

1-1 By: McClendon, et al. (Senate Sponsor - Staples) H.B. No. 1546
1-2 (In the Senate - Received from the House April 28, 2005;
1-3 April 29, 2005, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 23, 2005, reported
1-5 favorably by the following vote: Yeas 6, Nays 0; May 23, 2005,
1-6 sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the administration and use of the Texas rail relocation
1-10 and improvement fund and the issuance of obligations for financing
1-11 the relocation, construction, reconstruction, acquisition,
1-12 improvement, rehabilitation, and expansion of certain rail
1-13 facilities.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Chapter 201, Transportation Code, is amended by
1-16 adding Subchapter O to read as follows:

1-17 SUBCHAPTER O. RAIL RELOCATION AND IMPROVEMENT

1-18 Sec. 201.971. DEFINITIONS. In this subchapter:

1-19 (1) "Comptroller's certification" means:

1-20 (A) as to long-term obligations, the
1-21 certification made under Section 201.973(e); and

1-22 (B) as to short-term obligations, the
1-23 certification made under Section 201.973(f).

1-24 (2) "Credit agreement" has the meaning assigned by
1-25 Section 1371.001, Government Code.

1-26 (3) "Fund" means the Texas rail relocation and
1-27 improvement fund.

1-28 (4) "Long-term obligations" means an issue or series
1-29 of obligations the latest scheduled maturity of which is more than
1-30 five years.

1-31 (5) "Maximum obligation amount" means the maximum
1-32 aggregate principal amount of long-term obligations and short-term
1-33 obligations that the commission may issue from time to time after
1-34 receipt of the applicable comptroller's certification.

1-35 (6) "Obligations" means bonds, notes, and other public
1-36 securities.

1-37 (7) "Rail facility" means real or personal property,
1-38 or any interest in that property, that is determined to be necessary
1-39 or convenient for the provision of a freight or passenger rail
1-40 facility, including commuter rail, intercity rail, and high-speed
1-41 rail. The term includes all property or interests necessary or
1-42 convenient for the acquiring, providing, using, or equipping of a
1-43 rail facility or system, including rights-of-way, trackwork, train
1-44 controls, stations, and maintenance facilities.

1-45 (8) "Short-term obligations" means an issue or series
1-46 of obligations the latest scheduled maturity of which is five years
1-47 or less.

1-48 (9) "Station" means a passenger or freight service
1-49 building, terminal, station, ticketing facility, waiting area,
1-50 platform, concession, elevator, escalator, facility for
1-51 handicapped access, access road, parking facility for passengers,
1-52 baggage handling facility, or local maintenance facility, together
1-53 with any interest in real property necessary or convenient for
1-54 those items.

1-55 Sec. 201.972. ADMINISTRATION OF FUND. The comptroller
1-56 shall hold the fund, and the commission, through the department,
1-57 shall manage, invest, use, and administer the fund as provided by
1-58 this subchapter.

1-59 Sec. 201.973. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES;
1-60 LIMITATIONS. (a) Subject to Subsections (e), (f), and (g), the
1-61 commission by order or resolution may issue obligations in the name
1-62 and on behalf of the state and the department and may enter into
1-63 credit agreements related to the obligations. The obligations may
1-64 be issued in multiple series and issues from time to time in an

2-1 aggregate amount not exceeding the maximum obligation amount. The
 2-2 obligations may be issued on and may have the terms and provisions
 2-3 the commission determines appropriate and in the interests of the
 2-4 state. The obligations may be issued as long-term obligations,
 2-5 short-term obligations, or both. The latest scheduled maturity of
 2-6 an issue or series of obligations may not exceed 30 years.

2-7 (b) Obligations must be secured by and payable from a pledge
 2-8 of and lien on all or part of the money in the fund, including the
 2-9 revenues of the state dedicated or appropriated for deposit to the
 2-10 fund. Obligations may be additionally secured by and payable from
 2-11 credit agreements. The commission may pay amounts due on the
 2-12 obligations from discretionary money available to it that is not
 2-13 dedicated to or appropriated for other specific purposes.

2-14 (c) The commission may create within the fund accounts,
 2-15 reserves, and subfunds for purposes the commission finds
 2-16 appropriate and necessary.

2-17 (c-1) If proceeds of obligations are to be used for a
 2-18 project located in the planning area of a metropolitan planning
 2-19 organization, the project must first be approved by the policy
 2-20 board of the metropolitan planning organization.

