

**SUBJECT:** Authority to designate routes for non-radioactive hazardous waste

**COMMITTEE:** Transportation — committee substitute recommended

**VOTE:** 8 ayes — Alexander, Siebert, Edwards, Finnell, Hartnett, Hawley, Hill, Uher  
0 nays  
1 absent — Pickett

**WITNESSES:** None

**BACKGROUND :** Federal regulations authorize the Governor's Office to name a state agency to approve new routes for transporting non-radioactive hazardous waste. In September 1995, the governor directed the Department of Public Safety (DPS) to approve all new routes. The DPS also is responsible for adopting rules regarding the safe transportation of hazardous materials.

**DIGEST:** CSHB 711 would transfer authority for adopting rules regarding the transportation of non-radioactive waste from DPS to the Texas Transportation Commission, which oversees the Texas Department of Transportation (TxDOT). Rules covering signage, public participation, and procedural requirements could impose more stringent requirements than federal regulations.

The commission could designate any public road or highway in the state as a non-radioactive hazardous waste route. The designation could include a road or highway that was not part of the state highway system only on the approval of the governing body of the political subdivision that maintained the road or highway. TxDOT would be required to provide signs for a designated route that was not part of the state highway system, and the political subdivision that maintained the roadway would be responsible for installing and maintained the signs. A state agency or political subdivision could also designate a route for transporting non-radioactive hazardous waste with TxDOT approval.

CSHB 711 would require DPS and TxDOT to develop a memorandum of understanding for the transition of authority for designating routes prior to TxDOT's adopting rules. TxDOT would have to adopt rules by January 1, 1998. Other provisions of CSHB 711 would take effect immediately if the bill is finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS  
SAY:**

CSHB 711 would place the authority for designating non-radioactive hazardous materials routes in the state agency that is better equipped to handle the responsibility. While DPS has the authority for dealing with safety aspects of hazardous wastes, TxDOT has the expertise to deal with issues involving the designation of highway routes. Currently, DPS simply acts as a go-between on these matters, while most of the substantive work is done by TxDOT. DPS concurs in having authority in this area transferred to TxDOT.

CSHB 711 would allow Texas to adopt more stringent rules than the federal requirements for signage, public participation, and procedural requirements. This provision would enable TxDOT to enhance and clarify elements in the federal law, which in some cases is unclear or insufficient in its requirements. For example, the federal law makes public hearings optional at the state level; TxDOT wants to hold at least two public hearings as part of the route designation process. The federal law lays out responsibilities only for the state agency with the authority to designate routes; TxDOT wants to include cities, DPS and other state and local agencies in the decisionmaking process.

While the governor has the ultimate authority to decide which agency is responsible for designating these hazardous waste routes, CSHB 711 would give a clear indication that the Legislature intends for TxDOT to assume responsibility in this area.

**OPPONENTS  
SAY:**

Since federal law mandates that the governor assign responsibility for designating routes for non-radioactive hazardous wastes, the Governor's Office should make this decision independently.

HB 711  
House Research Organization  
page 3

NOTES:

The original version of HB 711 specified that TxDOT would have to approve rules regarding the route designations for non-radioactive hazardous wastes. Approval would have been assumed if the agency did not act on the matter within 45 days.

A similar bill, SB 1513 by Truan, has been referred to the Senate State Affairs Committee.