

- SUBJECT:** Amending provisions for transfer of highway-related property
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 7 ayes — Krusee, Phillips, Hamric, Edwards, Garza, Harper-Brown, Mercer
0 nays
2 absent — Hill, Laney
- WITNESSES:** None
- BACKGROUND:** Transportation Code, sec. 201.103 requires the Texas Transportation Commission (TTC) to plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads. Ch. 202 governs the control of highway assets and requires the attorney general to approve a transfer or conveyance of real property or highway right-of-way. The TTC may recommend to the governor the sale of any interest in real property, including a highway right-of-way, that the commission finds no longer is needed for a highway purpose, and the governor may execute a deed conveying the state's interest in the property. Government Code, ch. 2175 governs surplus and salvage property.
- DIGEST:** CSHB 2377 would require the TTC to designate as part of the state highway system a highway that the commission determined to be necessary for proper development and operation of the system.
- The TTC could recommend the transfer (as well as sale) of interest in real property not needed for a state highway purpose. Real property would have to be sold to the general public, except that a highway right-of-way would have to be sold or transferred first to a governmental entity with authority to condemn the property, then to abutting or adjoining landowners. The TTC would have to advise the governor if the property was worth at least \$10,000. If the value was less than \$10,000, the TTC could authorize the executive director of the Texas Department of Transportation (TxDOT) to execute a deed conveying the state's interest. The attorney general would have to approve a transfer or conveyance only if the value was at least \$10,000.

The TTC could waive payment for real property transferred to a governmental entity if the estimated cost of future maintenance equaled or exceeded the fair market value of the property.

The Texas Department of Transportation (TxDOT) could transfer ownership of a historic bridge that was scheduled for replacement to a governmental entity or a responsible private party. The bill would define a historic bridge as one included on or eligible to be included on the National Register of Historic Places. The entity that accepted ownership of the bridge would assume all legal and financial responsibility and would have to maintain and preserve the bridge and its historic features. Such a transfer would not be subject to the attorney general's approval, nor to current law regarding the donation of state surplus and salvage property.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 2377 is needed to clarify the TTC's authority to transfer right-of-way that no longer is needed for state highway purposes and to provide methods for TxDOT to transfer ownership of certain highway-related property and bridges. The TTC could transfer property at no charge when the value of the property was the same as or less than the future maintenance costs.

Current law gives the commission clear authority to establish a state highway system. However, no specific mechanism exists to remove a highway from the system once it no longer is needed. CSHB 2377 would give the TTC and TxDOT flexibility in dealing with property of lesser value, while preserving the involvement of the governor and attorney general in transfers of more valuable property.

The bill also would ensure that TxDOT could transfer historic bridges to local governments, easing implementation of the Highway Bridge Replacement and Rehabilitation Program. As a condition of federal reimbursement for bridge replacement, federal law requires TxDOT to offer historic bridges for donation to public or private entities that have expressed the desire and ability to preserve the bridges' historic features. Current state law, however, allows agencies to make surplus property available at no cost only on a first-come,

first-served basis. The only private entities to which a state agency can donate surplus property are “assistance organizations,” a severe limitation on who could acquire and maintain a historic bridge.

**OPPONENTS
SAY:**

CSHB 2377 would not address the status of a segment of highway or a bridge that had been deemed unnecessary for the highway system if no other entity wanted it. It is not clear whether the state would have to continue to maintain such property or not. Also, the bill would not define a “responsible” private entity and what would occur if a private entity that took possession of a historic bridge was unable to fulfill the obligation to maintain it.

NOTES:

The committee substitute modified the filed version of HB 2377 by specifying that real property generally would have to be sold to the public and that the TxDOT executive director could execute a deed only if the value of the property was less than \$10,000, rather than the property’s fair value.