

By: Darby

H.B. No. 1750

Substitute the following for H.B. No. 1750:

By: Phillips

C.S.H.B. No. 1750

A BILL TO BE ENTITLED

1

AN ACT

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

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

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

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

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

15 Sec. 91.106. OPERATIONS DURING CERTAIN EMERGENCIES.

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

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

21 (1) the director determines that a natural or man-made  
22 condition exists that threatens a department rail facility or the  
23 provision of safe and efficient rail services using a department  
24 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 SECTION 3. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2011.