

SUBJECT: Sale of certain real property to Indian tribes located on the border

COMMITTEE: Border and International Affairs — committee substitute recommended

VOTE: 5 ayes — Chavez, Griggs, Alonzo, Merritt, Vo
0 nays
1 absent — Castro, J. Moreno

WITNESSES: For — Ronald Jackson, Ysleta Del Sur Pueblo
Against — None

BACKGROUND: Transportation Code, sec. 202.021 regulates the sale or transfer of real property that was acquired, but is no longer needed, for a highway purpose. Priority for a transfer or sale must be given to a governmental entity with the authority to condemn the property before offering the property to the general public. For the transfer or sale of a highway right-of-way, the Transportation Commission also must offer the property to abutting or adjoining landowners before offering it to the general public. Under sec. 202.023, sale of a property to the general public must be made through a competitive sealed bid process.

DIGEST: CSHB 3333 would require the Transportation Commission to give priority for a property sale or transfer to a federally recognized Indian tribe whose reservation is located on the Texas-Mexico border before offering the property to the general public. The tribe's priority would be below that of a governmental entity with the authority to condemn the property, as well as below that of abutting or adjoining landowners in the case of a highway right-of-way.

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 3333 would grant federally recognized Indian tribes along the border - currently only the Tigua and Kickapoo tribes - a right of priority similar to that enjoyed by other governmental entities in purchases of surplus property from the Transportation Commission. These tribes are independent entities with powers of self-government and consequently deserve the same consideration as other governmental entities with regard to these property sales. The bill would not affect the rights of other governmental entities, which would continue to receive priority above tribes.

The Ysleta del Sur Pueblo has been trying to acquire land adjacent to and surrounding the pueblo that is significant to the tribe's history and heritage in order to protect and preserve those properties. In 2001, the Texas Department of Transportation determined that a highway maintenance facility on land located across from the Ysleta del Sur Pueblo was surplus property and offered the property for sale to political subdivisions. This property, known to the tribe as "La Loma de Espejo," is a sacred site to the tribe. It is where the tribe used to conduct ceremonies and collect the clay to make its pottery. The tribe has offered to buy the land from TxDOT, but the agency has indicated that the pueblo is not considered a governmental entity and thus cannot be given priority before the public for the sale. CSHB 3333 would enable the pueblo to acquire this land by giving the tribe a right of priority.

The bill would not require TxDOT to sell the property to the pueblo, but merely would give them the legal capacity to do so without first offering the property to the public. If TxDOT agreed to sell the property, the pueblo would have to pay the appraised value of the property, thus ensuring a fair price to the state. It is highly unlikely that any other person would be willing to offer a higher price for the property because the tribe has a pending claim on record for the land, which could be subject the land to litigation over its status.

OPPONENTS
SAY:

Exempting purchases by Indian tribes along the border from the competitive sealed bid process, since it would not be a sale to the public, could reduce the money that the state receives for these properties, not just in this instance but in future sales as well.

NOTES:

The committee substitute conforms to Legislative Council style.