

SUBJECT: Funding border barrier infrastructure and border security operations

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 15 ayes — Bonnen, C. Bell, DeAyala, Gates, Isaac, Jetton, Morrison, Orr, Spiller, Stucky, Tepper, Thimesch, E. Thompson, Toth, VanDeaver

7 nays — M. González, Gervin-Hawkins, Howard, Martinez Fischer, Ortega, Walle, Wu

5 absent — Allison, Bryant, Jarvis Johnson, Martinez, Rose

SENATE VOTE: On final passage (November 9, 2023) — 18 - 10

WITNESSES: None (*considered in a formal meeting on November 10, 2023*)

DIGEST: SB 3 would appropriate \$1.54 billion in general revenue to the Trusteed Programs within the Office of the Governor for border security operations and the construction, operation, and maintenance of border barrier infrastructure. The bill would require that \$40 million of that amount be transferred to the Department of Public Safety for border security operations, including overtime expenses and costs due to increased law enforcement presence in the Colony Ridge development in Liberty County. The funds would be appropriated for use during the two year period beginning on the effective date of the bill.

Money appropriated by SB 3 could not be used to:

- acquire property through eminent domain;
- build a barrier on the Texas-Mexico border on property acquired through eminent domain; or
- acquire property for or build a barrier that abuts the boundary between Texas and another state.

SB 3 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on

the 91st day after the last day of the legislative session.

**SUPPORTERS
SAY:**

SB 3 would help deter and reduce illegal migration into Texas from Mexico by providing additional funds for the construction of a border wall and other barrier infrastructure. Since the crisis of illegal immigration at the border has intensified in recent years due to federal inaction in enforcing immigration laws, the state should take action to protect Texans from the negative effects of an insecure border. State funds are needed to ensure that work on border barriers can continue, since further appropriations will not be available until after the next regular legislative session. It is unclear whether the federal government will continue to construct border walls, but any such projects would be complemented by the state's efforts enabled by SB 3.

Building additional barriers at the border would help prevent deadly drugs such as fentanyl from entering the United States, protect landowners from theft and property damage due to illegal migration, and reduce human trafficking and other cartel-related crimes. Strategic placement of border walls would prioritize heavily trafficked areas in order to deter migrants from attempting dangerous crossings and direct them to legal ports of entry. The border wall also would help save money as it would allow law enforcement to more efficiently monitor and secure the border.

Including specific statutory guidelines for implementing SB 3 is unnecessary because the bill would simply provide additional funding for an existing program. Reporting requirements that apply to direct appropriations in general also would apply to SB 3 and requiring further reports in the bill could be duplicative or impractical.

Further expanding the border wall also could help protect livestock and agricultural property from damage. Migrants attempting to cross into the state illegally often trespass onto private property, leaving harmful materials for livestock to ingest or allowing cattle to escape in the process. Additionally, this funding would help to ensure that ranchers and other landowners can use their property safely and productively. In constructing border barriers, the Texas Facilities Commission would cooperate with the

Texas Commission on Environmental Quality to protect impacted wildlife and endangered species.

SB 3 also would provide funds to support the Department of Public Safety's border operations, particularly overtime expenses for state troopers, including those assisting law enforcement at the Colony Ridge development. DPS officers have been patrolling the area as the community's rapid growth has strained local law enforcement's resources. While the bill provides funds to support operations at Colony Ridge, DPS is granted broad discretion to direct any additional funds towards alternative border-related expenses. The bill would not preclude DPS cooperation or agreements with local law enforcement.

According to the Texas Facilities Commission (TFC), the funds appropriated by SB 3 could be spent in the next biennium without the use of eminent domain. TFC has said that constructing barrier infrastructure through voluntary easement agreements is generally quicker and more efficient than relying on eminent domain.

**CRITICS
SAY:**

SB 3 would irresponsibly spend state funds on building walls and barriers at the southern border that would not effectively reduce or deter illegal migration. Many illegal crossings are due to processing backlogs and excessive waiting periods at legal ports of entry, which are not addressed by the bill. Violence and poverty in other countries will continue to drive people to attempt crossing into the United States, regardless of impediments. Border walls and barriers would only alter the pattern of migration. Further militarizing the border also could endanger migrants without significantly reducing illegal border crossings.

SB 3 would not include a clear plan for how its appropriated funds would be used or statutory guardrails to ensure accountability. The bill could impose significant ongoing maintenance costs and could create legal liabilities for the state due to injuries from border infrastructure. The funds would be better used to address substantive areas of need in the state such as public education and healthcare.

Building walls and associated infrastructure at the border also could have negative environmental impacts on valuable agricultural land, wildlife migration, wilderness areas, and natural water flows. Environmental impact studies should be required for physical barrier projects funded through the bill's appropriations.

The bill should not single out the Colony Ridge development for law enforcement operations funding. Despite concerns driven by unfairly negative media attention, the development does not have significantly more crime than other comparable communities, so directing state funds for use there would not be an appropriate expenditure of taxpayers' money.

In addition to providing money for DPS, bill should allocate funds specifically to help local law enforcement bear increased costs related to border operations. The bill also should specify that none of the funds it allocates for border operations would be used to separate families taken into custody.

OTHER
CRITICS
SAY:

SB 3 should not prohibit its appropriated funds from being used to construct border barriers on property acquired through eminent domain. It is unlikely that a comprehensive barrier along the Texas-Mexico border can be completed without some use of eminent domain.

NOTES:

According to the Legislative Budget Board, SB 3 would have an estimated negative impact of about \$1.54 billion on general revenue related funds through fiscal 2024-25.