

## BILL ANALYSIS

Senate Research Center  
81R3404 JAM-F

S.B. 480  
By: Carona  
Transportation & Homeland Security  
2/23/2009  
As Filed

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

Increasingly, environmental covenants are being used as part of the environmental remediation process for sale of contaminated real property. An environmental covenant is a legal agreement which restricts activities on sites where some contamination remains in place. The Texas Department of Transportation (TxDOT) enters into environmental covenants with the goal of returning a site to a condition where it can be safely used for any purpose before the property can be sold. However, many environmental covenants are used when the real property is to be cleaned up to a level determined for intended use so that property for sale that is intended for commercial or industrial use has brought up the contamination standards of commercial property. Commercial and industrial contamination levels are higher than those allowed for residential properties. Current law requires TxDOT to bring all contaminated property up to residential contamination levels before sale, regardless of intended use.

As proposed, S.B. 480 adds Section 202.061, Transportation Code, to authorize the Texas Transportation Commission to enter into covenants for environmental remediation of real property owned by TxDOT.

### 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 Subchapter C, Chapter 202, Transportation Code, by adding Section 202.061, as follows:

Sec. 202.061. ENVIRONMENTAL COVENANT. (a) Authorizes the Texas Transportation Commission (TTC) to enter into an environmental covenant for the purpose of subjecting real property in which the Texas Department of Transportation (TxDOT) has an ownership interest to a plan or the performance of work for environmental remediation if the plan or work performed is approved by the Texas Commission on Environmental Quality or a federal agency with the authority to approve the plan or work.

(b) Requires the environmental covenant to contain a legally sufficient description of the property subject to the covenant; describe the nature of the contamination on or under the property, including the contaminants and the location and extent of the contamination; and describe the activity and use limitations on the property.

(c) Authorizes TTC by order to authorize the chair of TTC to execute an environmental covenant on behalf of TTC.

SECTION 2. Effective date: upon passage or September 1, 2009.