

BILL ANALYSIS

Senate Research Center
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S.B. 406
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DIGEST AND PURPOSE

Currently, the abandonment of rail lines over time has forced certain industries that have traditionally depended on rail to move their product to find alternative modes of transportation. If a rail line is abandoned and the rails removed, the economic opportunity is lost, most likely forever, because of the high cost to replace the infrastructure. This has contributed to an increase in truck traffic over state highways and local roads and bridges, causing increased congestion and roadway maintenance costs. As proposed, S.B. 406 authorizes the Texas Department of Transportation to preserve rail facilities by acquiring rail lines and other rail facilities and leasing those facilities to other operators.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 2 (Section 201.955 and Section 201.959, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Presents legislative findings.

SECTION 2. Amends Chapter 201, Transportation Code, by adding Subchapter M, as follows:

SUBCHAPTER M. PRESERVATION OF RAIL FACILITIES

Sec. 201.951. DEFINITIONS. Defines “maintenance facility,” “operator,” “owner,” “rail facilities,” “right-of-way,” “shortline railroad,” “station,” “switching railroad,” “trackwork,” and “train controls.”

Sec. 201.952. ABANDONED RAIL ACCOUNT. Provides that the abandoned rail account is an account in the state highway fund. Authorizes funds in the account to only be appropriated to the Texas Department of Transportation (department) for the preservation of rail service and railway corridors and other purposes described in this subchapter. Requires certain funds to be deposited to the credit of the account. Provides that the abandoned rail account is exempt from the application of any act of the legislature that relates to the abolition of funds or accounts created in the state treasury or that relates to the abolition of dedications or rededications or revenue in the state treasury.

Sec. 201.953. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. Requires the department, on receipt of the notice of intent required under 49 C.F.R. Section 1152.20, to coordinate with the governing bodies of any municipality, county, or rural rail transportation district within which a line proposed for abandonment or discontinuance of service is located in order to assess interest in the department’s acquisition of the affected rail facilities under this subchapter or in any other action necessary to provide for continued rail transportation service.

Sec. 201.954. ACQUISITION AND LEASE OF RAIL FACILITIES. (a) Authorizes the

Texas Transportation Commission (commission) to authorize the department to require rail facilities at locations and on routes the commission determines to be feasible and viable for continued rail transportation service.

(b) Authorizes the department to enter into agreements with the owners of operating railroads for the acquisition or use of rail facilities on terms and conditions the department considers to be in the best interests of the state.

(c) Authorizes the department to lease, and contract for the use or operation of, all or part of state-owned rail facilities to any operator. Requires an operator to be selected in accordance with the requirements of Section 201.955. Requires a lease agreement to provide for the department's monitoring of an operator's service and performance. Makes a conforming change authorizing the department to enter into agreements with any operator to sell all or any part of state-owned rail facilities.

Sec. 201.955. **SELECTION OF OPERATORS.** Requires the department to file a notice with the secretary of state for publication in the Texas Register soliciting proposals to lease all or any part of state-owned rail facilities. Requires the department, under rules adopted by the commission, to discuss a proposal with an offeror to assess the feasibility of the proposal and to negotiate the terms of a lease agreement. Requires the department to enter into a lease agreement with the offeror whose proposal provides the best value in the state.

Sec. 201.956. **ACQUISITION AND DISPOSAL OF REAL PROPERTY.** (a) Authorizes the commission to authorize the department to acquire by purchase, in the name of the state, any right-of-way or other interest in real property determined to be necessary or convenient to the department's acquisition of rail facilities.

(b) Authorizes the governing body of a municipality, county, other political subdivision, or public agency to, without advertisement, convey the title to or a right in property determined by the department to be necessary or convenient under this section.

(c) Authorizes the department to sell, convey, or otherwise dispose of any rights or other interests in real property acquired under this section that the commission determines are no longer needed for department purposes.

Sec. 201.957. **PLACEMENT OF UTILITY FACILITIES, LINES, AND EQUIPMENT.**

(a) Requires a utility that is authorized by law to place its facilities, lines, or equipment in, over, or across railroad right-of-way to notify the department of an intention to place any facilities, lines, or equipment in, over, or across right-of-way that is part of state-owned rail facilities.

(b) Authorizes a utility to exercise the authority to place its facilities, lines, or equipment in, over, or across right-of-way that is part of state-owned rail facilities with the consent of the department.

(c) Authorizes the department, on receipt of the notice, to designate the location in the right-of-way where the utility may place its facilities, lines, or equipment.

(d) Authorizes the department to require a utility to relocate the utility's facilities, lines, or equipment, at the utility's expense, to allow the expansion or relocation of state-owned rail facilities.

Sec. 201.958. **EXPENDITURE OF FUNDS.** Authorizes the department to receive, accept, and expend funds, including funds necessary to assess and remediate environmental contamination existing in or on the rail facilities, from the state, any federal agency, or other

public or private sources for certain stated purposes. Authorizes the department to expend income and funds from the abandoned rail account established under Section 201.952 in the exercise of any of the powers and duties provided by this subchapter.

Sec. 201.959. ADOPTION OF RULES. Requires the commission to adopt rules necessary to implement this chapter.

Sec. 201.960. LIMITATION. Provides that this subchapter does not authorize the department to regulate, operate, or maintain rail facilities.

SECTION 3. Effective date: September 1, 2001.