

SUBJECT: Requiring law enforcement officers to watch or repair damaged fences

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 5 ayes — S. Miller, Fletcher, Beck, Driver, Flynn
0 nays
1 present, not voting — Mallory Caraway
3 absent — Burnam, Peña, Walle

WITNESSES: For — Robert Howard, South Texas Property Rights Association;
(*Registered, but did not testify*: Jason Skaggs, Texas and Southwestern Cattle Raisers Association)

Against — Jim Allison, County Judges & Commissioners Association of Texas; Chris Jones, Combined Law Enforcement Association of Texas;
(*Registered, but did not testify*: T.J. Patterson, City of Fort Worth)

BACKGROUND: Local Government Code, sec. 370.004 (a) requires that peace officers who investigate a fence damaged by a motor vehicle determine who owns the land and notify the owner of the type and extent of damage if the fence is intended to keep livestock or other animals on the land.

DIGEST: CSHB 2896 would amend Local Government Code, sec. 370.004 (a) to require a peace officer investigating a fence damaged by a motor vehicle to remain at the scene of the damaged fence until the officer or another person made a reasonable attempt to secure the fence or the landowner or landowner's representative arrived at the scene.

The bill would take effect on September 1, 2011.

SUPPORTERS SAY: CSHB 2896 would be part of a continuing effort to combat a problem, particularly in counties on or near the border, caused when suspects fleeing from pursuit of law enforcement deliberately crash into fences and then bail out of the vehicle. The landowner is left with a hole in the fence and possible liability for any loose livestock. CSHB 2896 would be a

commonsense approach to improve traffic safety around these accident scenes. Typically, it would take some time to investigate the accident and remove the vehicle. So it would not impose any more burden for law enforcement officers to stay until the landowner or a representative arrived. In many cases, sheriff's deputies carry tools and supplies to make simple repairs to damaged fences.

**OPPONENTS
SAY:**

CSHB 2896 would impose another unfunded mandate on local governments by requiring law enforcement officers to remain on the scene of accidents in which a fence intended to hold livestock or other animals was damaged. In smaller counties, there may be personal and political reasons for a sheriff's department to accommodate a landowner with a damaged fence. However, in larger counties, an officer could be prevented from responding to another urgent call because of the need to babysit a hole in the fence if there are any animals, and not just livestock, kept there.

NOTES:

The committee substitute differs from the original by deleting a requirement that a sheriff, with authorization of the county commissioners court, would pay the landowner for damages to the fence from a compensation fund consisting of proceeds from auctions of vehicles abandoned after pursuits.