

## **BILL ANALYSIS**

Senate Research Center

S.B. 678  
By: Nelson  
Transportation  
6/9/2015  
Enrolled

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

S.B. 678 limits liability up to \$125 million for a railroad that enters into a contract with the Denton County Transportation Authority (DCTA) to provide public passenger rail service, makes conforming changes to align DCTA's governing statute with the Property Code, and clarifies the DCTA's procurement statute. (Original Author's/Sponsor's Statement of Intent)

S.B. 678 amends current law relating to coordinated county transportation authorities.

### **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 Subchapter C, Chapter 460, Transportation Code, by adding Section 460.1041, as follows:

Sec. 460.1041. LIABILITY LIMITED FOR RAIL SERVICES UNDER CERTAIN AGREEMENTS. (a) Provides that this section applies only to public passenger rail services provided:

(1) under an agreement between a coordinated county transportation authority (authority) created before January 1, 2005, and a railroad for the provision of public passenger rail services through the use of the railroad's facilities; and

(2) on freight rail lines and rail rights-of-way that are:

(A) located on the Interstate 35W/Interstate 35 corridor; or

(B) a northern extension of existing passenger rail service provided by the authority in the Interstate 35E corridor.

(b) Prohibits the aggregate liability of an authority and a railroad that enter into an agreement to provide public passenger rail services, and the governing boards, directors, officers, employees, and agents of the authority and railroad, from exceeding \$125 million for all claims for damages arising from a single incident involving the provision of public passenger rail services under the agreement.

(c) Provides that Subsection (b) does not affect:

(1) the amount of damages that may be recovered under Subchapter D (Liabilities for Injuries to Employees), Chapter 112 (Powers and Duties of Railroads), or the federal Employers' Liability Act (45 U.S.C. Section 51 et seq.); or

(2) any immunity, limitation on damages, limitation on actions, or other limitation of liability or protections applicable under other law to an authority or other provider of public passenger rail services.

(d) Provides that the limitation of liability provided by this section does not apply to damages arising from the wilful misconduct or gross negligence of the railroad.

(e) Requires an authority to obtain or cause to be obtained insurance coverage for the aggregate liability stated in Subsection (b) with the railroad as a named insured.

SECTION 2. Amends Section 460.107(c), Transportation Code, as follows:

(c) Requires that relocation assistance, if an authority, through the exercise of eminent domain, makes any relocation necessary, be provided by the authority as provided by Section 21.046 (Relocation Assistance Program), Property Code, rather than requires that relocation costs, if an authority, through the exercise of eminent domain, makes any relocation necessary, be paid by the authority.

SECTION 3. Amends Section 460.406(c), Transportation Code, as follows:

(c) Authorizes the board of directors of the authority to authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is less than the greater of:

(A) \$50,000, rather than the aggregate amount involved in the contract is \$50,000 or less; or

(B) the amount of an expenditure under a contract that would require a municipality to comply with Section 252.021(a) (requiring the municipality to meet certain requirements before a municipality may enter into a contract that requires an expenditure of more than \$50,000 from one or more municipal funds), Local Government Code;

(2)-(9) Makes no change to these subdivisions;

(10) the contract is for services performed by persons who are blind or have severe disabilities, rather than by blind or severely disabled persons;

(11) Makes no changes to these subdivisions;

(12) the contract is one for an authority project and awarded for alternate project delivery using the procedures under Subchapters E (Construction Manager-Agent Method), F (Construction Manager-at-Risk Method), G (Building Using Design-Build Method), and I (Job Order Contracts Method), Chapter 2269 (Contracting and Delivery Procedures for Construction Projects), Government Code; or

(13) Makes no change to this subdivision.

Deletes existing text of Subdivision (12) referencing Chapter 2267 (Public and Private Facilities and Infrastructure), Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011.

SECTION 4. Makes application of this Act prospective regarding a cause of action and a filing of petition for a condemnation proceeding.

SECTION 5. Effective date: September 1, 2015.