

AN ACT

relating to the authority of the Texas Department of Transportation to lease and contract for the operation of rolling stock during certain emergencies.

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

SECTION 1. Section 91.071(b), Transportation Code, is amended to read as follows:

(b) Except for money received from the Texas economic development bank fund under Section 489.102, Government Code, and except as provided by Section 91.106(j), the department may not spend money from the general revenue fund to implement this chapter except pursuant to a line-item appropriation.

SECTION 2. Subchapter F, Chapter 91, Transportation Code, is amended by adding Section 91.106 to read as follows:

Sec. 91.106. OPERATIONS DURING CERTAIN EMERGENCIES.

(a) In this section, "director" means the executive director of the department.

(b) The director may issue an order authorizing the department to lease rolling stock and to contract with a qualified person or rail operator to operate rolling stock if:

(1) the director determines that a natural or man-made condition exists that threatens a department rail facility or the provision of safe and efficient rail services using a department rail facility; and

1 (2) the condition threatens health, life, or property
2 in the affected area.

3 (c) An order issued under Subsection (b) takes effect
4 according to the order's terms, but the order may not take effect
5 until reasonable notice is given:

6 (1) in a newspaper of general circulation in the
7 affected area;

8 (2) through television or radio serving the affected
9 area; or

10 (3) by circulating notices or posting signs at
11 conspicuous places in the affected area.

12 (d) An order issued under Subsection (b) must expire not
13 later than the 30th day after the date the order is issued.

14 (e) The director may amend, modify, or rescind an order
15 issued under Subsection (b) while the order is effective.

16 (f) The director may issue one or more successive orders as
17 necessary to protect health, life, or property in the affected
18 area. Each successive order must expire not later than the 30th day
19 after the date the successive order is issued.

20 (g) The department may not use department employees to
21 operate rolling stock.

22 (h) The department may enter into a contract authorized by
23 an order issued under Subsection (b) for a period not to exceed 90
24 days without using competitive bidding procedures otherwise
25 required by law if the department attempts to negotiate with at
26 least three qualified persons during the contracting process.

27 (i) Immediately after the department enters into a contract

1 under this section, the department shall send a copy of the contract
2 to the Legislative Budget Board. On request of the Legislative
3 Budget Board, the department may send the copy in an electronic
4 format.

5 (j) The department may use any available funds to implement
6 this section, including:

7 (1) the undedicated portion of the state highway fund;
8 and

9 (2) any money appropriated to the department from the
10 general revenue fund, regardless of whether there is a line-item
11 appropriation for such a purpose.

12 (k) The department shall attempt to recover any state funds
13 used by the department to implement this section.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 1750 was passed by the House on April 26, 2011, by the following vote: Yeas 145, Nays 3, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1750 was passed by the Senate on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor