

## **BILL ANALYSIS**

C.S.H.B. 1944  
By: Simmons  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that, as a coordinated county transportation authority, the Denton County Transportation Authority serves an annual ridership of several million riders and, like other transportation entities in Texas looking for ways to meet transportation needs, is exploring future expansion corridors. In order for further expansion to be possible, the authority will need to use railroads owned by other entities, and the parties explain that this use should include certain limited liability provisions on certain rights-of-way. C.S.H.B. 1944 seeks to address this issue.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 1944 amends the Transportation Code to cap at \$125 million the aggregate liability of a coordinated county transportation 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, for all claims for damages arising from a single incident involving the provision of public passenger rail services under the agreement. The bill establishes that such a limitation applies only to public passenger rail services provided under an agreement between an 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 provided on freight rail lines and rail rights-of-way that are located in the Interstate 35W/Interstate 35 corridor or are a northern extension of existing passenger rail service provided by the authority in the Interstate 35E corridor. The bill establishes that such a limitation of liability does not affect the amount of damages that may be recovered under statutory provisions relating to a railroad's liability for injuries to employees or the federal Employers' Liability Act or 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. The bill excludes from the limited liability damages arising from the wilful misconduct or gross negligence of the railroad. The bill requires such an authority to obtain or cause to be obtained insurance coverage for the aggregate liability with the railroad as a named insured.

C.S.H.B. 1944 removes the requirement that a coordinated county transportation authority pay relocation costs for property relocated through an exercise of eminent domain and instead requires the authority to provide relocation assistance for such an exercise of eminent domain in accordance with the relocation assistance program under specified Property Code provisions.

The bill changes the aggregate amount threshold involved in a contract for construction, services, or property for which the board of directors of such an authority may authorize the negotiation of the contract without competitive sealed bids or proposals from \$50,000 or less to the aggregate amount that is less than the greater of \$50,000 or the amount of an expenditure under a contract that would require a municipality to comply with specified Local Government Code provisions relating to certain competitive requirements for purchases.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1944 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Subchapter C, Chapter 460, Transportation Code, is amended by adding Section 460.1041 to read as follows:

Sec. 460.1041. LIABILITY LIMITED FOR RAIL INCIDENTS.

No equivalent provision.

(a) 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, may not exceed \$125 million for all claims for damages arising from a single incident involving the provision of public passenger rail services under the agreement.

(b) Subsection (a) does not affect the amount of damages that may be recovered under Subchapter D, Chapter 112, or the Federal Employers' Liability Act (45 U.S.C.

#### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter C, Chapter 460, Transportation Code, is amended by adding Section 460.1041 to read as follows:

Sec. 460.1041. LIABILITY LIMITED FOR RAIL SERVICES UNDER CERTAIN AGREEMENTS.

(a) This section applies only to public passenger rail services provided:

(1) under an agreement between an 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 in 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) 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, may not exceed \$125 million for all claims for damages arising from a single incident involving the provision of public passenger rail services under the agreement.

(c) Subsection (b) does not affect:

(1) the amount of damages that may be recovered under Subchapter D, Chapter 112, or the federal Employers' Liability Act (45

Section 51 et seq.).

(c) This section does not affect 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) The limitation of liability provided by this section does not apply to damages arising from the wilful misconduct or gross negligence of the railroad.

**No equivalent provision.**

SECTION 2. Section 460.107(c), Transportation Code, is amended.

SECTION 3. Section 460.406(c), Transportation Code, is amended.

SECTION 4. (a) Section 460.1041, Transportation Code, as added by this Act, applies only to a cause of action that accrues on or after September 1, 2015.

(b) The change in law made by this Act to Section 460.107(c), Transportation Code, applies only to a condemnation proceeding in which the petition is filed on or after September 1, 2015, and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before September 1, 2015, and any property condemned through the proceeding are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2015.

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) 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) An authority shall 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. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.