

## **BILL ANALYSIS**

Senate Research Center  
84R30625 JTS-F

C.S.H.B. 1738  
By: Isaac (Campbell)  
Transportation  
5/21/2015  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties contend that while revising state law relating to eminent domain, the legislature added certain reversion provisions to state highway right-of-way deed transfer procedures. These parties note that these provisions prevent transportation rights-of-way from being used for any purpose other than public transportation. Unfortunately, the parties explain, the legislature failed to envision a situation where public transportation could be improved by swapping old, unsafe, and inefficient rights-of-way for improved rights-of-way. C.S.H.B. 1738 seeks to remedy this situation by allowing for the release of certain restrictions on the use of certain highway rights-of-way transferred to a municipality from the Texas Department of Transportation (TxDOT) under very specific conditions.

C.S.H.B. 1738 amends the Transportation Code to authorize a municipality that has received a grant of highway right-of-way from TxDOT that is subject to a reservation requiring immediate and automatic reversion to the state because the property ceased being used for public road purposes to enter into an agreement with TxDOT, with approval of the municipality's governing body after a public hearing, under which the following conditions exist: TxDOT agrees to recommend to the governor that an instrument releasing the reservation be executed and, if executed, to record the instrument in the deed records of the county in which the right-of-way is located; and the municipality, if the instrument releasing the reservation is executed, agrees to transfer the right-of-way to one or more landowners in exchange for real property with a value that is equal to or greater than the value of the right-of-way, agrees to use the acquired real property for public road purposes, and agrees to execute and record in the deed records of the county in which the acquired real property is located a restrictive covenant that grants the real property to the state if the real property ceases to be used for public road purposes.

C.S.H.B. 1738 amends current law relating to the release of certain restrictions on the use of certain highway rights-of-way transferred to a municipality from the Texas Department of Transportation.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 202.021, Transportation Code, by adding Subsection (e-2), as follows:

(e-2) Provides that a municipality that received a grant of highway right-of-way from the Texas Department of Transportation (TxDOT) on June 12, 2013, that is subject to a reservation described by Subsection (e-1) and that is described by Section 2 of the Act enacting this subsection may, with the approval of its governing body after a public hearing, enter into an agreement with TxDOT under which:

(1) TxDOT agrees to:

(A) recommend to the governor of the State of Texas that an instrument releasing the reservation be executed; and

(B) if executed, record the instrument in the deed records of the county in which the right-of-way is located; and

(2) the municipality, if the instrument releasing the reservation is executed, agrees to:

(A) transfer the right-of-way to one or more landowners in exchange for real property with a value that is equal to or greater than the value of the right-of-way and that is described by Section 2 of the Act enacting this subsection;

(B) use the acquired real property for public road purposes necessary to accomplish a portion of a transportation master plan adopted by the municipality's governing body at a public meeting in February 2008; and

(C) execute and record in the deed records of the county in which the acquired real property is located a restrictive covenant that grants the real property to the state if the real property ceases to be used for public road purposes.

SECTION 2. Sets forth the tracts for the real property to be exchanged under Section 202.021(e-2), Transportation Code, as added by this Act.

SECTION 3. Effective date: upon passage or September 1, 2015.