

## **BILL ANALYSIS**

Senate Research Center  
79R6474 DWS-F

S.J.R. 41  
By: Staples, Shapleigh  
Transportation & Homeland Security  
4/1/2005  
As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

Under current Texas law contained in Chapter 91 (Rail Facilities), Transportation Code, the Texas Department of Transportation (TxDOT) is authorized to acquire, construct, and maintain rail facilities. Chapter 91 is limited to TxDOT-owned rail facilities, and a limited amount of funding is available to implement the chapter.

Under Subchapter M, Chapter 201 (General Provisions and Administration), Transportation Code, the Texas Transportation Commission (TTC) is authorized to use the Texas Mobility Fund to finance public transportation projects. Such projects include passenger rail facilities, but not freight rail facilities.

The railroad industry was deregulated in 1980. 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 highways.

A rail relocation and improvement fund could leverage its assets to issue bonds. It is estimated that \$100 million per year could generate \$1 billion in bond proceeds to be used for the relocation or improvement of rail lines. In some instances, the costs of the projects could be offset by the acquisition of the existing right of way (in the case of relocated lines) and the potential for increased economic development along these corridors. Savings can be generated by the availability of highway funds that otherwise would have been expanded on grade-separated rail crossings, safety improvements, and right-of-way expenses of highway improvement.

S.J.R. 41 proposes a constitutional amendment to authorize the creation of the Texas Rail Relocation and Improvement Fund, which will be administered by the TTC 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 Article III, Texas Constitution, by adding Section 49-o, as follows:

Sec. 49-o. (a) Defines "commission," "comptroller," "department," "fund," "improvement," and "obligations."

(b) Creates the Texas rail relocation and improvement fund in the state treasury. Requires the fund to be administered by the Texas Transportation Commission (commission) to provide a method of financing the relocation and improvement of privately and publicly owned passenger and freight rail facilities for specific purposes.

(c) Authorizes the commission to issue and sell obligations of the state and enter into related credit agreements that are payable from and secured by a pledge of and a lien on all or part of the money on deposit in the fund in an aggregate principal amount that can be repaid when due from money on deposit in the fund, as that aggregate amount is projected by the comptroller in accordance with procedures established by law. Requires the proceeds of the obligations to be deposited in the fund and used for one or more specific purposes authorized by law, including specific refunds, reserves, and payments.

(d) Authorizes the legislature, by law, to dedicate to the fund one or more specific sources or portions, or a specific amount, of the revenue, including taxes, and other money of the state that are not otherwise dedicated by this constitution.

(e) Provides that money dedicated as provided by this section is appropriated when received by the state to be deposited in the fund, and is authorized to be used as provided by this section and law enacted under this section without further appropriation. Prohibits the dedication of a specific source or portion of revenue, taxes, or other money made as provided by this section from being reduced, rescinded, or repealed, while money in the fund is pledged to the payment of any outstanding obligations or related credit agreements, unless specific measures are taken.

(f) Authorizes the legislature, by law, in addition to the dedication of specified sources or amounts of revenue, taxes, or money as provided by Subsection (e) of this section, to authorize the commission to guarantee the payment of any obligations and credit agreements issued and executed by the commission under the authority of this section by pledging the full faith and credit of the state to that payment if dedicated revenue is insufficient for that purpose. Requires the funds, if that authority is granted and is implemented by the commission, while any of the bonds, notes, other obligations, or credit agreements are outstanding and unpaid, and for any fiscal year during which the dedicated revenue, taxes, and money are insufficient to make all payments when due, there is appropriated, to be deposited in the fund, out of the first money coming into the state treasury in each fiscal year that is not otherwise appropriated by this constitution, an amount sufficient to pay the principal of and interest on the obligations and agreements that become due during that fiscal year, minus any amount in the fund that is available for that payment in accordance with applicable law.

(g) Requires proceedings authorizing obligations and related credit agreements to be issued and executed under the authority of this section to be submitted to the attorney general for approval as to their legality. Requires the attorney general, if the attorney general finds that they will be issued in accordance with this section and applicable law, to approve them, and provides that after payment by the purchases 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.

(h) Prohibits obligations and credit agreements issued or executed under the authority of this section from being included in the computation required by Section 49-j, Article III, of this constitution, except that if money has been dedicated to the fund without specification of its source or the authority granted by Subsection (g) of this section has been implemented, the obligations and credit agreements are required to be included to the extent the comptroller projects that general funds of the state, if any, will be required to pay amounts due on or on account of the obligations and credit agreements.

(i) Authorizes the collection and deposit of the amounts required by this section, applicable law, and contract to be applied to the payment of obligations and credit agreements issued, executed, and secured under the authority of this section to be enforced by mandamus against the commission, the Texas Department of

Transportation, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose.

SECTION 2. Requires this proposed constitutional amendment to be submitted to the voters at an election to be held on November 8, 2005. Requires the ballot to be printed to permit voting for or against the specific proposition.