

SUBJECT: Spending dedicated highway funds on railroad and utility projects

COMMITTEE: Transportation — favorable, without amendment

VOTE: 7 ayes — Krusee, Phillips, Hamric, Edwards, Harper-Brown, Laney, Mercer
0 nays
2 absent — Garza, Hill

WITNESSES: For — None
Against — Lawrence Olsen, Texas Good Roads/Transportation Association
On — Ric Williamson, Texas Transportation Commission

BACKGROUND: Texas Constitution, Art. 8, sec. 7-a dedicates three-fourths of the net revenue from motor-vehicle fuel and lubricant sales taxes and registration fees to expenditures for right-of-way acquisition, construction, maintenance, and policing of public roadways and for administering laws that govern road traffic and safety, subject to legislative appropriation. The State Highway Fund, also called Fund 6, is administered by the Texas Department of Transportation (TxDOT), which is governed by the Texas Transportation Commission (TTC). The other one-fourth of net revenue from the sources listed above is dedicated to the Available School Fund. As of the end of fiscal 2002, Fund 6 contained approximately \$5.2 billion in dedicated revenue and \$747 million in nondedicated revenue, according to the comptroller's 2002 Annual Cash Report.

DIGEST: HJR 1 would amend the Constitution to allow Fund 6 monies to be spent on planning and acquisition of rights-of-way for railroads and utilities, including pipelines, water lines, power lines, and communications lines, if the TTC found that such expenditures would benefit the state highway system.

The proposal would be presented to voters at an election on Tuesday, November 4, 2003. The ballot proposal would read: "The constitutional amendment to allow the expenditure of motor vehicle fuel taxes and

registration fees to plan and acquire property for railroads and utilities, including pipelines, water lines, power lines, and communications lines, if the expenditure will benefit the state highway system. ”

**SUPPORTERS
SAY:**

HJR 1, if approved by voters, would give TxDOT a much-needed tool to integrate the state highway system into a comprehensive, innovative approach to Texas’ transportation needs. It would lay the foundation for high-speed rail and for parts of Gov. Perry’s Trans-Texas Corridor Plan, which envisions rail, utility, and other lines along new highways connecting major urban centers and the Texas-Mexico border. Without this authority, TxDOT would have to keep building highways the way it has done since World War I.

HJR 1 would allow the Legislature to appropriate to TxDOT dedicated Fund 6 revenue to be spent on rail and utility planning and right-of-way acquisition. A closely related bill, HB 3085 by Puente, would allow expenditures on a wider array of activities related solely to rail, including bond issuance, but only from nondedicated revenue in Fund 6. However, HJR 1 would take effect whether or not HB 3085 is enacted and vice versa.

Abandonment of rail line segments over the years has contributed to an increase in freight truck traffic on state highways and local roads and bridges. Small rural towns as well as large metropolitan communities, especially those with ports, are being affected adversely. Rail companies may lack economic incentives to relocate city lines over which hazardous materials are borne, for example, or to retain lines over which commodities are hauled to processors and markets. Those routes obviously are important to local and area residents and businesses and, in a larger sense, to the state as a whole.

When Toyota decided to build a manufacturing plant in San Antonio, local officials had to spend large sums to create a rail district to serve the site. The state should have been able to play a larger role in helping pay for that project because of its positive economic impact statewide, but TxDOT lacks authority to spend dedicated Fund 6 money on rail, even for planning along rights-of-way. Nevertheless, state law requires TxDOT to incorporate rail into its statewide plans and to acquire and preserve existing rail lines deemed viable for continued service. Utilities may use highway rights-of-way, but TxDOT cannot spend revenue dedicated in Fund 6 to buy right-of-way for utility usage.

The state is not interested in entering the railroad business. TxDOT would not operate any rail lines but would contract for their operation. Unlike private enterprise, the state does not need to make a profit on rail for it to be a viable public good, especially given the other benefits and potential lost opportunity costs involved. TxDOT only needs to spend less than it would on comparable highway maintenance to break even on rail projects.

Granting spending authority to enhance the state's rail capability would decrease traffic congestion (especially from commercial trucks), improve mobility by providing commuting and traveling alternatives, and reduce the amount of air pollution caused by vehicles.

**OPPONENTS
SAY:**

Fund 6 is stretched too thin already. TxDOT can afford only about one-third of the highway projects it has identified as necessary. Highway expansion and road maintenance are lagging, and traffic congestion and unsafe conditions are worsening. Now is the wrong time to siphon resources away from underfunded state highways and other crucial projects.

State government lacks the expertise to invest in railroads. If the private sector has no interest, that should indicate a lack of viability.

**OTHER
OPPONENTS
SAY:**

Authorizing different types of expenditures from different revenue sources in an amendment and its related legislation would be confusing and restrictive. If TxDOT truly is to innovate, it should have the flexibility to spend dedicated Fund 6 money on all aspects of rail transportation. The spending and project authorizations in the resolution and the bill should be the same.

The bill would fail to address the root cause of Texas' transportation crisis: inadequate resources. The Legislature should increase motor-fuel taxes, restructure Fund 6's revenue stream, or both.

NOTES:

The companion joint resolution, SJR 31 by Wentworth, has been referred to the Senate Infrastructure Development and Security Committee.

HB 3085 by Puente, which would clarify and expand TxDOT's authority to spend nondedicated Fund 6 revenue on rail, is on today's House General State Calendar. The companion bill, SB 1712 by Wentworth, was considered in a

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public hearing by the Senate Infrastructure Development and Security
Committee on April 23 and left pending.