

SUBJECT: Funding the Texas Rail Relocation and Improvement Fund

COMMITTEE: Transportation — committee substitute recommended

VOTE: *(On committee substitute :)*
7 ayes — Phillips, Martinez, Fletcher, Guerra, Harper-Brown,
McClendon, Riddle

0 nays

4 absent — Burkett, Y. Davis, Lavender, Pickett

WITNESSES: *(On committee substitute:)*
For — Maureen Crocker, Gulf Coast Rail District; Peter LeCody, Texas Rail Advocates; Eddie Miranda, Greater Houston Partnership; Kim Porterfield, City of San Marcos; Bruce Todd, Rail Relo Now;
(Registering, but not testifying: William Bingham, Lone Star Rail District; Victor Boyer, San Antonio Mobility Coalition Inc.; Max Jones, Metro 8 Chambers of Commerce; Luis Saenz, City of San Antonio; Chris Shields, Greater San Antonio Chamber of Commerce)

Against — None

On — *(Registering, but not testifying: James Bass, Texas Department of Transportation)*

BACKGROUND: In 2005, Texas voters approved a constitutional amendment authorizing the creation of the Texas Rail Relocation and Improvement Fund within the state treasury. The amendment allowed the Texas Transportation Commission to administer a revolving fund to fund the relocation and improvement of privately and publicly owned passenger and freight rail facilities.

In 2001, the 77th Legislature enacted SB 5 by Brown to create the Texas Emissions Reduction Plan (TERP), a set of incentive-based programs intended to reduce ozone-producing emissions. Funds for the TERP account come from seven sources:

- certain fees from motor vehicle title certificates under sec. 501.138,

Transportation Code;

- emissions offsets paid by site owners/operators in the Houston-Galveston and the Dallas-Fort Worth nonattainment areas under Health and Safety Code, sec. 386.056;
- surcharges on heavy-duty diesel equipment under Tax Code, sec. 151.0515;
- surcharges on retail sale, lease, or use of on-road diesel motor vehicles, except recreational vehicles under Tax Code, sec. 152.0215;
- a surcharge on registration of truck-tractor or commercial motor vehicles under Transportation Code, sec. 502.358;
- an inspection fee on certain commercial motor vehicles under Transportation Code, sec. 548.5055; and
- grant funds under Transportation Code, sec. 502.358 and sec. 548.5055.

DIGEST:

(Digest reflects bill as amended by the author's intended floor amendment:)

CSHB 1878 as amended would reallocate a portion of the motor vehicle certificate of title fees charged motorists in nonattainment areas of the state and certain state highway funds from TERP to the Texas Rail Relocation and Improvement Fund. Under the bill, of the \$33 paid by motorists of counties in a federal Clean Air Act nonattainment area or with deteriorating air quality \$5 would go to the Texas Rail Relocation and Improvement Fund instead of the TERP fund.

CSHB 1878 as amended would require the comptroller to monitor transfers to and from the Texas emissions reduction plan fund and make determinations to manage the fund as directed.

Under the bill as amended, if the Texas Commission on Environmental Quality (TCEQ) found after a public hearing that certain nondedicated state highway funds up to the amount of certain other noncontainment feeds deposited to the Texas Mobility Fund could be used at least as effectively for congestion mitigation projects as they would have been used by the TERP, TCEQ could designate these funds to be used for congestion mitigation projects or for use by the Texas Rail Relocation and Improvement Fund.

TCEQ would have to notify the Texas Transportation Commission of its findings under the public hearing. If the hearing did not find that the funds

could be used at least as well outside of TERP, the remaining state highway funds would be deposited to the credit of TERP. The bill would require TCEQ to adopt criteria for making a finding through the public hearing.

Money deposited to the Texas Rail Relocation and Improvement Fund could be used to fund an infrastructure project to reduce air pollution and relieve congestion through rail relocation or improvement. This would include an infrastructure project under Health and Safety Code, sec. 386.109(a)(4), which would reduce air pollution and engine idling by relieving congestion through rail relocation or improvement at a rail intersection that was located in a nonattainment or near nonattainment area.

The bill would remove the September 1, 2008 — September 1, 2015 constraint governing deposit of \$5 of the certificate of title nonattainment fees. The bill would also repeal the August 31, 2019 expiration date relating to amounts allocated from the State Highway Fund.

The bill would take effect September 1, 2013.

**SUPPORTERS
SAY:**

CSHB 1878, as amended, would not involve any new or increased fees but would allow certain certificate of title funds already received to be reallocated to the rail relocation and improvement fund. The bill would simply allow TCEQ to work with TxDOT to use TERP funds for TERP purposes, which broadly speaking include using railroad projects to relieve traffic congestion and limit pollution. For reallocation of certain state highway funds, the bill would require TCEQ to establish through a public hearing that the rail relocation and improvement fund could use the fees at least as well as TERP. The author plans to introduce an amendment to align HB 1878 with provisions in HB 7 by Darby governing allocation of nonattainment title fees.

The bill would not significantly reduce funding to TERP, which has six other sources of funding other than title fees. The bill would also specify that the portion of the fee transferred from TERP would still be used to reduce air pollution and relieve congestion. The bill would not expand the scope of funding for rail projects, as Health and Safety Code already identifies certain rail projects as eligible for TERP funding.

The bill would enhance the state's ability to make applications for federal

funding that the state will need in the future to improve the rail network, reduce congestion, and help the state's rail and roadways become safer, less polluted, and more efficient. The bill would also help the state to continue to be economically competitive, build jobs, and move cargo efficiently to and from ports. The state needs to act now to improve and relocate rail before the 2015 expansion of the Panama Canal drives significantly more rail and roadway traffic through the state.

Under current law, TCEQ cannot obtain the optimal value of its funds under TERP because TCEQ has no bonding authority. CSHB 1878 would allow TCEQ to work with TxDOT to optimize the funds available for TERP purposes.

**OPPONENTS
SAY:**

The bill would take valuable and needed funds away from the Texas emissions reduction plan fund without replacing them.

The bill would also make the fund bondable, which could increase the state's transportation debt. The bill would not create a sustainable source of funding for transportation before allowing the state to enter into even more debt to fund transportation.

NOTES:

CSHB 1878 has no fiscal impact through the biennium ending August 31, 2015, according to the Legislative Budget Board.

The bill would redirect \$5 in motor vehicle title certificate fees from the General Revenue account 5071 Emissions Reduction Plan to the Texas Rail Relocation and Improvement Fund 0306 beginning in fiscal year 2014. The dedication of revenues received from motor vehicle certificates to General Revenue Account 5071 Emissions Reduction Plan would expire under current law at the end of fiscal year 2015 and are scheduled to be deposited to the credit of the Texas Mobility Fund 0365.