

BILL ANALYSIS

Senate Research Center
82R17280 JTS-D

C.S.S.B. 548
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Transportation & Homeland Security
3/24/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The environmental review process for transportation projects, set in place by the National Environmental Policy Act (NEPA), serves a good purpose yet sometimes slows project delivery. Some of these delays are unnecessary and the process might be improved with legislative and administrative changes. Although we cannot address many of the procedures involved with projects using federal dollars, there are opportunities to make the state process more efficient.

C.S.S.B. 548 would allow the Texas Department of Transportation (TxDOT) to enter into funding agreements with state or federal agencies to facilitate the agency's performance of its duties related to the environmental review process for a transportation project. C.S.S.B. 548 also requires state resource agencies to respond to TxDOT requests for comments within 45 days of the request, and creates an environmental review certification process by which TxDOT can certify district environmental specialists. This certification would also be available to private contractors who routinely do work for TxDOT, counties, and cities.

C.S.S.B. 548 amends current law relating to the environmental review process for transportation projects.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 1 (Section 201.607, Transportation Code) and SECTION 2 (Section 222.006, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 201.607, Transportation Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires TxDOT and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archaeological resources, not later than January 1, 1997, and every fifth year after that date, to examine and revise their memorandum of understanding that, among certain content, specifies the period during which the reviewing agency must review the highway project and provide comments to TxDOT, as negotiated by TxDOT and the agency but which may not exceed 45 days after the date the agency receives a request for comments from TxDOT, and specifies that comments submitted to TxDOT later than the period specified under Subdivision (4) (relating to a period for agency comments to TxDOT not to exceed 45 days) be considered by TxDOT to the extent possible.

(c) Requires TxDOT by rule to establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

SECTION 2. Amends Subchapter A, Chapter 222, Transportation Code, by adding Sections 222.005 and 222.006, as follows:

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) Authorizes TxDOT, a county, a regional tollway

authority operating under Chapter 366 (Regional Tollway Authorities), or a regional mobility authority operating under Chapter 370 (Regional Mobility Authorities) to enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Provides that, except as provided by Subsection (c), an agreement entered into under this section:

(1) is authorized to specify transportation projects the applicable entity considers to be priorities for review; and

(2) is required to require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) Authorizes TxDOT to enter into a separate agreement for a transportation project that TxDOT determines has regional importance.

(d) Provides that an agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) Requires an entity entering into an agreement under this section to make the agreement available on the entity's Internet website.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. Requires TxDOT by rule to establish a process to certify TxDOT district environmental specialists to work on all documents related to state and federal environmental review processes. Requires that the certification process be available to TxDOT employees, and require continuing education for recertification.

SECTION 3. Amends Section 12.0011, Parks and Wildlife Code, by adding Subsection (b-1), as follows:

(b-1) Requires that recommendations and information submitted by the Texas Parks and Wildlife Department (TPWD) under Subsection (b) (relating to TPWD's resource protection activities) in response to a request for comments from TxDOT be submitted not later than the 45th day after the date TPWD receives the request.

SECTION 4. Provides that Section 201.607(a), Transportation Code, as amended by this Act, and Section 12.0011(b-1), Parks and Wildlife Code, as added by this Act, apply only to a request for comments from TxDOT received by a state agency on or after the effective date of this Act. Requires TxDOT and each affected state agency, as necessary, to promptly revise the memorandum of understanding required by Section 201.607, Transportation Code, to implement the change made by this Act to Section 201.607(a), Transportation Code.

SECTION 5. Effective date: September 1, 2011.