

BILL ANALYSIS

Senate Research Center

S.B. 1133
By: Blanco et al.
Border Security
7/13/2023
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to the Senate Committee on Border Security Interim Report to the 88th Legislature, increased migrant and law enforcement activity, particularly within border and rural counties, has left many landowners with record financial losses and property damage in the form of destroyed crops, fence damage, outhouses, farm equipment and lost livestock.

S.B. 1133 will establish a grant program under the Office of the Attorney General (OAG) to compensate landowners who suffered property damage on agricultural land by a trespasser in the course of smuggling of persons, bailouts, human trafficking, and drug trafficking.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1133 amends current law relating to a program to compensate landowners for property damage caused by certain criminal activities.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the attorney general in SECTION 1 (Article 56C.002, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 1, Code of Criminal Procedure, by adding Chapter 56C, as follows:

CHAPTER 56C. LANDOWNER COMPENSATION FOR PROPERTY DAMAGE CAUSED BY CERTAIN CRIMINAL ACTIVITIES

Art. 56C.001. DEFINITIONS. Defines "agricultural land," "border crime," and "trespasser."

Art. 56C.002. ADMINISTRATION; RULES. (a) Requires the attorney general to adopt rules to administer this chapter.

(b) Provides that Subchapters A (General Provisions) and B (Rulemaking), Chapter 2001, Government Code, except Sections 2001.004(3) (relating to requiring a state agency to index, cross-index to statute, and make available for public inspection all final orders, decisions, and opinions) and 2001.005 (Rule, Order, or Decision Not Effective Until Indexed), apply to the attorney general.

(c) Authorizes the attorney general to delegate to a person in the Office of the Attorney General a power or duty given to the attorney general under this chapter.

Art. 56C.003. LANDOWNER COMPENSATION PROGRAM. (a) Requires the attorney general, from money appropriated for the purpose, to establish and administer a program to compensate landowners who suffer real property damage on agricultural land caused by:

(1) a trespasser as a result of an offense under Chapter 28 (Arson, Criminal Mischief, and Other Property Damage or Destruction), Penal

Code, that was committed in the course of or in furtherance of a border crime; or

(2) a law enforcement response to a trespasser who was engaged in a border crime.

(b) Requires the attorney general to establish:

(1) eligibility criteria for compensation under this article, including requirements for providing proof of eligibility for compensation;

(2) application procedures;

(3) criteria for evaluating applications and awarding compensation;

(4) guidelines related to compensation amounts, provided that the maximum amount awarded per incident causing damage is prohibited from exceeding \$75,000; and

(5) procedures for monitoring the use of compensation awarded under this article and ensuring compliance with any conditions of the award.

(c) Prohibits the attorney general from awarding compensation under this article for real property damage caused by a trespasser described by Subsection (a)(1) unless the damage is documented in a written report by a law enforcement agency as having occurred in connection with a border crime.

(d) Prohibits the attorney general, in awarding compensation under this article for real property damage caused by a trespasser described by Subsection (a)(1), from considering the outcome of any criminal prosecution arising out of the offense under Chapter 28, Penal Code, as a result of which the applicant suffered property damage or the applicable offense listed in Article 56C.001(2)(A).

Art. 56C.004. HEARINGS AND PREHEARING CONFERENCES. (a) Requires the attorney general to determine whether a hearing on an application for compensation under this chapter is necessary.

(b) Authorizes the attorney general, on determining that a hearing is not necessary, to approve the application.

(c) Requires the attorney general, on determining that a hearing is necessary or on request for a hearing by the applicant, to consider the application at a hearing at a time and place of the attorney general's choosing. Requires the attorney general to notify all interested persons not later than the 10th day before the date of the hearing.

(d) Requires the attorney general, at the hearing, to review the application for compensation and receive other evidence that the attorney general finds necessary or desirable to evaluate the application properly.

(e) Authorizes the attorney general to appoint hearing officers to conduct hearings or prehearing conferences under this chapter.

(f) Provides that a hearing or prehearing conference is open to the public unless the hearing officer or attorney general determines in a particular case that all or part of the hearing or conference should be held in private because a private hearing or conference is in the interest of the applicant.

(g) Provides that Subchapters C (Contested Cases: General Rights and Procedures) through H (Court Enforcement), Chapter 2001, Government Code, do not apply to the attorney general or the attorney general's orders and decisions.

Art. 56C.005. ANNUAL REPORT. Requires the attorney general, not later than the 100th day after the end of each state fiscal year, to submit to the governor and the legislature a report on the attorney general's activities under this chapter during the preceding fiscal year that includes the following information, disaggregated by each offense listed in Articles 56C.001(2)(A):

- (1) the number of applications made;
- (2) the number of applicants receiving compensation; and
- (3) the amount of compensation awarded.

Art. 56C.006. PAYER OF LAST RESORT. (a) Provides that the program established under Article 56C.003 is a payer of last resort for real property damage described by that article.

(b) Prohibits the attorney general from awarding compensation to an applicant under Article 56C.003 if the attorney general determines that the applicant:

- (1) is eligible for reimbursement from another source, including under an insurance contract or a state, local, or federal program; and
- (2) failed to seek reimbursement from the source described by Subdivision (1).

Art. 56C.007. EXPIRATION OF CHAPTER. Provides that this chapter expires on the second anniversary of the date that all money appropriated for the program established under this chapter has been expended.

SECTION 2. Effective date: September 1, 2023.