

1-1 By: Darby (Senate Sponsor - Williams) H.B. No. 1750
1-2 (In the Senate - Received from the House April 27, 2011;
1-3 May 3, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 19, 2011, reported
1-5 favorably by the following vote: Yeas 9, Nays 0; May 19, 2011,
1-6 sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the authority of the Texas Department of Transportation
1-10 to lease and contract for the operation of rolling stock during
1-11 certain emergencies.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 91.071(b), Transportation Code, is
1-14 amended to read as follows:

1-15 (b) Except for money received from the Texas economic
1-16 development bank fund under Section 489.102, Government Code, and
1-17 except as provided by Section 91.106(j), the department may not
1-18 spend money from the general revenue fund to implement this chapter
1-19 except pursuant to a line-item appropriation.

1-20 SECTION 2. Subchapter F, Chapter 91, Transportation Code,
1-21 is amended by adding Section 91.106 to read as follows:

1-22 Sec. 91.106. OPERATIONS DURING CERTAIN EMERGENCIES.

1-23 (a) In this section, "director" means the executive director of
1-24 the department.

1-25 (b) The director may issue an order authorizing the
1-26 department to lease rolling stock and to contract with a qualified
1-27 person or rail operator to operate rolling stock if:

1-28 (1) the director determines that a natural or man-made
1-29 condition exists that threatens a department rail facility or the
1-30 provision of safe and efficient rail services using a department
1-31 rail facility; and

1-32 (2) the condition threatens health, life, or property
1-33 in the affected area.

1-34 (c) An order issued under Subsection (b) takes effect
1-35 according to the order's terms, but the order may not take effect
1-36 until reasonable notice is given:

1-37 (1) in a newspaper of general circulation in the
1-38 affected area;

1-39 (2) through television or radio serving the affected
1-40 area; or

1-41 (3) by circulating notices or posting signs at
1-42 conspicuous places in the affected area.

1-43 (d) An order issued under Subsection (b) must expire not
1-44 later than the 30th day after the date the order is issued.

1-45 (e) The director may amend, modify, or rescind an order
1-46 issued under Subsection (b) while the order is effective.

1-47 (f) The director may issue one or more successive orders as
1-48 necessary to protect health, life, or property in the affected
1-49 area. Each successive order must expire not later than the 30th day
1-50 after the date the successive order is issued.

1-51 (g) The department may not use department employees to
1-52 operate rolling stock.

1-53 (h) The department may enter into a contract authorized by
1-54 an order issued under Subsection (b) for a period not to exceed 90
1-55 days without using competitive bidding procedures otherwise
1-56 required by law if the department attempts to negotiate with at
1-57 least three qualified persons during the contracting process.

1-58 (i) Immediately after the department enters into a contract
1-59 under this section, the department shall send a copy of the contract
1-60 to the Legislative Budget Board. On request of the Legislative
1-61 Budget Board, the department may send the copy in an electronic
1-62 format.

1-63 (j) The department may use any available funds to implement
1-64 this section, including:

2-1 (1) the undedicated portion of the state highway fund;

2-2 and

2-3 (2) any money appropriated to the department from the
2-4 general revenue fund, regardless of whether there is a line-item
2-5 appropriation for such a purpose.

2-6 (k) The department shall attempt to recover any state funds
2-7 used by the department to implement this section.

2-8 SECTION 3. This Act takes effect immediately if it receives
2-9 a vote of two-thirds of all the members elected to each house, as
2-10 provided by Section 39, Article III, Texas Constitution. If this
2-11 Act does not receive the vote necessary for immediate effect, this
2-12 Act takes effect September 1, 2011.

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