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H.B. No. 1546

A BILL TO BE ENTITLED

AN ACT

relating to the administration and use of the Texas rail relocation and improvement fund and the issuance of obligations for financing the relocation, construction, reconstruction, acquisition, improvement, rehabilitation, and expansion of certain rail facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 201, Transportation Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. RAIL RELOCATION AND IMPROVEMENT

Sec. 201.971. DEFINITIONS. In this subchapter:

(1) "Comptroller's certification" means:

(A) as to long-term obligations, the certification made under Section 201.973(e); and

(B) as to short-term obligations, the certification made under Section 201.973(f).

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas rail relocation and improvement fund.

(4) "Long-term obligations" means an issue or series of obligations the latest scheduled maturity of which is more than five years.

(5) "Maximum obligation amount" means the maximum

1 aggregate principal amount of long-term obligations and short-term  
2 obligations that the commission may issue from time to time after  
3 receipt of the applicable comptroller's certification.

4 (6) "Obligations" means bonds, notes, and other public  
5 securities.

6 (7) "Rail facility" means real or personal property,  
7 or any interest in that property, that is determined to be necessary  
8 or convenient for the provision of a freight or passenger rail  
9 facility, including commuter rail, intercity rail, and high-speed  
10 rail. The term includes all property or interests necessary or  
11 convenient for the acquiring, providing, using, or equipping of a  
12 rail facility or system, including rights-of-way, trackwork, train  
13 controls, stations, and maintenance facilities.

14 (8) "Short-term obligations" means an issue or series  
15 of obligations the latest scheduled maturity of which is five years  
16 or less.

17 (9) "Station" means a passenger or freight service  
18 building, terminal, station, ticketing facility, waiting area,  
19 platform, concession, elevator, escalator, facility for  
20 handicapped access, access road, parking facility for passengers,  
21 baggage handling facility, or local maintenance facility, together  
22 with any interest in real property necessary or convenient for  
23 those items.

24 Sec. 201.972. ADMINISTRATION OF FUND. The comptroller  
25 shall hold the fund, and the commission, through the department,  
26 shall manage, invest, use, and administer the fund as provided by  
27 this subchapter.

1       Sec. 201.973. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES;  
2 LIMITATIONS. (a) Subject to Subsections (e), (f), and (g), the  
3 commission by order or resolution may issue obligations in the name  
4 and on behalf of the state and the department and may enter into  
5 credit agreements related to the obligations. The obligations may  
6 be issued in multiple series and issues from time to time in an  
7 aggregate amount not exceeding the maximum obligation amount. The  
8 obligations may be issued on and may have the terms and provisions  
9 the commission determines appropriate and in the interests of the  
10 state. The obligations may be issued as long-term obligations,  
11 short-term obligations, or both. The latest scheduled maturity of  
12 an issue or series of obligations may not exceed 30 years.

13       (b) Obligations must be secured by and payable from a pledge  
14 of and lien on all or part of the money in the fund, including the  
15 revenues of the state dedicated or appropriated for deposit to the  
16 fund. Obligations may be additionally secured by and payable from  
17 credit agreements. The commission may pay amounts due on the  
18 obligations from discretionary money available to it that is not  
19 dedicated to or appropriated for other specific purposes.

20       (c) The commission may create within the fund accounts,  
21 reserves, and subfunds for purposes the commission finds  
22 appropriate and necessary.

23       (c-1) If proceeds of obligations are to be used for a  
24 project located in the planning area of a metropolitan planning  
25 organization, the project must first be approved by the policy  
26 board of the metropolitan planning organization.

27       (d) Obligations may be issued for one or more of the

1 following purposes:

2 (1) to pay all or part of the costs of relocating,  
3 constructing, reconstructing, acquiring, improving,  
4 rehabilitating, or expanding rail facilities owned or to be owned  
5 by the department, including any necessary design, in the manner  
6 and locations determined by the commission that according to  
7 conclusive findings of the commission have an expected useful life,  
8 without material repair, of not less than 10 years;

9 (2) to provide participation by the state in the  
10 payment of part of the costs of relocating, constructing,  
11 reconstructing, acquiring, improving, rehabilitating, or expanding  
12 publicly or privately owned rail facilities, including any  
13 necessary design, if the commission determines that the project  
14 will be in the best interests of the state in its major goal of  
15 improving the mobility of the residents of the state and will:

16 (A) relieve congestion on public highways;

17 (B) enhance public safety;

18 (C) improve air quality; or

19 (D) expand economic opportunity;

20 (3) to create debt service reserve accounts;

21 (4) to pay interest on obligations for a period of not  
22 longer than two years;

23 (5) to refund or cancel outstanding obligations; and

24 (6) to pay the commission's costs of issuance.

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

1       (d-2) Proceeds of obligations may not be used to relocate an  
2 existing rail line unless the governing bodies of a majority of the  
3 total number of counties and municipalities in which the relocated  
4 rail line will be located have first approved the relocation.

