

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 1712  
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### **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, and, as a result, the industry dramatically improved its productivity and stabilized its market share. This was accomplished 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 of highways.

As proposed, S.B. 1712 creates the Texas rail relocation and improvement fund, to be administered by the Texas Transportation Commission for the purpose of providing 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 to hold the Texas rail relocation and investment fund (fund), and requires 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, subject to Subsections (e), (f), and (g), to issue obligations in the name and on behalf of the state and TxDOT and to enter into credit agreements related to the 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 may 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.
- (d) Sets forth certain purposes for which obligations may be used.
- (e) Sets forth the provisions under which long-term obligations may be issued.
- (f) Sets forth the requirements for the issuance of short-term obligations.
- (g) Authorizes TTC to agree to further restrictions in connection with the issuance of obligations and authorizes TTC 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 powers necessary or appropriate to carry out this subchapter and to implement Section 49-o, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapter 1201 (Public Securities), 1207 (Refunding Bonds), and 1371 (Obligations For Certain Public Improvements), Government Code.
- (i) Requires proceedings authorizing obligations and related credit agreements 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. Provides that the obligations and related credit agreements are incontestable for any cause 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.
- (j) Requires a comptroller's certification under this section to be based on economic data, forecasting methods, and projections that the comptroller deems 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 assumptions 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, to be implemented and observed by all officers of the state during any period during which obligations and credit agreements are outstanding and unpaid if TTC exercises the authority granted by Subsection (a).

Sec. 201. 975. DEDICATION OF REVENUE TO FUND. Requires 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 a part of its covenants and commitments made in connection with the issuance of obligations and 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 use the money for any purpose for which obligations may be issued under this subchapter to the extent money is on deposit in the fund amounts that are in excess of the money required by the proceedings authorizing the obligations and credit agreements to be retained on deposit.

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: upon passage of the constitutional amendment creating the Texas rail relocation and improvement fund.