

BILL ANALYSIS

C.S.H.B. 3002
By: Martinez, "Mando"
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that South Texas has many colonias, which are unincorporated communities generally considered to be characterized by poor infrastructure, low quality homes, and higher incidences of crime. While these communities have long been neglected by the state, the parties suggest, the actual community members within colonias are strong, determined individuals living within their means. The parties further note that a local agreement was recently reached relating to a sustainable source of funding, outside of funds from the legislature, to address the issue of street lighting for colonias. Without proper street lighting, the parties conclude, many safety and security issues may arise within these communities. C.S.H.B. 3002 seeks to outline a mechanism by which colonias and the counties in which they are located can provide street lighting.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3002 amends the Transportation Code to change the entity that, under the order of the commissioners court of a county that has any of its territory located within 150 miles of an international boundary, may collect a fee for the establishment of street lights along a county road located in a subdivision imposed on landowners in the subdivision who benefit from the street lights from the county or another public or private entity with which the county may contract to the county tax assessor-collector. The bill requires the county tax assessor-collector to include the fee in the property tax bill for each landowner whose real property is benefited by the street lights for which the fee is imposed. The bill requires the tax bill to separately state the amount of the imposed fee. The bill requires the county tax assessor-collector to collect the fee for the county in the same manner that the county tax assessor-collector collects property taxes for the county.

C.S.H.B. 3002 authorizes a commissioners court to obtain a lien against real property benefited by the street lights for which a fee is imposed to secure payment of the fee. The bill requires the commissioners court, in order to obtain the lien, to file a notice that includes certain information with the county clerk of the county in which the property is located. The bill establishes that the lien exists in favor of the county, attaches to the real property on the date the notice of lien is filed with the county clerk, and is inferior to a mortgage lien previously recorded with the county clerk. The bill prohibits a county from foreclosing the bill's street light fee lien if the lien is the

only lien attached to the property.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3002 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 280.003, Transportation Code, is amended by adding subsection (d), (e), (f), (g), and (h) to read as follows:

(d) The county tax assessor-collector shall add the fees collected in subsection (b) to the annual property tax statement for those land owners who benefit from the street lights, collect said fees, and transfer said fees to the county.

(e) The commissioners court of a county

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 280.003, Transportation Code, is amended by amending Subsection (b) and adding Subsections (d), (e), and (f) to read as follows:

(b) The commissioners court of a ~~the~~ county may by order provide for the establishment of street lights along a county road located in a subdivision. The order may provide for:

(1) the installation, operation, and maintenance of the street lights by:

(A) the county; or

(B) another public or private entity with which the county may contract;

(2) the imposition of a fee on landowners in the subdivision who benefit from the street lights;

(3) the collection of a fee imposed under this subsection by:

~~[(A)] the county tax assessor-collector;~~ or

~~[(B)] another public or private entity with which the county may contract;~~ and

(4) any other matter the commissioners court finds necessary to the installation, operation, or maintenance of the street lights.

(d) The county tax assessor-collector of a county in which a fee is imposed under this section shall include the fee in the tax bill prepared under Section 31.01, Tax Code, for each landowner whose real property is benefited by the street lights for which the fee is imposed. The tax bill must separately state the amount of the fee imposed under this section. The county tax assessor-collector shall collect the fee for the county in the same manner that the county tax assessor-collector collects ad valorem taxes for the county.

(e) A commissioners court may obtain a lien

may obtain a lien against property to secure payment of a fee imposed by an order authorized by this section.

(f) To obtain a lien against the property to secure payment of the fee, the commissioners court of the county must file a notice that contains a statement of the fee assessed, a legal description of the property sufficient to identify the property, and the name of the property owner, if known, with the county clerk of the county in which the property is located.

(g) The county's lien to secure payment of a fee imposed by an order authorized by this section attaches when the notice of lien is filed and is inferior to a previously recorded bona fide mortgage lien attached to the real property to which the county's lien attaches, if the mortgage was filed for record in the office of the county clerk of the county in which the real property is located before the date on which the county files the notice of lien with the county clerk.

(h) The county which obtains a lien to secure payment of a fee imposed by an order authorized by this section may not foreclose on any property for which the only outstanding lien against that property is the lien obtained under this section.

No equivalent provision.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

against real property benefited by the street lights for which a fee is imposed under this section to secure payment of the fee. To obtain the lien, the commissioners court must file a notice with the county clerk of the county in which the property is located that includes:

(1) a statement that the fee has been imposed on the landowner and the amount of the fee;

(2) a legal description of the property on which the lien is to be attached sufficient to identify the property; and

(3) the name of the landowner, if known.

(f) The lien authorized by this section exists in favor of the county. The lien attaches to the real property on the date the notice of lien is filed with the county clerk. The lien is inferior to a mortgage lien recorded with the county clerk before the date the lien authorized by this section attaches to the property. A county may not foreclose a lien authorized by this section if the lien is the only lien attached to the property.

SECTION 2. The changes in law made by this Act apply only to a fee imposed by a county under Section 280.003, Transportation Code, as amended by this Act, on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2015.