

SUBJECT: Regulating fine amount, revenue allocation from red-light camera systems

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 6 ayes — Bailey, Murphy, Menendez, Cohen, Latham, Mallory Caraway

0 nays

1 absent — Martinez Fischer

SENATE VOTE: On final passage, April 3 — 26-4 (Averitt, Harris, Patrick, Seliger)

WITNESSES: For — David Morgan, City of Richardson; Brad Neighbor, City of Garland; (*Registered, but did not testify*: Maria Frederick, Texas Catholic Conference of Bishops; Darrin Hall, City of Houston; Michelle Romero, Texas Medical Association; Catherine Wilkes, CHRISTUS Health)

Against — Billy Clemons, City of Caldwell; Michael Kubosh; (*Registered, but did not testify*: Ken Evans, Round Rock Police Department; Bruce Glasscock, city of Plano)

On — Debbie Russell, American Civil Liberties Union-Texas; Greg Wilburn, Texas Department of State Health Services

BACKGROUND: In February 2002, then-Atty. Gen. John Cornyn issued an opinion on red-light cameras (RLCs), determining that cities could use them but could not impose a civil penalty for red-light running because it would conflict with state law requiring the violation to be punished with a criminal penalty.

In 2003, the 78th Legislature enacted SB 1184 by Deuell, amending Transportation Code, sec. 542.202 to allow local authorities to regulate roads in their jurisdictions in accordance with state law or municipal ordinance through criminal, civil, and administrative enforcement against a person, including the owner or operator of a motor vehicle. On June 23, 2006, following a request from the Texas Department of Transportation (TxDOT) for legal guidance, Atty. Gen. Greg Abbott issued an opinion that use of RLCs is allowed on state roads. More than two dozen

municipalities have cited one or both of these standards in installing or exploring a RLC program over the past four years.

Local Government Code, ch. 133, details criminal and civil fees payable to the comptroller and procedures for remitting fees. It allows for the comptroller to audit financial statements of local entities to ensure all procedures are being followed.

DIGEST:

SB 125 would set a \$75 cap on civil penalties and a \$25 cap on associated late fees imposed by local entities operating a RLC program. It would create an account to fund uncompensated trauma care, which would receive 50 percent of all net revenue generated by a RLC program. The bill would mandate that the remaining half be used by the entity for traffic safety programs.

Any entity running a RLC program consisting of a camera system and vehicle sensor working in conjunction with a traffic light that could produce at least two images of a license plate of a vehicle running a red light would be required to adhere to the fine limitations and revenue requirements. These obligations would cover only civil penalties issued under a RLC program or an electronic traffic law enforcement system run by an entity or a contractor consisting of a camera system that produces photos of a driver.

At the end of the fiscal year, a local entity could deduct from the revenue generated through imposition of civil penalties and late fees under a RLC program money necessary to cover costs associated with:

- purchasing or leasing equipment used for the program;
- installing any portion of the camera system;
- operating the system, including all costs incurred for handling notices, processing fines, and administrating the hearing and appeal process; and
- maintaining the system.

A local entity would be required to take any remaining money and, within 60 days of the end of the fiscal year, to:

- send 50 percent to the comptroller for deposit to the credit of the trauma service area regional advisory council account established under Health and Safety Code, sec. 782.002; and

- deposit the other 50 percent in a special local account that could be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.

The bill would amend Local Government Code, ch. 133, to add payments sent to the comptroller under a RLC program. If, under that chapter, the comptroller determined through an audit that the local entity retained more money than authorized or failed to deposit the appropriate amounts as specified, the comptroller could impose a penalty equal to twice the amount the entity improperly retained or failed to deposit.

Regional trauma account. SB 125 would create Health and Safety Code, ch. 782, establishing the regional trauma account, a dedicated account within general revenue that would be composed of money deposited from the 50 percent of net revenue a local entity sent the comptroller under the requirements for a RLC program.

The executive commissioner of the Health and Human Services Commission (HHSC) would be required to use money from the account to fund uncompensated care of designated trauma facilities and county and regional emergency medical services in the same regional advisory council jurisdiction as the entity that remitted the revenue. The commissioner would be required to use in any fiscal year:

- 96 percent of the money to fund a portion of the uncompensated trauma care provided at HHSC-designated state trauma facilities;
- 2 percent of the money for county and regional emergency medical services;
- 1 percent of the money for distribution to the 22 trauma service area regional advisory councils; and
- 1 percent of the money to fund the commission's administrative costs.

Money from the account could not be used to certify the budget (Government Code, sec. 403.095), nor could interest from the account be used for the disposition of interest on investments under Government Code, sec. 404.071.

The bill would take effect September 1, 2007, but only if SB 1119 by Carona also were enacted. Provisions governing revenue earned by entities

imposing civil penalties under a RLC program would apply only to revenue generated on or after the effective date, regardless of when the penalty was imposed. The HHSC executive director would be required to adopt rules to implement the trauma account by December 1, 2007.

