

BILL ANALYSIS

Senate Research Center

H.B. 340
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Intergovernmental Relations
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Engrossed

DIGEST AND PURPOSE

Some rural counties are unclear on the status of country roads. There are no records showing county or private ownership of roads that have historically been used by the public and maintained by the county. A current statute delineates the procedure by which a county having a population of 50,000 or less could acquire a public interest in a private road. However, it may be economically burdensome for a rural county to undertake the task of determining the identity of and contacting each owner along every country lane. H.B. 340 authorizes the commissioners court of a county to adopt a proposed county road map and include in the map all roads in which the county claims a public interest.

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 Title 6C, Transportation Code, by adding Chapter 258, as follows:

CHAPTER 258. ACQUISITION OF PUBLIC INTEREST IN ROAD BY ADOPTION OF COUNTY ROAD MAP

Sec. 258.001. ACQUISITION OF PUBLIC INTEREST IN ROAD. Authorizes a county, notwithstanding Chapter 281, to acquire a public interest in a road as provided by this chapter.

Sec. 258.002. ADOPTION OF COUNTY ROAD MAP. (a) Authorizes the commissioners court of a county to propose a county road map that includes each road in which the county claims a public interest: under Chapter 281 or other law; or as a result of having continuously maintained the road with public funds beginning before September 1, 1981.

(b) Requires a commissioners court that proposes a county road map under this section to hold a public meeting at which a person asserting a private right, title, or interest in a road in which the county has claimed a public interest may appear before the commissioners court to protest the county's claim. Authorizes a person asserting a private right, title, or interest in a road to also file a written protest with the county judge at any time before the public meeting. Requires the commissioners court to appoint a jury of view consisting of five property owners who have no interest in the outcome of the protest to determine, by a majority vote after a public hearing and an examination of the county's road maintenance records and other information, the validity of the county's claim of public interest in the road. Provides that a county has a valid claim in a road if it provides written records or other information documenting the county's continuous maintenance of the road beginning before September 1, 1981. Provides that the determination of the jury of view is binding on the commissioners court, and the commissioners court is required to revise the proposed county road map accordingly.

(c) Requires the commissioners court to publish at least once a week in a newspaper of general circulation in the county for at least four consecutive weeks preceding the date of the public meeting a notice meeting certain requirements.

(d) Requires the commissioners court to display the proposed map at the location and during the time described in the notice from the date on which notice is first published through the date on which the commissioners court formally adopts the proposed map. Requires the map to be legible and requires that not less than one inch equals 2,000 feet in scale.

(e) Authorizes the commissioners court to formally adopt the proposed map, as revised after public comment and a determination by the jury of view, only at a public meeting held before the 90th day following the date of the initial public meeting required by Subsection (b).

(f) Prohibits the county, if a person asserting a private right, title, or interest in a road that the county has included in the proposed map protests in writing or in person as provided by Subsection (b) before the conclusion of the public hearing, from taking possession of the road, but after the conclusion of the hearing the county is authorized to bring suit against the person for adverse possession of the right, title, or interest in the road.

(g) Requires the county clerk to keep a county road map adopted under this section in a place accessible to the public.

(h) Provides that the failure to include on a county road map adopted under this section a road in which the county has previously acquired a public interest by purchase, condemnation, dedication, or a court's final judgment of adverse possession does not affect the status of the omitted road.

(i) Defines "continuous maintenance."

Sec. 258.003. CONCLUSIVE EVIDENCE. Provides that, except as provided by Section 258.004, a county road map adopted under Section 258.002 is conclusive evidence of the public's right of access over a road included on the map, and the county's authority to spend public money to maintain a road included on the map.

Sec. 258.004. CONTEST. (a) Authorizes a person asserting a private right, title, or interest in a road in which a public interest is asserted under this chapter to contest the inclusion of the road in the county road map by filing a suit in a district court in the county in which the road is located not later than the second anniversary of the date on which the county road map including the road was adopted.

(b) Provides that the county has the burden of proving that the county has continuously maintained, as that term is defined by Section 258.002, the road in question.

Sec. 258.005. TRANSFER OF INTEREST. (a) Requires the commissioners court to include a notice of its intention to consider adoption of the county road map with the ad valorem tax statements for the year before the adoption of a county road map under Section 258.002. Requires the commissioners court, if a property owner tenders a warranty deed to the county for property included in the right-of-way of a county road, to accept and file the warranty deed.

(b) Requires the commissioners court to include a notice of the adoption of the county road map with the ad valorem tax statements for the year after the year in which the county adopts a map under Section 258.002. Requires the notice to include a list of all

roads in which the county has claimed a public interest by adoption of the map, the date of the adoption, and the date on which the statute of limitations will bar a landowner from filing a suit in district court to dispute the county's claim.

Sec. 258.006. TAX ABATEMENT; REVERSION OF INTEREST. (a) Provides that a private right, title, or interest, other than a mineral interest, held by a person in land underlying a road in which the county has acquired a public interest under this chapter is exempt from ad valorem taxation by any taxing authority.

(b) Provides that a right, title, or interest described in Subsection (a) reverts completely to the person who held the right, title, or interest at the time the county acquired the public interest in the land if the county ceases to maintain the road, and the person is liable for all ad valorem taxes levied on that right, title, or interest on or after the reversion.

(c) Requires the taxing authority, in order to levy and collect an ad valorem tax on a right, title, or interest described in Subsection (a) that has reverted to the landowner under Subsection (b), to obtain from the county an order stating that the county has ceased to maintain the road. Provides that the owner of the right, title, or interest will be liable for any ad valorem tax levied on the right, title, or interest on or after the date of the county's order.

SECTION 2. Effective date: September 1, 2001.