5       (e) Long-term obligations in the amount proposed to be  
6 issued by the commission may not be issued unless the comptroller  
7 projects in a comptroller's certification that the amount of money  
8 dedicated to the fund pursuant to Section 49-o(d), Article III,  
9 Texas Constitution, and required to be on deposit in the fund  
10 pursuant to Section 49-o(e), Article III, Texas Constitution, and  
11 the investment earnings on that money, during each year of the  
12 period during which the proposed obligations are scheduled to be  
13 outstanding will be equal to at least 110 percent of the  
14 requirements to pay the principal of and interest on the proposed  
15 long-term obligations during that year.

16       (f) Short-term obligations in the amount proposed by the  
17 commission may not be issued unless the comptroller, in a  
18 comptroller's certification:

19           (1) assumes that the short-term obligations will be  
20 refunded and refinanced to mature over a 20-year period with level  
21 principal requirements and bearing interest at then current market  
22 rates, as determined by the comptroller; and

23           (2) projects that the amount of money dedicated to the  
24 fund pursuant to Section 49-o(d), Article III, Texas Constitution,  
25 and required to be on deposit in the fund pursuant to Section  
26 49-o(e), Article III, Texas Constitution, and the investment  
27 earnings on that money, during each year of the assumed 20-year

1 period will be equal to at least 110 percent of the requirements to  
2 pay the principal of and interest on the proposed refunding  
3 obligations during that year.

4 (g) The commission may agree to further restrictions in  
5 connection with the issuance of obligations and may retain  
6 independent professional consultants to make projections in  
7 addition to, but not instead of, those of the comptroller if  
8 required as a prerequisite to the issuance of the obligations.

9 (h) The commission has all powers necessary or appropriate  
10 to carry out this subchapter and to implement Section 49-o, Article  
11 III, Texas Constitution, including the powers granted to other  
12 bond-issuing governmental agencies and units and to nonprofit  
13 corporations by Chapters 1201, 1207, and 1371, Government Code.

14 (i) As required by Section 49-o(g), Article III, Texas  
15 Constitution, proceedings authorizing obligations and related  
16 credit agreements to be issued and executed under this subchapter  
17 shall be submitted to the attorney general for approval as to their  
18 legality. If the attorney general finds that they will be issued in  
19 accordance with this subchapter and other applicable law, the  
20 attorney general shall approve them, and, after payment by the  
21 purchasers of the obligations in accordance with the terms of sale  
22 and after execution and delivery of the related credit agreements,  
23 the obligations and related credit agreements are incontestable for  
24 any cause.

25 (j) A comptroller's certification under this section must  
26 be based on economic data, forecasting methods, and projections  
27 that the comptroller determines are reliable. In determining the

1 principal and interest requirements on outstanding and proposed  
2 obligations, and subject to the express limitations of this  
3 subchapter and Section 49-o, Article III, Texas Constitution, the  
4 comptroller shall rely on the assumptions included in the  
5 resolutions authorizing the obligations for the computation of debt  
6 service.

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

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

19 (b) The exercise of the authority granted by Subsection (a)  
20 does not modify or relieve the commission from complying with  
21 Section 201.973(e) or (f) and does not permit the issuance of  
22 aggregate obligations in an amount exceeding the maximum obligation  
23 amount.

24 (c) If the commission exercises the authority granted by  
25 Subsection (a), the constitutional appropriation contained in  
26 Section 49-o(f), Article III, Texas Constitution, shall be  
27 implemented and observed by all officers of the state during any

1 period during which obligations and credit agreements are  
2 outstanding and unpaid.

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

8 Sec. 201.976. INVESTMENT AND USES OF MONEY IN FUND. (a)  
9 Money in the fund may be invested in the investments permitted by  
10 law for the investment of money on deposit in the state highway  
11 fund.

12 (b) As a part of its covenants and commitments made in  
13 connection with the issuance of obligations and the execution of  
14 credit agreements, the commission may limit the types of  
15 investments eligible for investment of money in the fund but may not  
16 expand the types of investments to include any investments that are  
17 not authorized by Subsection (a).

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

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



1       Sec. 201.977. STRATEGIC PLAN. The commission may not issue  
2 obligations under this subchapter before the department has  
3 developed a strategic plan that outlines how the money will be used  
4 and the benefit the state will derive from use of money in the fund.

5       SECTION 2. This Act takes effect on the date on which the  
6 constitutional amendment proposed by the 79th Legislature, Regular  
7 Session, 2005, creating the Texas rail relocation and improvement  
8 fund and authorizing grants of money and issuance of obligations  
9 for financing the relocation, construction, reconstruction,  
10 acquisition, improvement, rehabilitation, and expansion of rail  
11 facilities takes effect. If that amendment is not approved by the  
12 voters, this Act has no effect.