**SUPPORTERS
SAY:**

SB 125 would standardize the penalty amounts that could be collected under a RLC program and place requirements on how such revenue could be used. RLC programs have increased in popularity over the last few years, but there are no statewide standards governing fine amounts and use of that revenue. State law dictates that a criminal penalty for red-light running range between \$1 and \$200, but there is no corresponding limit for civil penalties because no statute specifically discusses imposition of a civil penalty for the infraction. SB 125 would place a \$75 cap on all civil penalties imposed under an RLC system and would require that the net revenue be used for regional trauma centers and local public safety efforts. The bill would ensure that these cameras were used to benefit public safety and not as another revenue stream for local governments.

Most cities that have implemented RLC programs already are adhering to the fine limitations, but the bill would ensure that such practices continued in the future for those and other entities that operated RLC systems. At least one Texas city already has exceeded the \$75 fine by \$50, and at least one other is using revenue generated for its general budget. Such actions do nothing to reduce or eliminate the criticism that these systems are cash cows. SB 125 would recognize the costs associated with these programs and would allow entities to use revenue for purchasing, installation, operation, and maintenance expenses before any restrictions could be imposed on the use of money generated. Most RLC contracts allow entities to waive a contract if they are losing money. This bill would not infringe on that right, but instead would allow a city in that situation to determine whether the program's safety benefits were worth the expense.

By applying all net revenue to regional trauma centers and local public safety efforts, SB 125 further would ensure that safety was the true concern of an entity that decided to install an RLC at an intersection. Uncompensated care costs the state more than \$200 million annually, and the bill appropriately would use some of the revenue from these cameras to treat victims of horrific red-light camera accidents. The other half of the net revenue would be aimed at prevention and would give local entities flexibility in spending the money on any public safety endeavor. Many cities with RLC programs have been doing this already. Garland, for

example, recently used revenue to replace all signal lights with bigger and brighter light-emitting diode (LED) lights, along with replacing all school-crossing signs with high-visibility fluorescent green signs and re-stripping intersections.

SB 125, coupled with a related bill, SB 1119 by Carona, would establish uniformity among all RLC programs operated in Texas. SB 1119 focuses more on procedures that entities would implement, although it would require that no contract be signed with a vendor based on the number of citations issued. Both bills are not necessarily endorsements of the cameras themselves but merely recognitions of their prevalence across Texas and the need to create statewide regulations to protect drivers from overzealous entities that might wish to use an RLC program for financial gain.

OPPONENTS
SAY:

This bill would remove local control by allowing the state to dip into the pockets of local governments. Entities using RLC programs already stand to see an overall reduction in fine revenue both because of the effect on driving habits of area drivers and the replacement of red-light running criminal penalties with civil infractions.

SB 125 would allow the state to take a cut of penalties a local government imposed on drivers on roads in its community. It also would place restrictions on the remaining net revenue, which would hamstring a local government's ability to prioritize and determine its own needs. Most cities currently are spending net revenue on public safety measures, but this should be an option and not a requirement, especially in cities that must operate under lean budgets.

This bill would not account for the anticipated effects of the usage of RLCs in an area. Cities that currently run RLC programs already stand to lose money because the civil penalty for an infraction caught on camera is less than the criminal penalty charged when an officer pulls over a red-light runner. Additionally, once drivers learn the lesson that it does not pay to run red lights, the number of violations generally declines. In the first quarter of this year, Garland — which has been using the cameras for about four years — had to subsidize its program because the revenue earned was lower than the associated program costs. By mandating how net revenue is spent, this bill would not allow a city to put some money aside to cover expenses for the years in which the program cost money.

OTHER
OPPONENTS
SAY:

While limiting the fines imposed under an RLC program is a good idea, this bill should allow for more flexibility in certain situations.

Local governments should be allowed to keep more of the net revenue to spend on local public safety efforts. By sending half of the net revenue to benefit a regional trauma center, this bill would require the transfer of money out of the local community. It also would not allow for more money to be spent on prevention, which could reduce the incidents needing trauma care. Smaller cities, which would have less net revenue, also should be exempted from these provisions because their budgets for establishing public safety programs are limited.

Although some limitations are a good idea, this bill could wind up turning RLC programs into a liability, which would make it difficult for entities to continue to use them if they did not have enough available money to cover the costs. This bill should provide for a penalty range, similar to the criminal penalty, that would provide for increases in program costs and other inflationary factors.

This bill also should clarify that it would apply only to RLC programs because, as written, it could be construed to apply to cameras used at toll booths to cite those who do not pay tolls.

NOTES:

The Legislative Budget Board estimates that SB 125 would have a fiscal impact on the state and units of local government but cannot quantify that effect because the number of entities using the program, how many cameras would be installed, the rate of installation, and the expenses all are unknown.

SB 1119 by Carona, which would establish procedures for local entities that opted to use RLC programs and specify processes for establishing a program, contracting certain duties to a vendor, imposing a civil penalty, and creating a hearing and appeals process, passed the House on second reading on May 15. SB 1119 could take effect only upon enactment of SB 125 and vice versa.