

BILL ANALYSIS

C.S.H.B. 354
By: Raney
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that there is a lack of recourse on the denial of a school's request for a city, a county, or the state to consider prima facie speed limits on a highway or road near the school. C.S.H.B. 354 seeks to address this issue by providing for an appeals process for these denied requests.

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. 354 amends the Transportation Code to expand the applicability of statutory provisions requiring the governing body of a municipality, the commissioners court of a county, or the Texas Transportation Commission on request to hold a public hearing at least once each calendar year to consider prima facie speed limits on certain highways or county roads near a public or private elementary or secondary school or an institution of higher education located in the municipality or county, as applicable, to include such highways and roads near an open-enrollment charter school located in the municipality or county. The bill clarifies that the request to hold such a hearing is made by the governing body of the applicable school or institution of higher education. The bill sets at 15 miles per hour the minimum speed limit that the commissioners court of a county may declare on a county road or highway located within 500 feet of an elementary, secondary, or open-enrollment charter school or an institution of higher education, if approved after such a hearing.

C.S.H.B. 354 prohibits the municipal governing body, commissioners court, or the Texas Transportation Commission, as applicable, from rejecting a request for a prima facie speed limit by such a school or institution of higher education without first making a written finding stating a reasonable basis for the rejection. The bill authorizes the governing body of the school or institution of higher education, not later than the 90th day after the date the written finding is made, to appeal a rejection of such a request to the district court of the county in which the school or institution is located and authorizes the court to grant the requested prima facie speed limit if the governing body shows by clear and convincing evidence that the rejection of the request was not based on accepted traffic management principles. The bill authorizes the governing body of a school or institution of higher education to consult with the Texas Department of Transportation, the commission, and local transportation authorities on the feasibility of a prima facie speed limit during the acquisition and design of property for a public

or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 354 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

No equivalent provision.

SECTION 1. Section 545.357, Transportation Code, is amended to read as follows:

Sec. 545.357. CONSIDERATION OF [PUBLIC HEARING TO CONSIDER] SPEED LIMITS WHERE CERTAIN SCHOOLS ARE LOCATED. (a) The governing body of a municipality in which a public or private elementary or secondary school, an open-enrollment charter school as defined by Section 5.001(6), Education Code, or an institution of higher education as defined by Section 61.003(8) or (15), Education Code, is located shall on request hold a public hearing at least once each calendar year to consider prima facie speed limits on a highway in the municipality, including a highway of the state highway

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 545.355(b), Transportation Code, is amended to read as follows:

(b) The commissioners court of a county may declare a lower speed limit of not less than:

(1) 30 miles per hour on a county road or highway to which this section applies, if the commissioners court determines that the prima facie speed limit on the road or highway is unreasonable or unsafe; ~~or~~

(2) 20 miles per hour in a residence district, unless the roadway has been designated as a major thoroughfare by a city planning commission; or

(3) 15 miles per hour on a county road or highway located within 500 feet of an elementary, secondary, or open-enrollment charter school or an institution of higher education, if approved under Section 545.357.

SECTION 2. Section 545.357, Transportation Code, is amended to read as follows:

Sec. 545.357. CONSIDERATION OF [PUBLIC HEARING TO CONSIDER] SPEED LIMITS WHERE CERTAIN SCHOOLS ARE LOCATED. (a) The governing body of a municipality in which a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education [as defined by Section 61.003(8) or (15), Education Code,] is located shall, on request of the governing body of a school or institution of higher education, hold a public hearing at least once each calendar year to consider prima facie speed limits on a highway in the municipality, including a

system, near the school or institution of higher education.

(b) If a county road outside the state highway system is located within 500 feet of a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education that is not in a municipality, the commissioners court of the county on request shall hold a public hearing at least once each calendar year to consider the prima facie speed limit on the road near the school or institution of higher education.

(c) A municipal governing body or commissioners court on request may hold one public hearing for all public and private elementary and secondary schools, open-enrollment charter schools, and institutions of higher education in its jurisdiction.

(d) The Texas Transportation Commission, on request, shall hold a public hearing at least once each calendar year to consider prima facie speed limits on highways in the state highway system that are near public or private elementary or secondary schools, open-enrollment charter schools, or institutions of higher education.

(e) The municipal governing body, the commissioners court, or the Texas Transportation Commission, as applicable, may not reject a request for a prima facie speed limit by a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education without first making a written finding stating a compelling reason for the rejection.

(f) A school or institution may appeal a rejection of a request for a prima facie speed limit under this section to the district court of the county in which the school or institution is located not later than the 90th day after the date the written finding is made.

If the district court determines that the rejection of the request was not made for a compelling reason, the court shall grant the requested prima facie speed limit.

highway of the state highway system, near the school or institution of higher education.

(b) If a county road outside the state highway system is located within 500 feet of a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education that is not in a municipality, the commissioners court of the county, on request of the governing body of a school or institution of higher education, shall hold a public hearing at least once each calendar year to consider the prima facie speed limit on the road near the school or institution of higher education.

(c) A municipal governing body or commissioners court, on request of the governing body of a school or institution of higher education, may hold one public hearing for all public and private elementary and secondary schools, open-enrollment charter schools, and institutions of higher education in its jurisdiction.

(d) The Texas Transportation Commission, on request of the governing body of a school or institution of higher education, shall hold a public hearing at least once each calendar year to consider prima facie speed limits on highways in the state highway system that are near public or private elementary or secondary schools, open-enrollment charter schools, or institutions of higher education.

(e) The municipal governing body, the commissioners court, or the Texas Transportation Commission, as applicable, may not reject a request for a prima facie speed limit by a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education without first making a written finding stating a reasonable basis for the rejection.

(f) The governing body of a school or institution of higher education may appeal a rejection of a request for a prima facie speed limit under this section to the district court of the county in which the school or institution is located not later than the 90th day after the date the written finding is made. If the governing body shows by clear and convincing evidence that the rejection of the request was not based on accepted traffic management principles, the district court may grant the requested prima facie speed limit.

(g) The governing body of a school or

institution of higher education may consult with the Texas Department of Transportation, the Texas Transportation Commission, and local transportation authorities on the feasibility of a prima facie speed limit during the acquisition and design of property for a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education.

(h) In this section:

(1) "Governing body of a school or institution of higher education" means:

(A) the board of trustees of the school district in which a public elementary or secondary school is located;

(B) the governing body of a private elementary or secondary school;

(C) the governing body of an open-enrollment charter school; or

(D) the governing board of an institution of higher education.

(2) "Institution of higher education" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code.

(3) "Open-enrollment charter school" has the meaning assigned by Section 5.001, Education Code.

SECTION 2. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.