2-21 (d) Obligations may be issued for one or more of the
 2-22 following purposes:

2-23 (1) to pay all or part of the costs of relocating,
 2-24 constructing, reconstructing, acquiring, improving,
 2-25 rehabilitating, or expanding rail facilities owned or to be owned
 2-26 by the department, including any necessary design, in the manner
 2-27 and locations determined by the commission that according to
 2-28 conclusive findings of the commission have an expected useful life,
 2-29 without material repair, of not less than 10 years;

2-30 (2) to provide participation by the state in the
 2-31 payment of part of the costs of relocating, constructing,
 2-32 reconstructing, acquiring, improving, rehabilitating, or expanding
 2-33 publicly or privately owned rail facilities, including any
 2-34 necessary design, if the commission determines that the project
 2-35 will be in the best interests of the state in its major goal of
 2-36 improving the mobility of the residents of the state and will:

- 2-37 (A) relieve congestion on public highways;
- 2-38 (B) enhance public safety;
- 2-39 (C) improve air quality; or
- 2-40 (D) expand economic opportunity;

2-41 (3) to create debt service reserve accounts;
 2-42 (4) to pay interest on obligations for a period of not
 2-43 longer than two years;

2-44 (5) to refund or cancel outstanding obligations; and
 2-45 (6) to pay the commission's costs of issuance.

2-46 (d-1) The fund may also be used to provide a method of
 2-47 financing the construction of railroad underpasses and overpasses,
 2-48 if the construction is part of the relocation of a rail facility.

2-49 (d-2) Proceeds of obligations may not be used to relocate an
 2-50 existing rail line unless the governing bodies of a majority of the
 2-51 total number of counties and municipalities in which the relocated
 2-52 rail line will be located have first approved the relocation.

2-53 (e) Long-term obligations in the amount proposed to be
 2-54 issued by the commission may not be issued unless the comptroller
 2-55 projects in a comptroller's certification that the amount of money
 2-56 dedicated to the fund pursuant to Section 49-o(d), Article III,
 2-57 Texas Constitution, and required to be on deposit in the fund
 2-58 pursuant to Section 49-o(e), Article III, Texas Constitution, and
 2-59 the investment earnings on that money, during each year of the
 2-60 period during which the proposed obligations are scheduled to be
 2-61 outstanding will be equal to at least 110 percent of the
 2-62 requirements to pay the principal of and interest on the proposed
 2-63 long-term obligations during that year.

2-64 (f) Short-term obligations in the amount proposed by the
 2-65 commission may not be issued unless the comptroller, in a
 2-66 comptroller's certification:

2-67 (1) assumes that the short-term obligations will be
 2-68 refunded and refinanced to mature over a 20-year period with level
 2-69 principal requirements and bearing interest at then current market

3-1 rates, as determined by the comptroller; and

3-2 (2) projects that the amount of money dedicated to the
 3-3 fund pursuant to Section 49-o(d), Article III, Texas Constitution,
 3-4 and required to be on deposit in the fund pursuant to Section
 3-5 49-o(e), Article III, Texas Constitution, and the investment
 3-6 earnings on that money, during each year of the assumed 20-year
 3-7 period will be equal to at least 110 percent of the requirements to
 3-8 pay the principal of and interest on the proposed refunding
 3-9 obligations during that year.

3-10 (g) The commission may agree to further restrictions in
 3-11 connection with the issuance of obligations and may retain
 3-12 independent professional consultants to make projections in
 3-13 addition to, but not instead of, those of the comptroller if
 3-14 required as a prerequisite to the issuance of the obligations.

3-15 (h) The commission has all powers necessary or appropriate
 3-16 to carry out this subchapter and to implement Section 49-o, Article
 3-17 III, Texas Constitution, including the powers granted to other
 3-18 bond-issuing governmental agencies and units and to nonprofit
 3-19 corporations by Chapters 1201, 1207, and 1371, Government Code.

3-20 (i) As required by Section 49-o(g), Article III, Texas
 3-21 Constitution, proceedings authorizing obligations and related
 3-22 credit agreements to be issued and executed under this subchapter
 3-23 shall be submitted to the attorney general for approval as to their
 3-24 legality. If the attorney general finds that they will be issued in
 3-25 accordance with this subchapter and other applicable law, the
 3-26 attorney general shall approve them, and, after payment by the
 3-27 purchasers of the obligations in accordance with the terms of sale
 3-28 and after execution and delivery of the related credit agreements,
 3-29 the obligations and related credit agreements are incontestable for
 3-30 any cause.

