

By: Shapleigh

S.B. No. 1025

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Department of Transportation related to rail facilities.

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

SECTION 1. Section 91.004(a), Transportation Code, is amended to read as follows:

(a) The department may:

(1) plan and make policies for the location, construction, maintenance, and operation of ~~[a]~~ rail facilities ~~[facility]~~ or systems ~~[system]~~ in this state;

(2) acquire, finance, construct, reconstruct, relocate, maintain, and subject to Section 91.005, operate publicly or privately owned ~~[a]~~ passenger or freight rail facilities ~~[facility]~~, individually or as one or more systems;

(3) for the purpose of acquiring or financing a rail facility or system, accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(4) contract with a public or private person to finance, construct, maintain, or operate a rail facility under this chapter; or

(5) perform any act necessary to the full exercise of

the department's powers under this chapter.

SECTION 2. Section 91.005, Transportation Code, is amended to read as follows:

Sec. 91.005. RELIANCE ON PRIVATE ENTITIES. The department shall contract with a private entity to operate a railroad under this chapter ~~[using facilities owned by the department]~~ and may not use department employees to operate a railroad. The department may maintain a railroad facility directly or through a private entity. The department may not own rolling stock.

SECTION 3. Subchapter B, Chapter 91, Transportation Code, is amended by adding Section 91.038 to read as follows:

Sec. 91.038. PRIVATELY OWNED RAIL FACILITIES. (a) The department may relocate, construct, reconstruct, maintain, or operate a privately owned rail facility only if the commission first determines that the acquisition or other action will be in the best interests of this state in improving the mobility of the residents of this state and will:

(1) relieve congestion on public highways;

(2) enhance public safety;

(3) improve air quality; or

(4) expand economic opportunity.

(b) An agreement entered into by the department with a private owner for the transfer of a rail facility must contain provisions necessary to ensure compliance with each requirement of Subsection (a).

SECTION 4. Section 91.071, Transportation Code, is amended to read as follows:

1 Sec. 91.071. FUNDING. (a) Except as provided in Subsection
2 (b), the department may use any available funds to implement this
3 chapter, including:

- 4 (1) funds from the state infrastructure bank; or
5 (2) surplus revenue of a toll project, as defined in
6 Section 201.001.

7 (b) The department may not spend money from the general
8 revenue fund to implement this chapter except:

- 9 (1) pursuant to a line-item appropriation;
10 (2) money awarded from the Texas Enterprise Fund under
11 Section 481.078, Government Code; or
12 (3) money appropriated to the Texas rail relocation
13 and improvement fund.

14 SECTION 5. Sections 91.072(a) and (c), Transportation Code,
15 are amended to read as follows:

16 (a) The commission and the department have the same powers
17 and duties relating to the financing of a rail facility or a system
18 established under Section 91.031 as the commission and the
19 department have under Subchapter C [~~E~~], Chapter 228 [~~361~~], relating
20 to the financing of a toll [~~turnpike~~] project, including the
21 ability to deposit the proceeds of bonds or other obligations and to
22 pledge, encumber, and expend such proceeds and revenues as provided
23 in Chapter 228 [~~361~~].

24 (c) For purposes of this section, a reference in Subchapter
25 C [~~E~~], Chapter 228 [~~361~~] to:

- 26 (1) a toll [~~turnpike~~] project means a rail facility or
27 system; and

1 (2) revenue includes a fee, rent, or other usage
2 charge established under this chapter or other money received under
3 Sections 91.073 and 91.074.

4 SECTION 6. Section 91.091(a), Transportation Code, is
5 amended to read as follows:

6 (a) Subject to Section 91.096, the ~~[The]~~ commission may
7 authorize the department to acquire ~~[in the name of the state]~~ a
8 right-of-way, a property right, or other interest in real property
9 determined to be necessary or convenient for the department's
10 acquisition, construction, maintenance, or operation of rail
11 facilities. An interest in property acquired for a rail facility
12 owned or to be owned by the department shall be acquired in the name
13 of the state.

14 SECTION 7. Section 91.095, Transportation Code, is amended
15 to read as follows:

16 Sec. 91.095. DISPOSAL OF PROPERTY. The department may
17 sell, convey, or otherwise dispose of any rights or other interests
18 in real property acquired in the name of the state under this
19 subchapter that the commission determines are no longer needed for
20 department purposes.

21 SECTION 8. Subchapter E, Chapter 91, Transportation Code,
22 is amended by adding Section 91.096 to read as follows:

23 Sec. 91.096. ACQUISITION OF PROPERTY FOR PRIVATELY OWNED
24 RAIL FACILITIES. The department may only acquire an interest in
25 real property for a privately owned rail facility if the commission
26 makes the determination required by Section 91.038.

27 SECTION 9. Section 201.973(d), Transportation Code, is

amended to read as follows:

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

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

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

(A) relieve congestion on public highways;

(B) enhance public safety;

(C) improve air quality; or

(D) expand economic opportunity;

(3) to provide loans under Section 201.9731;

(4) to create debt service reserve accounts;

(5) ~~[(4)]~~ to pay interest on obligations for a period of not longer than two years;

(6) ~~[(5)]~~ to refund or cancel outstanding obligations;

1 and

2 (7) [(6)] to pay the commission's costs of issuance.

3 SECTION 10. Subchapter O, Chapter 201, Transportation Code,
4 is amended by adding Section 201.9731 to read as follows:

5 Sec. 201.9731. LOAN PROGRAM. (a) In addition to any other
6 purpose authorized by this chapter, money in the fund may be used to
7 provide loans to eligible applicants for the purposes described by
8 Section 201.973(d) if the applicant's project meets the
9 requirements of that section.

10 (b) The department shall administer the loan program and has
11 all powers necessary and convenient to implement this section and
12 may:

13 (1) establish standards and schedules for railroad
14 infrastructure improvement projects;

15 (2) establish the specifications and provisions of a
16 loan that is made to an eligible applicant;

17 (3) establish in any loan agreement the level and
18 period of rail service to be provided by the railroad;

19 (4) negotiate and establish in any loan agreement the
20 financial participation required of an eligible applicant; and

21 (5) provide technical assistance to an eligible
22 applicant.

23 (c) The department shall allocate loans made under this
24 section on bases that protect the public interest. A loan may cover
25 all of a project's cost. Costs eligible for a loan do not include
26 overhead costs or other indirect costs.

27 (d) The department shall adopt rules to implement the loan

1 program.

2 SECTION 11. Section 228.001(6), Transportation Code, is
3 amended to read as follows:

4 (6) "Transportation project" means:

5 (A) a tolled or nontolled state highway
6 improvement project;

7 (B) a toll project eligible for department cost
8 participation under Section 222.103;

9 (C) the acquisition, construction,
10 reconstruction, relocation, maintenance, or operation of a rail
11 facility or system under Chapter 91;

12 (D) the acquisition, construction, maintenance,
13 or operation of a state-owned ferry under Subchapter A, Chapter
14 342;

15 (E) a public transportation project under
16 Chapter 455 or 456;

17 (F) the establishment, construction, or repair
18 of an aviation facility under Chapter 21; and

19 (G) a passenger rail project of another
20 governmental entity.

21 SECTION 12. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2007.