

- SUBJECT:** Donation of counties' surplus property to civic and charitable organizations
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 7 ayes — Lewis, W. Smith, Casteel, Chisum, Farabee, Flynn, Quintanilla  
0 nays  
2 absent — Farrar, Olivo
- WITNESSES:** For — Jim Allison, County Judges and Commissioners Association of Texas; Mark Mendez, Tarrant County Commissioners Court; Donald Lee, Texas Conference of Urban Counties  
Against — None
- BACKGROUND:** Local Government Code, sec. 263.152(a) authorizes county commissioners courts to sell counties' surplus or salvage property, as defined under the subchapter. Counties must sell the public property by competitive bid or auction, unless the buyer is another county or a political subdivision of the county. A county may dispose of worthless property, including by donating it to local civic or charitable organizations, but only after the county attempts to sell the property and receive no bids.
- DIGEST:** HB 970 would allow a county commissioners court to donate surplus or salvage property to civic or charitable organizations in the county without first offering the property for sale. The court first would have to determine that:
- it would receive no bid for the property at auction or would receive a bid too low to cover the expense of offering the property for sale;
  - the donation would serve a public purpose; and
  - the organization receiving the donation would provide adequate consideration, such as paying the cost of transporting or disposing of the donated property.

The bill would repeal Local Government Code, sec. 263.152(c), which authorizes counties to donate surplus and salvage property to local civic or charitable organizations only after first attempting to sell it.

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:**

HB 970 would improve the efficiency of county commissioners courts in managing property of little or no value, while allowing counties to enhance their relationships with community organizations. Counties work increasingly with local civic organizations and charities to provide services that county residents need. This bill would bolster these relationships at no cost to county taxpayers.

HB 970 contains adequate, workable safeguards to ensure the propriety of any donation of county property to civic organizations and charities. County commissioners could consult with county purchasing officials to determine accurately whether a property would receive any bid — or too low a bid — at auction. The purchasing officials could figure the cost required to sponsor bids and offer items for auction, including the paperwork and any transportation required.

The statute governing disposition of salvage or surplus property does not define civic or charitable organizations explicitly because these organizations vary widely among counties. Recipients of county donations should not be limited to tax-exempt organizations as defined by federal law.

As public officials who stand for election, county commissioners are accountable to the voters for their decisions and are proper authorities to determine whether a donation would serve a public purpose. HB 970 would provide an additional safeguard for the interests of county taxpayers by requiring the recipient of a donation to pay the transportation or other cost of making the donation.

HB 970 would create a win-win situation for county taxpayers: it would save county money and would benefit the local community organizations that help county residents.

OPPONENTS  
SAY:

HB 970 could compromise the financial position of counties, which profit by auctioning essentially all of their surplus and salvage property. Sometimes counties bundle large quantities of seemingly useless materials and offer the bundles for auction. Such bundles (including discarded construction materials and computers, for example) normally find a market. Some counties also restore broken office furniture for auction. HB 970 would create an incentive to give away these materials. Any surplus and salvage property that counties cannot bundle, restore, and sell probably is worthless to community organizations as well.

Counties' costs for sponsoring bids and auctions are fixed and do not change according to the types or amounts of materials for sale. In most cases, counties contract with auctioneers who hold sales on county grounds. The auctioneers usually receive payment by commission, so the sale itself does not cost the county.

Local Government Code, sec. 263.151 contains no definition of "civic or charitable organization" as it pertains to the disposition of salvage or surplus property. This broad and undefined term could invite disagreement among county residents and commissioners, especially in the context of a bill that would relax standards for the donation of public property. The term "public purpose" in HB 970 also is vague and subjective.

Current law offers a better means than HB 970 for disposing of salvage and surplus property. Counties may sell the property to other local governments without bid and may make charitable donations under appropriately limited circumstances.

OTHER  
OPPONENTS  
SAY:

Local Government Code, sec. 253.011, governing the conveyance of real property to a nonprofit corporation, suggests a better standard for the donation of county property. It defines nonprofit organizations as those that are tax-exempt under the Internal Revenue Code. HB 970 should adopt the same definition of an organization that could receive donations of counties' surplus property.

HB 970  
House Research Organization  
page 4

**NOTES:** The companion bill, SB 705 by Jackson, is scheduled for a public hearing in the Senate Intergovernmental Relations Committee on March 26.