

By: McClendon

H.B. No. 1546

Substitute the following for H.B. No. 1546:

By: Phillips

C.S.H.B. No. 1546

A BILL TO BE ENTITLED

1

AN ACT

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

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

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

10 SUBCHAPTER O. RAIL RELOCATION AND IMPROVEMENT

11 Sec. 201.971. DEFINITIONS. In this subchapter:

12 (1) "Comptroller's certification" means:

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

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

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

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

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

24 (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       (d) Obligations may be issued for one or more of the  
24 following purposes:

25           (1) to pay all or part of the costs of relocating,  
26 constructing, reconstructing, acquiring, improving,  
27 rehabilitating, or expanding rail facilities owned or to be owned

1 by the department, including any necessary design, in the manner  
2 and locations determined by the commission that according to  
3 conclusive findings of the commission have an expected useful life,  
4 without material repair, of not less than 10 years;

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

12 (A) convert freight rail lines to commuter rail  
13 lines for the purpose of relieving congestion on public highways;

14 (B) move freight rail lines carrying hazardous  
15 materials through urban areas for the purpose of enhancing public  
16 safety;

17 (C) improve air quality; or

18 (D) expand economic opportunity;

19 (3) to create debt service reserve accounts;

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

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

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

24 (e) Long-term obligations in the amount proposed to be  
25 issued by the commission may not be issued unless the comptroller  
26 projects in a comptroller's certification that the amount of money  
27 dedicated to the fund pursuant to Section 49-o(d), Article III,

1 Texas Constitution, and required to be on deposit in the fund  
2 pursuant to Section 49-o(e), Article III, Texas Constitution, and  
3 the investment earnings on that money, during each year of the  
4 period during which the proposed obligations are scheduled to be  
5 outstanding will be equal to at least 110 percent of the  
6 requirements to pay the principal of and interest on the proposed  
7 long-term obligations during that year.

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

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

15 (2) projects that the amount of money dedicated to the  
16 fund pursuant to Section 49-o(d), Article III, Texas Constitution,  
17 and required to be on deposit in the fund pursuant to Section  
18 49-o(e), Article III, Texas Constitution, and the investment  
19 earnings on that money, during each year of the assumed 20-year  
20 period will be equal to at least 110 percent of the requirements to  
21 pay the principal of and interest on the proposed refunding  
22 obligations during that year.

23 (g) The commission may agree to further restrictions in  
24 connection with the issuance of obligations and may retain  
25 independent professional consultants to make projections in  
26 addition to, but not instead of, those of the comptroller if  
27 required as a prerequisite to the issuance of the obligations.

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

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

17       (j) A comptroller's certification under this section must  
18 be based on economic data, forecasting methods, and projections  
19 that the comptroller determines are reliable. In determining the  
20 principal and interest requirements on outstanding and proposed  
21 obligations, and subject to the express limitations of this  
22 subchapter and Section 49-o, Article III, Texas Constitution, the  
23 comptroller shall rely on the assumptions included in the  
24 resolutions authorizing the obligations for the computation of debt  
25 service.

26       (k) The holders of obligations and the counterparties to  
27 credit agreements have the rights granted in Section 49-o(i),

1 Article III, Texas Constitution.

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

11 (b) The exercise of the authority granted by Subsection (a)  
12 does not modify or relieve the commission from complying with  
13 Section 201.973(e) or (f) and does not permit the issuance of  
14 aggregate obligations in an amount exceeding the maximum obligation  
15 amount.

16 (c) If the commission exercises the authority granted by  
17 Subsection (a), the constitutional appropriation contained in  
18 Section 49-o(f), Article III, Texas Constitution, shall be  
19 implemented and observed by all officers of the state during any  
20 period during which obligations and credit agreements are  
21 outstanding and unpaid.

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

27 Sec. 201.976. INVESTMENT AND USES OF MONEY IN FUND. (a)

1 Money in the fund may be invested in the investments permitted by  
2 law for the investment of money on deposit in the state highway  
3 fund.

4 (b) As a part of its covenants and commitments made in  
5 connection with the issuance of obligations and the execution of  
6 credit agreements, the commission may limit the types of  
7 investments eligible for investment of money in the fund but may not  
8 expand the types of investments to include any investments that are  
9 not authorized by Subsection (a).

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

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

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

24 SECTION 2. This Act takes effect on the date on which the  
25 constitutional amendment proposed by the 79th Legislature, Regular  
26 Session, 2005, creating the Texas rail relocation and improvement  
27 fund and authorizing grants of money and issuance of obligations



1 for financing the relocation, construction, reconstruction,  
2 acquisition, improvement, rehabilitation, and expansion of rail  
3 facilities, including freight rail lines, especially those  
4 carrying hazardous materials through urban areas, or the conversion  
5 of freight rail lines to commuter rail lines to relieve congestion  
6 on public highways to enhance public safety takes effect. If that  
7 amendment is not approved by the voters, this Act has no effect.