

## **BILL ANALYSIS**

C.S.H.B. 3893  
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Land & Resource Management  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Austin voters recently approved funding for the initial investment for the Capital Metropolitan Transportation Authority's Project Connect, which includes two light-rail lines that would operate underground in the central business district. Underground service would separate automobile and pedestrian traffic from subsurface uses and provide safety and operational benefits for rail and roadway users. Many decades ago the Texas Legislature granted the City of Austin a 99-year lease, which was later extended, on several properties throughout the city to be used as parks. This lease does not explicitly grant access or subsurface rights to the properties, which are critical to ensuring proper ventilation and access to an underground station with regard to these rail lines. C.S.H.B. 3893 seeks to address this issue by granting a certain subsurface lease and specified easements for certain properties to the Capital Metropolitan Transportation Authority.

### **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. 3893 amends Chapter 34 (H.B. 215), General Laws, Acts of the 33rd Legislature, Regular Session, 1913, to establish that the State of Texas cedes and grants the following to the Capital Metropolitan Transportation Authority for a period of 99 years beginning on the bill's effective date:

- a lease of all of the subsurface strata below the surface of Public Municipal Auditorium, as described under the bill's provisions, and Brush Park and the streets abutting these properties to the center of such streets; and
- specified easements, including an encroachment easement and certain rights relating to specified surface ancillary amenities, on the surface of these properties and the streets abutting the properties to the center of such streets.

The bill authorizes the authority to use the subsurface of these properties for public transportation, a subway or underground railway station, tunnel, or terminal, and transportation facilities, including any retail, commercial, public performance and exhibition, and public amenity purposes. The bill authorizes the authority, in any location and at any depth below the surface of the properties, to construct, operate, repair, maintain, replace, and remove specified transportation facilities. The bill requires each easement to be appurtenant to the leasehold interest granted to the authority, to run with the properties, and to inure to the benefit of the authority. The bill establishes that nonuse of an applicable easement or right does not constitute

abandonment or surrender and does not preclude the use of the entire scope of the easement or right by the authority at any time or from time to time.

C.S.H.B. 3893 establishes that the state acknowledges and agrees that the authority shall be the sole and exclusive owner of all applicable transportation facilities and surface ancillary amenities installed under the bill's provisions. The bill authorizes the authority to convey or remove the same at any time or from time to time. The bill establishes that the state waives any lien rights, whether statutory or otherwise, the state has or may have to the transportation facilities or the surface ancillary amenities. The bill requires the authority to have the right at any time and from time to time to assign, encumber, hypothecate, mortgage, or pledge any right, title, or interest granted to the authority under the bill's provisions, including, without limitation, any of its right, title, or interest in and to the transportation facilities or the surface ancillary amenities. The bill authorizes the authority to grant such subleases, easements, and licenses over, across, through, or under the applicable properties as the authority may consider necessary or desirable in connection with the development, operation, or maintenance of the transportation facilities or the surface ancillary amenities. The bill establishes that the state does not by specified provisions part with any title, color of title, or interest which it now owns in the applicable properties except as granted by the bill's provisions.

C.S.H.B. 3893 requires the leasehold interest granted by the state to the City of Austin of Public Municipal Auditorium, as described under the bill's provisions, and Brush Park to be limited to only the surface of these properties and to be subject and subordinate to those rights and interests granted to the authority under the bill's provisions, but requires the authority to exercise those rights and interests so as to reasonably accommodate authorized public uses of those properties.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3893 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include language included in the original requiring the leasehold interest granted by the state to the City of Austin for Wooldridge Park to be limited to only the property's surface and to be subject and subordinate to the rights and interests granted to the authority under the bill's provisions. The substitute includes language not in the original that requires the authority to exercise those rights and interests to reasonably accommodate authorized public uses of Public Municipal Auditorium, as described under the bill's provisions, and Brush Park.

The substitute includes an authorization not included in the original for the authority to convey an applicable transportation facility or surface ancillary amenity.