

By: McClendon, et al. (Senate Sponsor - Staples) H.J.R. No. 54
(In the Senate - Received from the House April 26, 2005;
May 20, 2005, read first time and referred to Committee on
Transportation and Homeland Security; May 23, 2005, reported
favorably by the following vote: Yeas 6, Nays 0; May 23, 2005,
sent to printer.)

HOUSE JOINT RESOLUTION

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

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

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

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

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

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

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

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

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

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

(b) The Texas rail relocation and improvement fund is
created in the state treasury. The fund shall be administered by
the commission to provide a method of financing the relocation and
improvement of privately and publicly owned passenger and freight
rail facilities for the purposes of:

(1) relieving congestion on public highways;

(2) enhancing public safety;

(3) improving air quality; or

(4) expanding economic opportunity.

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

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

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

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

(3) paying the costs of issuance; and

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

(d) The legislature by law may dedicate to the fund one or
more specific sources or portions, or a specific amount, of the
revenue, including taxes, and other money of the state that are not
otherwise dedicated by this constitution.

(e) Money dedicated as provided by this section is
appropriated when received by the state, shall be deposited in the
fund, and may be used as provided by this section and law enacted

under this section without further appropriation. While money in the fund is pledged to the payment of any outstanding obligations or related credit agreements, the dedication of a specific source or portion of revenue, taxes, or other money made as provided by this section may not be reduced, rescinded, or repealed unless:

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

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

(f) In addition to the dedication of specified sources or amounts of revenue, taxes, or money as provided by Subsection (d) of this section, the legislature may by law authorize the commission to guarantee the payment of any obligations and credit agreements issued and executed by the commission under the authority of this section by pledging the full faith and credit of the state to that payment if dedicated revenue is insufficient for that purpose. If that authority is granted and is implemented by the commission, while any of the bonds, notes, other obligations, or credit agreements are outstanding and unpaid, and for any fiscal year during which the dedicated revenue, taxes, and money are insufficient to make all payments when due, there is appropriated, and there shall be deposited in the fund, out of the first money coming into the state treasury in each fiscal year that is not otherwise appropriated by this constitution, an amount sufficient to pay the principal of and interest on the obligations and agreements that become due during that fiscal year, minus any amount in the fund that is available for that payment in accordance with applicable law.

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

(h) Obligations and credit agreements issued or executed under the authority of this section may not be included in the computation required by Section 49-j, Article III, of this constitution, except that if money has been dedicated to the fund without specification of its source or the authority granted by Subsection (f) of this section has been implemented, the obligations and credit agreements shall be included to the extent the comptroller projects that general funds of the state, if any, will be required to pay amounts due on or on account of the obligations and credit agreements.

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

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

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