

BILL ANALYSIS

Senate Research Center
80R11547 JTS-F

C.S.S.B. 1025
By: Shapleigh
Transportation & Homeland Security
3/26/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Rail relocation and improvement requires the Texas Department of Transportation (TxDOT) to work with private entities and to meet significant funding requirements. TxDOT's authority to acquire property to be owned by a private entity is not explicit and should be made clear. Current law does not authorize the funding of a rail facility using funds from a toll project or the Texas Enterprise Fund. The Texas Transportation Commission is not authorized to use the Rail Relocation and Improvement Fund for financing a rail facility or issuing loans for a facility. TxDOT will work with private entities that own rail facilities to be relocated.

C.S.S.B. 1025 authorizes TxDOT to undertake certain types of railroad projects and requires all passenger rail facilities to create a safety program and security plan.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 10 (Section 201.9731, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 91.004(a), Transportation Code, as follows:

(a) Authorizes the Texas Department of Transportation (TxDOT) to plan and make policies for the location, construction, maintenance, and operation of rail facilities or systems, rather than a facility and system, in this state. Authorizes TxDOT to reconstruct, relocate, and subject to Section 91.005 (Reliance on Private Entities), operate publicly or privately owned passenger or freight rail facilities, individually or as one or more systems.

SECTION 2. Amends Section 91.005, Transportation Code, to require TxDOT to contract with a private entity to operate a railroad under this chapter (Rail Facilities), rather than a railroad using facilities owned by TxDOT.

SECTION 3. Amends Subchapter B, Chapter 91, Transportation Code, by adding Section 91.038, as follows:

Sec. 91.038. PRIVATELY OWNED RAIL FACILITIES. (a) Authorizes TxDOT to relocate, construct, reconstruct, maintain, or operate a privately owned rail facility only if the Texas Transportation Commission (commission) first determines that the acquisition or other action will be in the best interests of improving the mobility of the state and relieve congestion on public highways, enhance public safety, improve air quality, or expand economic opportunity.

(b) Requires an agreement entered into by TxDOT with a private owner for the transfer of a rail facility to contain provisions necessary to ensure compliance with each requirement of Subsection (a).

SECTION 4. Amends Section 91.071, Transportation Code, as follows:

Sec. 91.071. FUNDING. (a) Adds surplus revenue of a toll project, as defined in Section 201.001 (Definitions), to those funds TxDOT is authorized to use to implement this chapter (Rail Facilities).

(b) Adds money awarded from the Texas Enterprise Fund under Section 481.078 (Texas Enterprise Fund), Government Code, and money appropriated to the Texas rail relocation and improvement fund to the monies which TxDOT is authorized to spend from the general revenue fund.

SECTION 5. Amends Sections 91.072(a) and (c), Transportation Code, as follows:

(a) Provides that the commission and TxDOT have the same powers and duties relating to the financing of a rail facility or system established under Section 91.031 (Establishment of Rail Systems) as the commission and TxDOT have under Subchapter C, Chapter 228, rather than Subsection E, Chapter 361, relating to the financing of a toll, rather than turnpike, project.

(c) Makes conforming changes.

SECTION 6. Amends Section 91.091(a), Transportation Code, as follows:

(a) Authorizes the commission to authorize TxDOT to acquire certain interests in real property, subject to Section 91.096. Deletes existing text relating to an acquisition made in the name of the state. Requires an interest in property acquired for a rail facility owned or to be owned by TxDOT to be acquired in the name of the state.

SECTION 7. Amends Section 91.095, Transportation Code, to authorize TxDOT to sell, convey, or otherwise dispose of any rights or other interests in real property acquired in the name of the state that the commission determines are no longer needed for TxDOT purposes.

SECTION 8. Amends Subchapter E, Chapter 91, Transportation Code, by adding Section 91.096, as follows:

Sec. 91.096. ACQUISITION OF PROPERTY FOR PRIVATELY OWNED RAIL FACILITIES. Authorizes TxDOT to only acquire an interest in real property for a privately owned rail facility if the commission makes the determination required by Section 91.038.

SECTION 9. Amends Section 201.973(d), Transportation Code, to authorize an obligation to be issued for the purpose of providing participation by the state in the financing or payment of all or part of certain costs, or providing loans under Section 201.9731 (Loan Programs). Makes conforming changes.

SECTION 10. Amends Subchapter O, Chapter 201, Transportation Code, by adding Section 201.9731, as follows:

Sec. 201.9731. LOAN PROGRAM. (a) Authorizes the money in the Texas rail relocation and improvement fund to be used to provide loans to eligible applicants if the applicant's project meets the requirements of this section, in addition to any other purpose authorized by this chapter.

(b) Requires TxDOT to administer the loan program and provides that TxDOT has all necessary powers and convenient to implement this section. Authorizes TxDOT to take certain actions.

(c) Requires TxDOT to allocate loans made under this section on bases that protect the public interest. Authorizes a loan to cover all of the project's costs, which do not include overhead costs or indirect costs.

(d) Requires TxDOT to adopt rules to implement the loan program.

SECTION 11. Amends Section 228.001(6), Transportation Code, to redefine "transportation project."

SECTION 12. Amends Section 455.005, Transportation Code, as follows:

Sec. 455.005. New heading: RAIL FIXED GUIDEWAY SYSTEM SAFETY OVERSIGHT. (a) Requires TxDOT to oversee safety and security practices of fixed guideway systems in compliance with federal law and to establish a program standard to be used to provide rail transit agency safety and security oversight. Deletes existing text relating to a certain safety program for each entity operating a fixed rail guideway mass transportation system within the state.

(b) Makes no change to this subsection.

(c) Provides that the data collected under this section and the report of any investigation conducted by TxDOT or a contractor acting on behalf of TxDOT under this section are confidential and not subject to disclosure, inspection, or copying under Chapter 552 (Public Information), Government Code.

(d) Requires each rail transit agency, rather than each entity that operates a system, to develop and implement a system safety program plan and a security plan that complies with TxDOT's program plan standards and federal requirements; to conduct an annual review of said plans and submit the audit report to TxDOT; and to report accidents, hazards, and hazard resolution activities, rather than unacceptable hazardous conditions, to TxDOT in accordance with TxDOT's requirements. Makes conforming changes.

(e) Makes conforming changes.

(f) and (g) Makes no changes to these subsections.

(h) Defines "hazard" and "rail transit agency." Deletes the definitions for "accident," "commission," "department," "hazardous condition," "investigation," "rail fixed guideway mass transportation system," "safety," "security," and "unacceptable hazardous condition."

SECTION 13. Effective date: upon passage or September 1, 2007.