

BILL ANALYSIS

C.S.H.B. 3302
By: Darby
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the Texas Department of Transportation is unnecessarily required to spend a portion of highway contract funding to enhance the appearance of public highways by incorporating landscapes to emphasize natural beauty and green space. However, these parties assert that this contractually set percentage can sometimes result in wasted state funding when the required spending amount exceeds reasonable landscaping costs. C.S.H.B. 3302 seeks to remedy this situation by providing for sensible guidelines for funding and maintaining beautification projects.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 3302 amends the Transportation Code to require the Texas Department of Transportation (TxDOT) to establish guidelines for a beautification project on a state highway right-of-way that require the use of only native or regionally appropriate plants. The bill requires the guidelines to prioritize the use of plants that are low maintenance and drought resistant if used for a beautification project located in an area of Texas that experiences frequent droughts. The bill requires TxDOT, for each highway project contract that involves the expenditure of \$5 million or more, to allocate money for landscaping improvements to the district in which the highway project is located, and to divide the money according to the amount under the contract to be spent in each district for a highway project located in more than one district. The bill authorizes TxDOT, before allocating money to a district, to take into consideration financial assistance from a political subdivision or a private organization for landscaping improvements.

C.S.H.B. 3302 caps the total amount of money allocated for landscaping improvements for a highway project contract at one percent of the lesser of the estimated total amount to be spent, or the actual total amount spent, under the contract for construction, maintenance, or improvement of the highway if that total amount is less than \$50 million or one-half of one percent of the lesser of that estimated total amount or that actual total amount if that total amount is \$50 million or more. The bill restricts the use of money received by a district from TxDOT to landscaping improvements related to the highway project that is the subject of the contract for which the allocation is made or another highway or highway segment located in the district. The bill's provisions regarding expenditures for highway landscaping do not apply to a contract awarded for an emergency highway improvement project, for silt and erosion control or repair, and for

planting grass required by federal regulation.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3302 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter A, Chapter 392, Transportation Code, is amended by adding Sections 392.004 and 392.005 to read as follows:

Sec. 392.004. NATIVE OR REGIONALLY APPROPRIATE LANDSCAPING. The department shall establish guidelines for beautification projects on state highway rights-of-way that require the projects to use only native or regionally appropriate plants. The guidelines must prioritize the use of plants that are:

- (1) low maintenance; and
- (2) drought resistant if used for a project located in an area of this state that experiences frequent droughts.

Sec. 392.005. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a) In this section, "landscaping improvement" means:

- (1) the planting of native or regionally appropriate plants selected under the guidelines established under Section 392.004; or

- (2) the preparation of the soil and installation of irrigation systems for the growth of plants described by Subdivision (1).

(b) For each contract for a highway project that is in an amount of [\$5] million or more, the department shall allocate money for landscaping improvements to the district or districts in which the project is located. If the project is located more than one district, the department shall divide the allocation according to the amount under the contract to be spent in each district.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 392, Transportation Code, is amended by adding Sections 392.004 and 392.005 to read as follows:

Sec. 392.004. NATIVE OR REGIONALLY APPROPRIATE LANDSCAPING. The department shall establish guidelines for a beautification project on a state highway right-of-way that require the use of only native or regionally appropriate plants. The guidelines must prioritize the use of plants that are:

- (1) low maintenance; and
- (2) drought resistant if used for a beautification project located in an area of this state that experiences frequent droughts.

Sec. 392.005. EXPENDITURES FOR HIGHWAY LANDSCAPING. (a) In this section, "landscaping improvement" means:

- (1) the planting of native or regionally appropriate plants selected under the guidelines established under Section 392.004; or

- (2) the preparation of soil or the installation of irrigation systems for the growth of plants described by Subdivision (1).

(b) For each highway project contract that involves the expenditure of \$5 million or more, the department shall allocate money for landscaping improvements to the district in which the highway project is located. If the highway project is located in more than one district, the department shall divide the money according to the amount under the contract to be spent in each district. The department, before allocating money to a district, may take into consideration financial assistance from a political subdivision or a private organization for landscaping improvements.

(c) The total amount allocated for a contract under Subsection (b) may not exceed:

(1) one percent of the total amount to be spent under the contract for construction, maintenance, or improvement of the highway if that total amount is less than \$50 million; or

(2) one-half of one percent of the total amount to be spent under the contract for construction, maintenance, or improvement of the highway if that total amount is \$50 million or more.

(d) A district that receives an allocation under Subsection (b) may spend the amount only for landscaping improvements associated with:

(1) the highway project that is the subject of the contract for which the allocation is made; or

(2) another highway or highway segment located in the district.

SECTION 2. This Act takes effect September 1, 2015.

(c) The total amount of money allocated for landscaping improvements for a highway project contract under Subsection (b) may not exceed:

(1) one percent of the lesser of:

(A) the estimated total amount to be spent under contract for construction, maintenance, or improvement of the highway if that total amount is less than \$50 million; or

(B) the actual total amount spent under contract for construction, maintenance, or improvement of the highway if that total amount is less than \$50 million; or

(2) one-half of one percent of the lesser of:

(A) the estimated total amount to be spent under contract for construction, maintenance, or improvement of the highway if that total amount is \$50 million or more; or

(B) the actual total amount spent under contract for construction, maintenance, or improvement of the highway if that total amount is \$50 million or more.

(d) A district that receives money from the department under Subsection (b) may spend the amount only for landscaping improvements related to:

(1) the highway project that is the subject of the contract under Subsection (b); or

(2) another highway or highway segment located in the district.

(e) This section does not apply to a contract awarded for:

(1) an emergency highway improvement project under Subchapter C, Chapter 223;

(2) silt and erosion control or repair; and

(3) planting grass required by federal regulation.

SECTION 2. Same as introduced version.