

SUBJECT: Requiring certain grant recipients be reimbursed for excess costs

COMMITTEE: Transportation — favorable, without amendment

VOTE: 13 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

WITNESSES: For — (*Registered, but did not testify*: Monty Wynn, Texas Municipal League)

Against — Terri Hall, Texas TURF, Texans for Toll-free Highways

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

DIGEST: HB 2673 would require the Texas Department of Transportation (TxDOT) to reimburse the recipient of a grant awarded by TxDOT for construction of a transportation project for costs incurred by the recipient that exceeded the amount of the grant, if the project was managed by TxDOT. The bill would apply only to a grant for a transportation project in a county with a population of less than 25,000 or a municipality with a population of less than 15,000.

The bill would take effect September 1, 2021, and would apply only to a grant awarded on or after the effective date.

SUPPORTERS SAY: HB 2673 would prevent small cities and counties in Texas from receiving unexpected bills for local transportation construction projects managed by TxDOT and whose costs exceeded the amount of the grants awarded by TxDOT for those projects. Currently, when a construction project exceeds the amount of the grant, the city or county must pay for any cost overruns. This practice places an unfair and heavy financial burden on small cities and counties for costs that are beyond their control.

A review to determine whether TxDOT or the locality was responsible for going over budget and engaging in arbitration to decide who would pay would cost small cities and counties even more money, especially if those localities did not prevail in arbitration. HB 2673 would ensure that local governments were not financially penalized if a project TxDOT managed exceeded the funds granted for construction.

By eliminating the possibility that a city or county would be liable for excess costs under these circumstances, the bill would create an incentive for small cities to seek state funding and partner with the state on major transportation projects. Moreover, TxDOT would be motivated to stay within budget on grant-based transportation construction projects.

**CRITICS
SAY:**

HB 2673 would guarantee that some grant recipients be reimbursed for cost overruns regardless of which party was at fault. This no-fault provision could create a disincentive for grant recipients to submit accurate budgets in their proposals and could lead to waste or abuse. An alternative and fairer approach to the problem would be to perform a review of the reasons for the cost overrun and to require TxDOT and the locality to engage in arbitration to determine who would be financially responsible for excess costs.

Because grants administered by TxDOT for transportation construction projects often are determined and limited by state and local funding formulas, the department's ability to reimburse grant recipients for excess costs is limited. HB 2673 could lead TxDOT to hold back some of the grant funds for certain programs in order to provide a funding reserve for potential reimbursement to local governments that would be required by the bill. TxDOT also could choose not to manage a construction project to avoid the reimbursement requirement, depriving small cities and counties of resources and expertise.

NOTES:

According to the Legislative Budget Board, because the number of applicable grant-funded projects that would incur excess costs and the amount of excess costs that would be reimbursable to local governments by TxDOT is unknown, the potential cost to the state could not be

determined.