3-31 (j) A comptroller's certification under this section must
 3-32 be based on economic data, forecasting methods, and projections
 3-33 that the comptroller determines are reliable. In determining the
 3-34 principal and interest requirements on outstanding and proposed
 3-35 obligations, and subject to the express limitations of this
 3-36 subchapter and Section 49-o, Article III, Texas Constitution, the
 3-37 comptroller shall rely on the assumptions included in the
 3-38 resolutions authorizing the obligations for the computation of debt
 3-39 service.

3-40 (k) The holders of obligations and the counterparties to
 3-41 credit agreements have the rights granted in Section 49-o(i),
 3-42 Article III, Texas Constitution.

3-43 Sec. 201.974. PLEDGE OF STATE'S FULL FAITH AND CREDIT. (a)
 3-44 The commission may guarantee on behalf of the state the payment of
 3-45 any obligations and credit agreements issued under Section 201.973
 3-46 by pledging the full faith and credit of the state to the payment of
 3-47 the obligations and credit agreements in the event the revenue and
 3-48 money dedicated to the fund pursuant to Section 49-o(d), Article
 3-49 III, Texas Constitution, and on deposit in the fund pursuant to
 3-50 Section 49-o(e), Article III, Texas Constitution, are insufficient
 3-51 for that purpose.

3-52 (b) The exercise of the authority granted by Subsection (a)
 3-53 does not modify or relieve the commission from complying with
 3-54 Section 201.973(e) or (f) and does not permit the issuance of
 3-55 aggregate obligations in an amount exceeding the maximum obligation
 3-56 amount.

3-57 (c) If the commission exercises the authority granted by
 3-58 Subsection (a), the constitutional appropriation contained in
 3-59 Section 49-o(f), Article III, Texas Constitution, shall be
 3-60 implemented and observed by all officers of the state during any
 3-61 period during which obligations and credit agreements are
 3-62 outstanding and unpaid.

3-63 Sec. 201.975. DEDICATION OF REVENUE TO FUND. Annually, the
 3-64 revenue of the state that is dedicated or appropriated to the fund
 3-65 pursuant to Section 49-o(d), Article III, Texas Constitution, shall
 3-66 be deposited to the fund in accordance with Section 49-o(e),
 3-67 Article III, Texas Constitution.

3-68 Sec. 201.976. INVESTMENT AND USES OF MONEY IN FUND. (a)
 3-69 Money in the fund may be invested in the investments permitted by

4-1 law for the investment of money on deposit in the state highway
4-2 fund.

4-3 (b) As a part of its covenants and commitments made in
4-4 connection with the issuance of obligations and the execution of
4-5 credit agreements, the commission may limit the types of
4-6 investments eligible for investment of money in the fund but may not
4-7 expand the types of investments to include any investments that are
4-8 not authorized by Subsection (a).

4-9 (c) Income received from the investment of money in the fund
4-10 shall be deposited in the fund, subject to requirements that may be
4-11 imposed by the proceedings authorizing obligations to protect the
4-12 tax-exempt status of interest payable on the obligations under the
4-13 Internal Revenue Code of 1986.

4-14 (d) To the extent money is on deposit in the fund in amounts
4-15 that are in excess of the money required by the proceedings
4-16 authorizing the obligations and credit agreements to be retained on
4-17 deposit, the commission may use the money for any purpose for which
4-18 obligations may be issued under this subchapter.

4-19 Sec. 201.977. STRATEGIC PLAN. The commission may not issue
4-20 obligations under this subchapter before the department has
4-21 developed a strategic plan that outlines how the money will be used
4-22 and the benefit the state will derive from use of money in the fund.

4-23 SECTION 2. This Act takes effect on the date on which the
4-24 constitutional amendment proposed by the 79th Legislature, Regular
4-25 Session, 2005, creating the Texas rail relocation and improvement
4-26 fund and authorizing grants of money and issuance of obligations
4-27 for financing the relocation, construction, reconstruction,
4-28 acquisition, improvement, rehabilitation, and expansion of rail
4-29 facilities takes effect. If that amendment is not approved by the
4-30 voters, this Act has no effect.

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