

SUBJECT: Contracts for specialty license plates

COMMITTEE: Transportation — committee substitute recommended

VOTE: 6 ayes — Krusee, Phillips, Hamric, Callegari, Casteel, Hill

0 nays

3 absent — Deshotel, Flores, West

WITNESSES: None

BACKGROUND: The 78th Legislature in 2003 enacted HB 2971 by Harper-Brown, which standardized the issuance of specialty and personalized license plates. HB 2971 created more than 30 new specialty plates and an administrative process for creating additional new specialty license plates at the initiative of either the Texas Department of Transportation (TxDOT) or an outside sponsor. The bill also authorized TxDOT to enter into agreements with private vendors to promote the sales of specialty license plates.

Upon requesting a new plate, a sponsor must provide TxDOT with a \$15,000 deposit or 3,500 applications for the plate. The fee for most specialty license plates is \$20, of which \$22 goes to the sponsoring organization and \$8 to the department to defray its administrative costs. Fifty cents of TxDOT's administrative fee is credited to the county in which the license plate was issued. A replacement fee of \$5.30 is assigned to specialty and personalized license plates for plates that are lost, stolen, or severely damaged. The fee for a single souvenir license plate is \$20 or \$40 if personalized.

While HB 2791 authorized TxDOT to create new specialty license plates, TxDOT reserves the right to refuse to issue objectionable or offensive specialty license plates.

DIGEST: HB 2894 would amend Transportation Code, Subchapter J, to specify requirements for contracts between TxDOT and private vendors for the sale of specialty and personalized license plates.

TxDOT would have to provide to the comptroller a detailed explanation of all costs related to contracts with private vendors for specialty or personalized license plates.

Contracts would last for at least five years and could be extended at the request of either party. Such contracts would be subject to the following limitations:

- private vendors could not be required to meet a minimum sales volume;
- private vendors would not be required to pay a deposit of more than \$100,000;
- TxDOT could not unreasonably limit a private vendor's marketing plan;
- TxDOT could not interfere with the private vendor's hiring or subcontracting process; and
- TxDOT would not require private vendors to market specific license plates.

Private vendors could not market license plates that competed with other plates without prior approval from the sponsor or TxDOT. Private vendors would be compensated for marketing through revenue derived from the fees collected on the sale of specialty or personalized license plates.

TxDOT could publish a proposed design or color combination for a specialty license plate on its website for a maximum of 10 days. TxDOT could not restrict the design or color combination of a specialty license plate unless the Department of Public Safety (DPS) found such a restriction necessary for law enforcement purposes.

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, 2005.

**SUPPORTERS
SAY:**

CSHB 2894 would enable TxDOT to market specialty license plates through private vendors more effectively by clarifying the law. CSHB 2894 would encourage private vendors to contract with TxDOT to market plates by ensuring that private vendors could retain control of the marketing process. The bill would reserve TxDOT's ability to refuse

unreasonable contracts while preventing TxDOT from dictating every aspect of a private vendor's marketing plan.

If specialty license plates were marketed better, TxDOT could increase its sale of non-standard plates and raise additional revenue for the state. By contracting with a private vendor, the state could net an estimated \$2.4 million per biennium, which could allow the state to fund important state programs. Queensland, Australia has followed a similar model and seen sales increase by 400 percent in five years. Specialty plates are a discretionary purchase, and standard plates would remain available to drivers at the basic price.

Rather than requiring TxDOT to market the plates with internal resources, CSHB 2894 would allow the department to contract with a third-party firm with the requisite experience to market the plates successfully. The bill would be permissive and would not require TxDOT to authorize private vendor contracts if it did not think doing so would be in the public interest. Only marketing and sales would be affected by the private vendor. The bill would have the additional impact of encouraging private sector employment in the license plate marketing and sales niche.

**OPPONENTS
SAY:**

CSHB 2894 could eventually result in TxDOT's setting higher license plate fees to cover payments to the private vendor. The bill would give TxDOT the ability to increase personalized and specialty license plate fees beyond the level set by the Legislature but without accountability to the voters who would pay the fees. The bill also could result in a new monopoly market because only one or two firms are able and willing to contract with TxDOT for this service.

NOTES:

The committee substitute differs from the original bill by adding limitations on contracts between TxDOT and private vendors and preventing private vendors from marketing license plates that compete with other plates. The substitute also would prevent TxDOT from interfering unnecessarily with designs for specialty and personalized plates.

During floor consideration of HB 3540 by Pitts on May 4, the House adopted an amendment by Rep. Phillips identical to HB 2894.

According to the fiscal note, the bill would generate about \$1 million in general revenue and \$3.9 million for the state highway fund in fiscal 2006-07.