

**SUBJECT:** Requiring local authorities to approve certain roadway solicitations

**COMMITTEE:** Transportation — committee substitute recommended

**VOTE:** 7 ayes — Krusee, Phillips, Callegari, Casteel, Hamric, Hill, West  
0 nays  
2 absent — Deshotel, Flores

**WITNESSES:** For — Scott Bennett, Norma C. Denham, Muscular Dystrophy Association  
Against — None

**BACKGROUND:** Transportation Code sec. 552.007 prohibits a person from standing in a roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway.

**DIGEST:** CSHB 3020 would require local authorities to authorize a person to stand in a roadway to solicit charitable contributions if the solicitation would not endanger public safety and if the solicitation were made by employees or agents of the local authority. The person seeking authorization to collect contributions would have to file a written application with the local authority not later than the 11th day before the solicitation was to begin. The application would have to include the location, the number of solicitors to be involved at each location, and the dates and times of the solicitation.

Local authorities still could require a permit or the payment of reasonable fees. The applicant would have to show proof in advance of \$1 million in liability insurance covering damages that might arise from the solicitation as well as claims against the applicant and the local authority. The local authority would not waive or limit any immunity from liability applicable under law. The authorization and solicitation would be considered governmental functions of the local authority.

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 3020 would allow firefighters to continue the fill-the-boot fundraising campaign on behalf of the Muscular Dystrophy Association in cities with ordinances prohibiting all street solicitations. As more nonprofit groups and individuals have solicited contributions at roadways and intersections, some cities have banned all such solicitations, in part because of concerns about equal protection under the U.S. Constitution if some groups were allowed to solicit funds while others were prohibited. This has curtailed the activities of longstanding, worthy causes like the fill-the-boot campaign, which last year raised \$2.4 million in Texas for the MDA. These prohibitions could have a significant effect if more cities adopted them. Established causes should not suffer because of problems raised by less well organized efforts.

The bill would create a narrow exemption allowing only well insured groups of city employees to solicit donations from drivers. It would benefit cities by directing them to allow the fill-the-boot campaign without authorizing other street solicitations.

**OPPONENTS  
SAY:**

CSHB 3020 would not eliminate equal protection concerns because cities still would be allowing one group to participate in an activity that it has prohibited for others. These campaigns can be dangerous for firefighters as well as for drivers. City councils are familiar with their communities and responsive to local voters, so they should retain the authority to prohibit all street solicitations if their communities support such prohibitions.

**NOTES:**

The committee substitute made no substantive changes to the original version of the bill.

The companion bill, SB 245 by Gallegos, passed the Senate by 30-0 on March 31 and was reported favorably, without amendment, by the House Urban Affairs Committee on April 14, making it eligible to be considered in lieu of HB 3020.