

BILL ANALYSIS

Senate Research Center

H.B. 1750
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Transportation & Homeland Security
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is concern that the Texas Department of Transportation (TxDOT) lacks the authority to lease rail cars and to contract with a rail operator to provide for the emergency transport of grain and perishable products. Interested parties assert that legislation is needed that would authorize TxDOT to temporarily secure such equipment and enter into short-term contracts with a rail operator on the finding by the executive director of TxDOT that an emergency exists that threatens health, life, or property in the affected area.

H.B. 1750 amends current law relating to the authority of the Texas Department of Transportation to lease and contract for the operation of rolling stock during certain emergencies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 91.071(b), Transportation Code, as follows:

(b) Prohibits the Texas Department of Transportation (TxDOT), except for money received from the Texas economic development bank fund under Section 489.102 (Powers and Duties of Bank), Government Code, and except as provided by Section 91.106(j), from spending money from the general revenue fund to implement this chapter except pursuant to a line-item appropriation.

SECTION 2. Amends Subchapter F, Chapter 91, Transportation Code, by adding Section 91.106, as follows:

Sec. 91.106. OPERATIONS DURING CERTAIN EMERGENCIES. (a) Defines, in this section, "director."

(b) Authorizes the executive director of TxDOT (director) to issue an order authorizing TxDOT to lease rolling stock and to contract with a qualified person or rail operator to operate rolling stock if:

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

(2) the condition threatens health, life, or property in the affected area.

(c) Provides that an order issued under Subsection (b) takes effect according to the order's terms, but the order is prohibited from taking effect until reasonable notice is given:

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

(2) through television or radio serving the affected area; or

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

(d) Requires that an order issued under Subsection (b) expire not later than the 30th day after the date the order is issued.

(e) Authorizes the director to amend, modify, or rescind an order issued under Subsection (b) while the order is effective.

(f) Authorizes the director to issue one or more successive orders as necessary to protect health, life, or property in the affected area. Requires that each successive order expire not later than the 30th day after the date the successive order is issued.

(g) Prohibits TxDOT from using TxDOT employees to operate rolling stock.

(h) Authorizes TxDOT to enter into a contract authorized by an order issued under Subsection (b) for a period not to exceed 90 days without using competitive bidding procedures otherwise required by law if TxDOT attempts to negotiate with at least three qualified persons during the contracting process.

(i) Requires TxDOT, immediately after TxDOT enters into a contract under this section, to send a copy of the contract to the Legislative Budget Board. Authorizes TxDOT, on request of the Legislative Budget Board, to send the copy in an electronic format.

(j) Authorizes TxDOT to use any available funds to implement this section, including:

(1) the undedicated portion of the state highway fund; and

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

(k) Requires TxDOT to attempt to recover any state funds used by TxDOT to implement this section.

SECTION 3. Effective date: upon passage or September 1, 2011.