

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1601  
By: Kolkhorst  
Transportation  
4/8/2015  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, a "high-speed rail" is defined as a rail system capable of traveling at speeds greater than 185 miles per hour. High-speed rails have all powers and rights granted to railroad companies, including eminent domain authority. The federal government has almost exclusive regulatory powers over railroads. A railroad, or its equivalent (high-speed rail), is granted eminent domain authority only when the relevant state has also granted that railroad, or its equivalent, the same power. Because high-speed rails are currently deemed equivalent to railroads in rights and powers, under Texas law, high-speed rail companies have eminent domain authority.

S.B. 1601 separates high-speed rail systems from railroads. All we are doing is calling a spade a spade. There is a very obvious distinction between railroads as they were originally intended and the idea of a high speed rail. One is founded in freight and commerce while another is focused on means of transportation. This bill is about keeping up with new technology and innovation.

S.B. 1601 creates a new definition of "high-speed rail," which is distinct from a "railroad" in nature and rights accorded to each. S.B. 1601 defines "high-speed rail" as an intercity passenger rail service that is reasonably expected to reach speeds of at least 110 mph. The bill then expressly prohibits a "high-speed rail" system, as defined by S.B. 1601, from exercising eminent domain authority.

Eminent domain is a hard pill to swallow for any Texan even when it may be necessary for public use. However, add the fact that the condemning authority is a private company. Then add that the private company exercising eminent domain is doing so for private/for-profit use. Finally, add the fact that the private company taking private property for a private/for-profit use is not even a Texas-backed company, but is from outside of the country. S.B. 1601 is simply a measure to protect private property rights. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1601 amends current law relating to railroads in this state.

### **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 81.001, Transportation Code, by adding Subdivision (3) to define "high-speed rail" to mean intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.

SECTION 2. Amends Section 81.002, Transportation Code, as follows:

Sec. 81.002. APPLICABILITY. Provides that, in this title, a reference to a railroad company means, rather than includes:

- (1) a railroad initially incorporated before September 1, 2007, under former Title 112, Revised Statutes; or

(2) any other legal entity operating a railroad, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business Organizations Code, that owns or leases:

(A) locomotives and passenger or freight rail cars; and

(B) rights-of-way used for the purposes of transporting people or goods by rail between at least two terminuses.

SECTION 3. Amends Section 112.002, Transportation Code, by adding Subsection (c), to prohibit a company that operates a high-speed rail system, notwithstanding Subsection (b)(5) (authorizing a railroad company to exercise the power of eminent domain for the purposes prescribed by this subtitle or Subtitle D), from exercising the power of eminent domain for the system.

SECTION 4. Repealer: Section 111.103(a) (defining "high-speed rail"), Transportation Code.

SECTION 5. Effective date: upon passage or September 1, 2015.