

By: McClendon, Krusee, et al.

H.J.R. No. 54

A JOINT RESOLUTION

1 proposing a constitutional amendment creating the Texas rail
2 relocation and improvement fund and authorizing grants of money and
3 issuance of obligations for financing the relocation,
4 construction, reconstruction, acquisition, improvement,
5 rehabilitation, and expansion of certain rail facilities.

6 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Article III, Texas Constitution, is amended by
8 adding Section 49-o to read as follows:

9 Sec. 49-o. (a) In this section:

10 (1) "Commission" means the Texas Transportation
11 Commission or its successor.

12 (2) "Comptroller" means the comptroller of public
13 accounts of the State of Texas.

14 (3) "Department" means the Texas Department of
15 Transportation or its successor.

16 (4) "Fund" means the Texas rail relocation and
17 improvement fund.

18 (5) "Improvement" includes construction,
19 reconstruction, acquisition, rehabilitation, and expansion.

20 (6) "Obligations" means bonds, notes, and other public
21 securities.

22 (b) The Texas rail relocation and improvement fund is
23 created in the state treasury. The fund shall be administered by
24 the commission to provide a method of financing the relocation and

1 improvement of privately and publicly owned passenger and freight
2 rail facilities for the purposes of:

3 (1) relieving congestion on public highways;

4 (2) enhancing public safety;

5 (3) improving air quality; or

6 (4) expanding economic opportunity.

7 (b-1) The fund may also be used to provide a method of
8 financing the construction of railroad underpasses and overpasses,
9 if the construction is part of the relocation of a rail facility.

10 (c) The commission may issue and sell obligations of the
11 state and enter into related credit agreements that are payable
12 from and secured by a pledge of and a lien on all or part of the
13 money on deposit in the fund in an aggregate principal amount that
14 can be repaid when due from money on deposit in the fund, as that
15 aggregate amount is projected by the comptroller in accordance with
16 procedures established by law. The proceeds of the obligations
17 must be deposited in the fund and used for one or more specific
18 purposes authorized by law, including:

19 (1) refunding obligations and related credit
20 agreements authorized by this section;

21 (2) creating reserves for payment of the obligations
22 and related credit agreements;

23 (3) paying the costs of issuance; and

24 (4) paying interest on the obligations and related
25 credit agreements for a period not longer than the maximum period
26 established by law.

27 (d) The legislature by law may dedicate to the fund one or

1 more specific sources or portions, or a specific amount, of the
2 revenue, including taxes, and other money of the state that are not
3 otherwise dedicated by this constitution.

4 (e) Money dedicated as provided by this section is
5 appropriated when received by the state, shall be deposited in the
6 fund, and may be used as provided by this section and law enacted
7 under this section without further appropriation. While money in
8 the fund is pledged to the payment of any outstanding obligations or
9 related credit agreements, the dedication of a specific source or
10 portion of revenue, taxes, or other money made as provided by this
11 section may not be reduced, rescinded, or repealed unless:

12 (1) the legislature by law dedicates a substitute or
13 different source that is projected by the comptroller to be of a
14 value equal to or greater than the source or amount being reduced,
15 rescinded, or repealed and authorizes the commission to implement
16 the authority granted by Subsection (f) of this section; and

17 (2) the commission implements the authority granted by
18 the legislature pursuant to Subsection (f) of this section.

19 (f) In addition to the dedication of specified sources or
20 amounts of revenue, taxes, or money as provided by Subsection (d) of
21 this section, the legislature may by law authorize the commission
22 to guarantee the payment of any obligations and credit agreements
23 issued and executed by the commission under the authority of this
24 section by pledging the full faith and credit of the state to that
25 payment if dedicated revenue is insufficient for that purpose. If
26 that authority is granted and is implemented by the commission,
27 while any of the bonds, notes, other obligations, or credit

1 agreements are outstanding and unpaid, and for any fiscal year
2 during which the dedicated revenue, taxes, and money are
3 insufficient to make all payments when due, there is appropriated,
4 and there shall be deposited in the fund, out of the first money
5 coming into the state treasury in each fiscal year that is not
6 otherwise appropriated by this constitution, an amount sufficient
7 to pay the principal of and interest on the obligations and
8 agreements that become due during that fiscal year, minus any
9 amount in the fund that is available for that payment in accordance
10 with applicable law.

11 (g) Proceedings authorizing obligations and related credit
12 agreements to be issued and executed under the authority of this
13 section shall be submitted to the attorney general for approval as
14 to their legality. If the attorney general finds that they will be
15 issued in accordance with this section and applicable law, the
16 attorney general shall approve them, and, after payment by the
17 purchasers of the obligations in accordance with the terms of sale
18 and after execution and delivery of the related credit agreements,
19 the obligations and related credit agreements are incontestable for
20 any cause.

21 (h) Obligations and credit agreements issued or executed
22 under the authority of this section may not be included in the
23 computation required by Section 49-j, Article III, of this
24 constitution, except that if money has been dedicated to the fund
25 without specification of its source or the authority granted by
26 Subsection (f) of this section has been implemented, the
27 obligations and credit agreements shall be included to the extent

1 the comptroller projects that general funds of the state, if any,
2 will be required to pay amounts due on or on account of the
3 obligations and credit agreements.

4 (i) The collection and deposit of the amounts required by
5 this section, applicable law, and contract to be applied to the
6 payment of obligations and credit agreements issued, executed, and
7 secured under the authority of this section may be enforced by
8 mandamus against the commission, the department, and the
9 comptroller in a district court of Travis County, and the sovereign
10 immunity of the state is waived for that purpose.

11 SECTION 2. This proposed constitutional amendment shall be
12 submitted to the voters at an election to be held November 8, 2005.
13 The ballot shall be printed to permit voting for or against the
14 proposition: "The constitutional amendment creating the Texas rail
15 relocation and improvement fund and authorizing grants of money and
16 issuance of obligations for financing the relocation,
17 rehabilitation, and expansion of rail facilities."