

SUBJECT: Allowing TxDOT to contract with rail operators during emergencies

COMMITTEE: Transportation — committee substitute recommended

VOTE: 8 ayes — Phillips, Darby, Fletcher, Lavender, Martinez, McClendon,
Pickett, Rodriguez

1 nay — Y. Davis

2 absent — Bonnen, Harper-Brown

WITNESSES: For — (*Registered, but did not testify*: Norman Garza, Texas Farm
Bureau)

Against — None

On — (*Registered, but did not testify*: Bill Glavin, Texas Department of
Transportation)

DIGEST: CSHB 1750 would allow the Texas Department of Transportation
(TxDOT) director to lease rolling stock and contract with a rail operator
during certain man-made or natural emergencies using any available
funds, including from the state highway fund and general revenue.

The order for the lease and contract would have to be given with
reasonable notice through newspapers, television, or posting signs and
could last for only 30 days. TxDOT could give consecutive lease and
contract orders and could amend, modify, or rescind the orders.

CSHB 1750 would prohibit TxDOT from using department employees to
operate rolling stock. TxDOT could contract with a rail operator for no
more than 90 days without using standard competitive bid processes if it
attempted to negotiate with at least three qualified persons. TxDOT would
have to forward a copy of the contract immediately to the Legislative
Budget Board (LBB), electronically if requested.

The bill would take immediate effect if finally passed by a two-thirds
record vote of the membership of each house. Otherwise, it would take
effect September 1, 2011.

**SUPPORTERS
SAY:**

The TxDOT director needs the authority provided by CSHB 1750 to transport people and perishable food during an emergency. The standard competitive bid processes can take upwards of three months – an excessively lengthy timeframe during an emergency. The emergency lease and contract process still would force TxDOT to attempt to negotiate with three operators, and the LBB would provide oversight on the contract.

In an emergency situation, like a hurricane on the Texas coast, adequate commercial passenger rail cars often are not available, and TxDOT does not have sufficient equipment for a large-scale transfer of people. Therefore, TxDOT needs the authority granted by CSHB 1750 to enter into short-term leases and contracts.

It would be an economic catastrophe for Texas farmers, distributors, and consumers if tons of perishable grain and other food were lost because they could not be transported out of an emergency area. CSHB 1750 would give TxDOT the limited authority needed to stave off this disaster.

**OPPONENTS
SAY:**

CSHB 1750 would give the TxDOT director too much discretion in deciding what constitutes an emergency and, therefore, too much power to bypass the standard competitive bid processes and use appropriated funds dedicated for other purposes.

NOTES:

A floor amendment, acceptable to the author, is expected that would require TxDOT to attempt to recover any funds used during an emergency.

The committee substitute added a provision that would require TxDOT to forward a copy of the contract with a rail operator to the LBB, electronically if requested.