

- SUBJECT:** Purchase of railroad right-of-way following abandonment
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 7 ayes — Walker, Crabb, F. Brown, Geren, Krusee, Mowery, B. Turner
1 nay — Howard
1 absent — Truitt
- WITNESSES:** For — Billy Howe, Texas Farm Bureau
Against — None
- BACKGROUND:** In 1890, the Texas Constitution was amended to grant the Legislature the authority to regulate railroads operating in the state. Texas Constitution Art. 10, sec. 2 declared railroads to be public highways and railroad companies to be common carriers.
- Typically, railroad right-of-way is reserved to the railroad from 100 feet of each side of the rails. Because of competition with other common carriers, typically trucking companies, many miles of railroad have been deemed to be unprofitable and have been abandoned for use as rail lines. Railroads must apply for permission through the federal Surface Transportation Board to abandon a portion of a railway line.
- Over the years, political entities, public utilities, pipeline operators, communications companies, and individuals have built structures, installed equipment, and made other leasehold improvements on facilities located on railroad right-of-way on the basis of long-term leases for use of the property.
- DIGEST:** CSHB 1125 would require a railroad company that had applied to a federal agency to abandon a railroad line to give certain persons right of first refusal to buy its right-of-way and adjoining property at fair-market value. Those persons would include anyone who had constructed a building or other structure, installed equipment, or made any other type of leasehold improvement on the company's right-of-way or adjoining property.

The land subject to purchase would be land necessary for unrestricted use of the structure, equipment, or other improvement. Upon purchase, ownership of the structure, equipment, or other leasehold would be transferred at no cost to the buyer.

CSHB 1125 would grant the state the right of first refusal to buy the abandoned railway right-of-way if it had a previous authority to acquire the property. If the state declined to exercise that right, the right of first refusal would pass to the person who constructed the structure, equipment, or other improvement.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 1125 would put a stop to private companies buying up abandoned railroad lines and then reselling the land at unfair prices or charging high access rates to those who use the surrounding land. This bill would give neighboring property owners or lessees their deserved right of first refusal to buy abandoned railroad land at a fair price set by an independent appraiser. As a common courtesy, railroads should offer to sell the abandoned property to long-time leaseholders. This bill simply would ensure that the railroad would do what is right.

Many of the leaseholders have constructed substantial structures such as grain elevators or restaurants. They should not have to risk having to move or lose their structures as long-term leases end and are not renewed by the new property owner. The state has lost more than 3,000 miles of railroads, and more rail lines are expected to be abandoned. CSHB 1125 would protect the interests of leaseholders on railroads already abandoned and future situations where a line will be closed and sold.

**OPPONENTS
SAY:**

CSHB 1125 would tell railroads to whom they must offer to sell their land first. Like any other private property owner, a railroad should have the right to sell its property as it sees fit. Abandoned railroad lines are private property and should be sold as private property to the highest bidder, not to certain groups of buyers.

With this bill in place, it would be difficult to sell the entire right-of-way to a buyer after abandonment had been filed. Allowing certain parcels to be sold

off piecemeal would also reduce the ability of a new owner to redevelop the entire right-of-way. For example, under federal law, after abandonment has been certified, the Rails to Trails nonprofit organization has the opportunity to buy the entire right-of-way for community walking and biking trails. This bill would conflict with federal law in this instance.

NOTES:

The committee substitute removed provisions in the original bill that would have regulated the transfer or title to railroad right-of-way, required notice to the Texas Railroad Commission of an intended abandonment of railroad right-of-way, and provided for the sale of a nonreversionary right-of-way fee title in a county with a population of 250,000 or less to a tenant under a lease.

In 1999, the House passed a similar bill, HB 3117 by Swinford, which would have granted leaseholders a right of first refusal to purchase railroad right-of-way, late in the session, but the bill died in the Senate.