

SUBJECT: Creating the Texas Rail Relocation and Improvement Fund

COMMITTEE: Transportation — committee substitute recommended

VOTE: 6 ayes — Krusee, Phillips, Callegari, Casteel, Hamric, Hill

0 nays

3 absent — Deshotel, Flores, West

WITNESSES: For — Ron Olson, Union Pacific Railroad

Against — None

On — Robert Nichols, Texas Transportation Commission

BACKGROUND: The Texas Constitution, Art. 3, sec. 49 prohibits state debt, generally requiring that voters approve bonded indebtedness before the state may incur it. Sec. 49-j limits annual state debt payable from state general revenue to 5 percent of the annual average amount of non-dedicated general revenue for the three preceding fiscal years.

DIGEST: CSHJR 54 would amend the Constitution to authorize the creation of the Texas Rail Relocation and Improvement Fund in the state treasury. The Texas Transportation Commission (TTC) would administer this revolving fund to finance or partially fund the relocation and improvement of privately and publicly owned passenger and freight rail facilities. Funds would be used in the interest of improving mobility and public safety around the state for projects such as:

- the conversion of freight rail lines to commuter rail lines;
- the relocation of freight rail lines carrying hazardous materials through urban areas;
- the improvement of air quality; or
- the expansion of economic opportunity.

The TTC could issue bonds pledged against the fund to be repaid from the fund balance. Bond proceeds could be used for refunding obligations and

related credit agreements, for creating reserves, and for paying issuance costs and interest on bonds.

The Legislature could dedicate to the fund one or more specific revenue sources or portions of other state revenues, as long as the sources were not otherwise dedicated by the Constitution. Dedicated revenue would be considered appropriated when received by the state, deposited automatically into the fund, and used as provided by CSHJR 54 and any law enacted under its authority without further appropriation.

The dedication of a specific source or portion of revenue, taxes, or other money could not be reduced, rescinded, or repealed unless two conditions were satisfied. First, the Legislature by law would have to dedicate a substitute or different source that the comptroller projected to be of an amount equal or greater than the dedicated source. Second, the Legislature would have to authorize TTC to guarantee payment of any bonds, notes, other obligations, or credit agreements by pledging the state's full faith and credit if dedicated revenue were insufficient to cover the payment. If TTC took such action and dedicated revenue was insufficient, the first revenue deposited into the state treasury not otherwise dedicated constitutionally would be appropriated to pay principal and interest on the obligations or agreements, less any fund amount available.

If approved by the attorney general, obligations and credit agreements issued in conjunction with the fund would be considered incontestable. Judicial enforcement would be delegated to a Travis County district court.

The fund's obligations and credit agreements would not be included in computing the constitutional limit on state debt under Art. 3, sec.49-j, except to the extent that the comptroller projected that general revenue would be needed to pay the amounts due should TTC exercise its authority to pledge the state's full faith and credit, or if money had been dedicated to the fund from an unspecified source.

The proposal would be presented to the voters at an election on Tuesday, November 8, 2005. The ballot proposal would read: "The constitutional amendment creating the Texas rail relocation and improvement fund and authorizing grants of money and issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement rehabilitation, and expansion of rail facilities, including freight rail lines, especially those carrying hazardous materials through urban areas, or the

conversion of freight rail lines to commuter rail lines to relieve congestion on public highways to enhance public safety.”

**SUPPORTERS
SAY:**

CSHJR 54 would help alleviate traffic congestion, enhance highway safety, improve air quality, and boost economic opportunity by financing the relocation and construction of rail lines in Texas.

The current congestion crisis on Texas highways stems in part from the inability of railroads to keep up with increasing demands for the transport of freight through the state. According to TxDOT, the number of vehicles on Texas roads increased by more than 60 percent — from 11.7 million to 18.9 million — between 1980 and 2003. Allowing for the shipment of more goods by train would reduce the number of trucks traveling on highways, which would decrease congestion and potentially dangerous truck traffic.

Right-of-way obtained by relocating railroads out of urban areas could be used for the placement of commuter rail lines or new highways, both of which would decrease traffic congestion. The Union Pacific track between Georgetown and San Antonio that straddles MoPac Blvd. in Austin would be one location for a possible commuter rail line if the heavy freight traffic could be relocated to an area outside of the urban centers.

Freight trains emit less pollution per ton/mile than trucks, which would help Texas in bringing non-attainment areas into compliance with federal air quality standards. In addition, the relocation of railroads outside of cities would prevent the shipment of hazardous materials through densely populated areas. Last year, a toxic waste spill in San Antonio killed five people and injured 50.

The state needs outside assistance to fund large-scale railroad improvement and relocation projects from sources other than general revenue, and Texas should continue to forge public-private partnerships to finance such projects. In the construction of the Trans-Texas Corridor, for example, a Spanish company has agreed to finance the project in exchange for toll revenues collected over the next 50 years. Similarly, in a public-private partnership for rail relocation, a private company could finance the construction and maintenance of the rail lines in exchange for the opportunity to profit from future economic activity along the railways.

Relocating rail lines would boost the state's economy by encouraging investment, improving efficiency, and preventing existing businesses from moving out of the state. With a revamped rail system, investors would look to Texas as a prime location through which to ship their goods, which would be delivered much faster if freight rail lines did not pass through congested cities. Texas already has begun to lose important businesses as a result of inadequate rail lines. The state should act soon in order to prevent the loss of more businesses.

OPPONENTS
SAY:

Railroad relocation should be left entirely to the private sector. It is not the responsibility of the state to finance construction of additional freight rail lines, particularly when debt service on the bonds issued could cost the state \$87.5 million per year beginning in fiscal 2007. By amending the Constitution to authorize the creation of this fund, the state would commit itself to such debt for a long time to come.

TxDOT deals primarily with state highways and has very little authority over railroad matters. TxDOT should use its resources to carry out its primary functions that relate to the planning, construction, and maintenance of the state's highways. The railroad industry is no longer a state-regulated industry, and government should not involve itself in that industry's investment decisions.

NOTES:

The committee substitute specified as additional purposes for the fund the conversion of freight rail lines to commuter rail lines in the interests of relieving congestion and the relocation of freight trains out of urban areas in the interest of public safety.

Voter approval of CSHJR 54 would authorize implementation of HB 1546 by McClendon, creating the Texas Rail Relocation and Improvement Fund. On April 20, HB 1546 by McClendon, was scheduled on the General State Calendar for consideration on second reading but postponed. It is scheduled to appear on the General State Calendar for Monday, April 25.

The companion measures, SB 1712 and SJR 41, both by Staples, are pending in the Senate Transportation and Homeland Security Committee. HB 2660 by Krusee, which is identical to HB 1546, was reported favorably by the Transportation Committee on April 7. HB 2660 is the enabling legislation for HJR 81 by Krusee, also reported favorably on April 7.

The fiscal note for CSHJR 54 projects no significant fiscal impact to the state other than a cost of \$66,497 to publish the resolution. According to the fiscal note for the enabling legislation, HB 1546, debt service on bonds issued from the rail fund would cost about \$113 million in general revenue-related funds in fiscal 2006-07 and approximately \$87.5 million in each subsequent fiscal year for debt service through fiscal 2010, assuming that \$1 billion in bonds were issued.