

BILL ANALYSIS

H.B. 2580
By: Harper-Brown
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law authorizes a freight rail district to be created only in a county with a certain population and in adjacent counties. Interested parties assert that such a district can apply for and accept state and federal grants and work with rail service providers and others to ensure that the county has the appropriate level of rail service. The parties believe that municipalities should also have the ability to create a freight rail district, which would provide more local control and allow municipalities to work with counties and other municipalities to ensure that industrial areas are prepared for the Panama Canal expansion. H.B. 2580, in an effort to maintain Texas' competitiveness in transportation infrastructure, seeks to grant municipalities more authority in building rail infrastructure.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2580 amends the Transportation Code to authorize the governing body of a municipality by ordinance to create a freight rail district. The bill requires the ordinance creating the freight rail district to specify the number of district directors, who appoints the directors, and the method of selecting the presiding officer of the district's board of directors and authorizes the ordinance to specify terms that are not expressly inconsistent with the bill's provisions. The bill requires the boundaries of a freight rail district to be coextensive with the boundaries of the municipality that created the district. The bill sets out provisions relating to the composition of the board, an ex officio nonvoting director, and conflicts of interest for directors.

H.B. 2580 authorizes a district to exercise the transportation project powers of a regional mobility authority for a transportation project that is a freight rail facility, as defined by statutory provisions governing rural rail transportation districts, except that the term includes the property and interests necessary or convenient for the provision of a nonrural rail transportation system and does not include facilities for passenger rail service. The bill authorizes a district to contract with any person, including a county or municipality, the state or any political subdivision of the state, the United States, or a railroad. The bill authorizes the commissioners court of a county that contains or is adjacent to a district to authorize the district to exercise its powers in that county.

H.B. 2580 authorizes a district to exercise the power of eminent domain to acquire land in fee simple or any interest less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space. The bill prohibits a district from exercising the power of eminent domain in a manner that would unduly interfere with interstate commerce or to condemn a right-of-way owned by a railroad. The bill sets out provisions relating to an eminent domain proceeding. The bill makes these provisions contingent on the bill receiving a two-thirds vote of all the members elected to each house and, if the bill does not

receive such a vote, the bill prohibits a district from exercising the power of eminent domain.

H.B. 2580 sets out provisions governing the relationship between a district and affected railroads, including provisions relating to the requirement of the district and railroad to enter into an agreement before a district may undertake certain freight rail projects, the preservation of regulatory structure and ownership rights, competitive relationships, service to customers, the use of district rail facilities, and an exception from the bill's provisions relating to the relationship between a district and affected railroads for a rail-roadway or rail-rail grade separation project.

H.B. 2580 sets out financial provisions relating to the authorization for a freight rail district to secure and pledge revenue derived from any source to secure the payment of district bonds and relating to purchase contracts, the prohibition of imposing a property tax or a sales and use tax, fees charged to railroads, and the prohibition of spending money to purchase a rail facility operated by a port terminal railroad. The bill sets out provisions relating to the dissolution of a district.

H.B. 2580 specifies that certain statutory provisions governing rural rail transportation districts apply to a freight rail district as if the district were created under those provisions and provides for the meaning of certain references to specified terms for purposes of applying those statutory provisions governing rural rail transportation districts to a freight rail district created under the bill's provisions.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.