

SUBJECT: County regulation of roadside vendors

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — R. Lewis, Kamel, Bonnen, Christian, Denny, Flores, G. Lewis
0 nays
2 absent — Chisum, Gutierrez

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas
Against — None
On — Steve C. McAndrew, Texas Department of Health; Bobbie Templeton, Texas Department of Transportation

BACKGROUND : Counties with more than 1.4 million residents can regulate vendors who sell food or merchandise or erect structures on public roads or highways. County commissioners may also regulate persons who solicit money on public roads or highways. The county may require the vendor or solicitor to obtain a permit in order to engage in these activities. Counties are also authorized to remove any structure on a public road or highway in violation of county regulations.

DIGEST: CSHB 964 would allow the commissioners courts in all counties to regulate persons who sell merchandise or solicit money along the side of the roads and highways. Commissioners courts could not prohibit the sale of edible aquaculture and agricultural products, firewood or cut flowers, but could regulate the location, time and manner of their sale. Commissioners courts would be allowed to charge permit fees but only to cover the administrative costs of issuing a permit.

CSHB 964 would require the Texas Department of Transportation (TxDOT) to review and approve roadside vendor permits issued and regulations adopted by counties. TxDOT would be required to respond to permits and regulations within 30 days or the regulation or permit would become effective.

TxDOT could refuse to approve the regulation or permit because of pavement and traffic conditions, geometrics in roadway configuration, construction or maintenance activities, emergency or incident management or other reasons relating to public safety or the integrity of public facilities. Disapproval of permits and regulations by TxDOT would be unappealable.

CSHB 964 would prohibit commissioners courts from authorizing the erection of a permanent or portable structure on or in the right-of-way of a public highway or road.

The bill would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

NOTES:

The committee substitute deleted the population bracket instead of increasing it to 2.4 million; allowed commissioners courts to charge permit fees in amounts equal to administrative costs; and added TxDOT review of permits and regulations.

HB 407 by Kamel, which would have lowered the county population bracket to 125,000, passed the House during the 73rd session but died in the Senate State Affairs Committee.