

BILL ANALYSIS

Senate Research Center

H.B. 1546
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Transportation & Homeland Security
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Highway capacity is not keeping up with demand. Texas roadways have become increasingly congested in recent years due in part to population growth and the changing economy.

The transportation of freight on the state's transportation system has grown tremendously and will continue to do so, causing a greater burden on both the highway system and the freight rail system.

The railroad industry was deregulated in 1980. As a result, the industry dramatically improved its productivity and stabilized its market share. This was accomplished, however, by downsizing and streamlining operations and keeping capital expenditures low. The industry does not generate sufficient profits to reinvest in the infrastructure. As the demand for freight transportation increases, the rail industry's infrastructure will not be sufficient to maintain its market share and keep freight off highways.

H.B. 1546 creates the Texas rail relocation and improvement fund, which will be administered by the Texas Transportation Commission to provide a method of financing the relocation and improvement of privately and publicly owned passenger and freight rail facilities.

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 Chapter 201, Transportation Code, by adding Subchapter O, as follows:

SUBCHAPTER O. RAIL RELOCATION AND IMPROVEMENT

Sec. 201.971. DEFINITIONS. Defines "comptroller's certification," "credit agreement," "fund," "long-term obligations," "maximum obligation amount," "obligations," "rail facility," "short-term obligations," and "station."

Sec. 201.972. ADMINISTRATION OF FUND. Requires the comptroller of public accounts (comptroller) to hold the Texas rail relocation and improvement fund (fund), and the Texas Transportation Commission (TTC), through the Texas Department of Transportation (TxDOT), to manage, invest, use, and administer the fund as provided by this subchapter.

Sec. 201.973. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES; LIMITATIONS. (a) Authorizes TTC by order or resolution, subject to Subsections (e), (f), and (g), to issue obligations in the name and on the behalf of the state and TxDOT and to enter into credit agreements related to obligations. Authorizes the obligations to be issued in multiple series and issues from time to time in an aggregate amount not exceeding the maximum obligation amount. Authorizes the obligations to be issued on and to have the terms and provisions TTC determines appropriate and in the interests of the state. Authorizes the obligations to be issued as long-term obligations, short-term obligations, or both. Prohibits the latest scheduled maturity of an issue or series of obligations from exceeding 30 years.

(b) Requires obligations to be secured by and payable from a pledge of and lien on all or part of the money in the fund, including the revenues of the state dedicated or appropriated for deposit to the fund. Authorizes obligations to be additionally secured by and payable from credit agreements. Authorizes TTC to pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(c) Authorizes TTC to create within the fund accounts, reserves, and subfunds for purposes TTC finds appropriate and necessary.

(c-1) Requires the project to first be approved by the policy board of the metropolitan planning organization if proceeds of obligations are to be used for a project located in the planning area of a metropolitan planning organization.

(d) Sets forth certain purposes for which obligations are authorized to be issued.

(d-1) Authorizes the fund to also be used to provide a method of financing the construction of railroad underpasses and overpasses, if the construction is part of the relocation of a rail facility.

(d-2) Prohibits proceeds of obligations from being used to relocate an existing rail line unless governing the governing bodies of a majority of the total number of counties and municipalities in which the relocated rail line will be located have first approved the relocation.

(e) Prohibits long-term obligations in the amount proposed to be issued by TTC from being issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-0(d), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-0(e), Article III, Texas Constitution, and the investment earnings on that money, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed long-term obligations during that year.

(f) Prohibits short-term obligations in the amount proposed by TTC from being issued unless the comptroller, in a comptroller's certification, takes certain actions.

(g) Authorizes TTC to agree to further restrictions in connection with the issuance of obligations and to retain independent professional consultants to make projections in addition to, but not instead of, those of the comptroller if required as a prerequisite to the issuance of the obligations.

(h) Provides that TTC has all the powers necessary or appropriate to carry out this subchapter and to implement Section 49-0, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201 (Public Security Procedures Act), 1207 (Refunding Bonds), and 1371 (Obligations for Certain Public Improvements), Government Code.

(i) Requires proceedings and obligations and related credit agreements, as required by Section 49-0(g), Article III, Texas Constitution, to be issued and executed under this subchapter to be submitted to the attorney general for approval as to their legality. Requires the attorney general to approve them if the attorney general finds that they will be issued in accordance with this subchapter and other applicable law, and provides that after payment by the purchasers of the obligations in accordance with the terms of sale, and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(j) Requires a comptroller's certification under this section to be based on economic data, forecasting methods, and projections that the comptroller determines are reliable. Requires the comptroller, in determining the principal and interest requirements on outstanding and proposed obligations, and subject to the express limitations of this subchapter and Section 49-o, Article III, Texas Constitution, to rely on the assumption included in the resolutions authorizing the obligations for the computation of debt service.

(k) Provides that the holders of obligations and the counterparties to credit agreements have the rights granted in Section 49-o(i), Article III, Texas Constitution.

Sec. 201.974. PLEDGE OF STATE'S FULL FAITH AND CREDIT. (a) Authorizes TTC to guarantee on behalf of the state the payment of any obligations and credit agreements issued under Section 201.973 by pledging the full faith and credit of the state to the payment of the obligations and credit agreements in the event the revenue and money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, are insufficient for that purpose.

(b) Provides that the exercise of the authority granted by Subsection (a) does not modify or relieve TTC from complying with Section 201.973(e) or (f) and does not permit the issuance of aggregate obligations in an amount exceeding the maximum obligation amount.

(c) Requires the constitutional appropriation contained in Section 49-o(f), Article III, Texas Constitution, if TTC exercises authority granted by Subsection (a), to be implemented and observed by all officers of the state during any period during which obligations and credit agreements are outstanding and unpaid.

Sec. 201.975. DEDICATION OF REVENUE TO FUND. Requires, annually, the revenue of the state that is dedicated or appropriated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, to be deposited to the fund in accordance with Section 49-o(e), Article III, Texas Constitution.

Sec. 201.976. INVESTMENT AND USES OF MONEY IN FUND. (a) Authorizes money in the fund to be invested in the investments permitted by law for the investment of money on deposit in the state highway fund.

(b) Authorizes TTC, as part of its covenants and commitments made in connection with the issuance of obligations and the execution of credit agreements, to limit the types of investments eligible for investment of money in the fund but prohibits TTC from expanding the types of investments to include any investments that are not authorized by Subsection (a).

(c) Requires income received from the investment of money in the fund to be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing obligations to protect the tax-exempt status of interest payable on the obligations under the Internal Revenue Code of 1986.

(d) Authorizes TTC, to the extent money is on deposit in the fund in amounts that are in excess of the money required by the proceedings authorizing the obligations and credit agreements to be retained on deposit, to use the money for any purpose for which obligations may be issued under this subchapter.

Sec. 201.977. STRATEGIC PLAN. Prohibits TTC from issuing obligations under this subchapter before TxDOT has developed a strategic plan that outlines how the money will be used and the benefit the state will derive from use of money in the fund.

SECTION 2. Effective date: contingent upon passage of 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.