

By: Canales

H.B. No. 3741

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the operation of a program by the Texas Department of  
3 Transportation to allow a real property owner to plant or replace  
4 vegetation in a right-of-way.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter C, Chapter 202, Transportation Code,  
7 is amended by adding Section 202.0585 to read as follows:

8 Sec. 202.0585. VEGETATION IN RIGHT-OF-WAY. (a) Subject to  
9 Subsections (b) and (c), the department by rule shall develop and  
10 implement a program to allow an owner of real property abutting or  
11 adjoining property acquired by the department for the right-of-way  
12 of a road in the state highway system to:

13 (1) plant vegetation or replace existing vegetation in  
14 the right-of-way if the owner determines that the new vegetation  
15 will enhance the aesthetic appeal of the property; or

16 (2) replace existing vegetation in the right-of-way if  
17 the vegetation to be replaced reduces the visibility of the  
18 property.

19 (b) The program may authorize an owner of real property  
20 described by Subsection (a) to plant or replace existing vegetation  
21 only in the right-of-way, including the outer separation, located  
22 within 500 feet of the property.

23 (c) An owner of real property who plants or replaces  
24 vegetation in the right-of-way in accordance with this section:

1           (1) is responsible for all costs associated with the  
2 planting or replacement of vegetation;

3           (2) may only use plants that are native, regionally  
4 appropriate, and pollinator-friendly; and

5           (3) may not interfere with any public utility  
6 infrastructure located in the right-of-way.

7           (d) The rules adopted by the department under Subsection (a)  
8 may not impair or relinquish the state's right to use the  
9 right-of-way when needed to construct or reconstruct the road for  
10 which it was acquired.

11           (e) Use by the owner of adjoining or abutting real property  
12 under this section is not abandonment of the right-of-way by the  
13 department.

14           (f) This section does not require a utility, as defined by  
15 Section 203.091, that performs work in the right-of-way to replace  
16 vegetation or provide compensation to an owner of real property for  
17 replacing vegetation if the removal of vegetation is necessary to  
18 perform the work.

19           SECTION 2. This Act takes effect September 1, 2023.