amending Subsections (d) and (d-1), as follows:

(b-1) Provides that design-build contract under this subchapter may include a maintenance agreement requiring a design-build contractor to maintain a project for an initial term of no longer than five years. Provides that the maintenance agreement may authorize TxDOT, in its sole discretion, to exercise options extending the term of the maintenance agreement for additional periods beyond the initial maintenance term with each additional period being not longer than five years. Requires TxDOT to obtain

pricing for the maintenance work for each maintenance term. Authorizes TxDOT to require separate pricing for the maintenance work to be performed for each year of a maintenance term.

(d) Authorizes TxDOT to enter into a design-build contract for a highway project with a construction cost estimate of \$250 million, rather than \$50 million, or more to TxDOT.

(d-1) Deletes existing text providing that this subsection, providing that TxDOT may not enter into more than three contracts under this section in each fiscal year, expires August 31, 2015.

(f) Prohibits TxDOT from using the design-build method for the construction, expansion, extension, rehabilitation, alteration, or repair of a highway project if the project is substantially designed by TxDOT or another entity other than the design-build contractor.

(g) Prohibits TxDOT from including more than one highway project in a design-build contract.

SECTION 7. (a) Defines "commission" to mean TTC, and "department" to mean TxDOT in this section.

(b) Provides that, not later than the earlier of 30 days after the effective date of this Act or September 1, 2015:

(1) the speaker of the house of representatives is required to appoint nine members to a House Select Committee on Transportation Planning and designate one member as chair; and

(2) the lieutenant governor is required to appoint five members to a Senate Select Committee on Transportation Planning and designate one member as chair.

(b-1) Requires the speaker and the lieutenant governor, in making appointments under Subsection (b) of this section, to consider members that reflect diverse constituencies with respect to geographic areas in the state, urban and rural areas, and ethnicity.

(c) Authorizes the committees established under this section to meet separately at the call of the chair of the committee or jointly at the call of both chairs. Requires the chairs to act as joint chairs in joint meetings.

(d) Requires the committees established under this section, meeting separately or jointly, to review, study, and evaluate:

(1) TxDOT projections regarding the revenue needed by TxDOT to maintain current maintenance, congestion, and connectivity conditions;

(2) the development of funding categories, the allocation of funding to such categories by formula, project selection authority for each funding category, and the development of project selection criteria for TTC, TxDOT, and district-selected projects;

(3) TxDOT rules and policies regarding the development and implementation of performance-based scoring and decision making for project prioritization and selection of TTC, TxDOT, and district-selected projects;

(4) the use and utilization of alternative methods of financing that have been authorized by the legislature for projects;

(5) performance metrics and measurement tools used by TxDOT to evaluate the performance of a TxDOT project or program;

(6) TxDOT's collaboration with state elected officials, local governments, government trade associations, metropolitan planning organizations, regional mobility authorities, and other entities when adopting rules or formulating policies;

(7) any proposed rule, policy, program, or plan of TTC or TxDOT of statewide significance;

(8) any possible benefits of utilizing zero-based budgeting principles; and

(9) any other matter the committee considers appropriate.

(e) Requires the committees, following consideration of the factors described by Subsection (d) of this section, to prepare a written report on the reviewed subjects and to, not later than November 1, 2016, provide to the legislature the report.

(f) Authorizes the committees established under this section to exercise any power of a committee of their respective chambers and any powers of a joint committee. Provides that for the purposes of this section, the committees established under this section are considered a joint committee and the cost of operation of each committee may be borne in the same manner as the cost of a joint committee. Authorizes the Texas Legislative Council to provide funding for the operations of the committees. Provides that, to the extent not inconsistent with this section, the joint rules adopted by the 84th Legislature for the administration of joint interim legislative study committees apply to the committees established under this section.

(g) Requires TxDOT, not later than December 1, 2015, to submit an initial report to the select committees. Requires that the report provide information necessary for the select committees to review, study, and evaluate the factors described by Subsections (d)(1), (2), and (3) of this section. Requires TxDOT, not later than May 31, 2016, to submit to the select committees a preliminary report on the remaining factors described by Subsection (d) of this section.

(h) Provides that this section expires January 9, 2017.

SECTION 8. (a) Provides that Section 223.242(b-1), Transportation Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. Provides that a contract entered into before that date is governed by the law as it existed on the date the contract was entered into, and that law is continued in effect for that purpose.

(b) Provides that Sections 223.242(f) and (g), Transportation Code, as added by this Act, apply only to a highway project for which a request for qualifications is issued on or after the effective date of this Act. Provides that a highway project for which a request for qualifications is issued before the effective date of this Act is governed by the law in effect on the date the request for qualifications was issued, and that law is continued in effect for that purpose.

SECTION 9. Effective date: upon passage or August 31, 2015.