

SUBJECT: Transferring the RRC's responsibilities concerning railroads to TxDOT

COMMITTEE: Energy Resources —favorable, without amendment

VOTE: 5 ayes — West, Farabee, Corte, Crownover, Howard

2 nays — Crabb, Gonzalez Toureilles

WITNESSES: For — Victor Carrillo, Railroad Commission of Texas and Texas Energy Planning Council (*Registered, but did not testify*: Dennis Kearns, BNSF Railway; Ron Olson, Union Pacific Railroad; Douglas Robinson, Henry Petroleum, LP, Texas Energy Planning Council, and Permian Basin Petroleum Association; Marty Walker, North American Coal Corp.)

Against — David Arterburn , United Transportation Union (*Registered, but did not testify*: Walter Hinojosa, Texas AFL-CIO)

BACKGROUND: The Railroad Commission of Texas (RRC) was created by the Legislature in 1891 and charged with the responsibilities of preventing discrimination in railroad charges and establishing reasonable tariffs for the industry. In 1980, the federal Staggers Rail Act ended the RRC's economic regulation of railroads in Texas.

**RRC functions:** Currently, the principal functions of the RRC include regulating the following:

- the oil and gas industry;
- gas utilities;
- pipelines;
- rail safety;
- motor carriers and trucking;
- safety in the liquefied petroleum gas industry; and
- surface mining of coal and uranium.

**RRC's rail safety program:** In 1983, the 68th Legislature authorized the implementation of a rail safety program under the auspices of the RRC. The RRC's rail safety program is primarily responsible for the enforcement of state and federal safety standards. The program employs

safety inspectors to promote compliance with state and federal regulations. Safety inspectors' job functions include preparing reports on accidents and complaints, conducting inspections, and riding trains to monitor track quality.

Major components of the RRC's rail safety program include:

- investigation of complaints and response to accidents;
- grade crossing safety education;
- grade crossing safety regulation;
- safety regulation training programs for railroad employees; and
- public assistance.

**DIGEST:**

HB 1816 would transfer all of the RRC's powers and duties concerning railroads and the regulation of railroads to TxDOT, beginning on October 1, 2005.

Existing RRC rules, policies, forms, procedures and decisions that relate to railroads would remain under the RRC's control until they were adopted by TxDOT. TxDOT would assume responsibility for handling railroad-related complaints, investigations, actions, and contested cases that were formerly managed by the RRC. The transfer of railroad responsibilities to TxDOT would not change or invalidate any previous action of the RRC.

The RRC would be required to give TxDOT a report detailing the RRC's financial involvement with rail issues before October 1, 2005. The report would include information about railroad-related obligations, contracts, records, assets, property and the employees that perform rail-related duties. Upon receipt of the report, TxDOT would decide which of the former employees of the RRC would be hired by TxDOT.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

Although the RRC was initially created to regulate the railroad industry in 1891, the RRC no longer has significant involvement with railroads. The RRC has lost most of its statutory authority over railroads over the years and has evolved into an agency that deals principally with regulating the oil and gas industries and other-energy-related issues. The RRC has more than 700 employees, yet only 14 of these positions are in any way related

to railroads. Given the RRC's limited involvement with railroads, its duties and responsibilities over rail issues should be transferred to a more appropriate agency. When federal law preempted much of the RRC's rate-making authority over trucking, the Legislature transferred the remaining state regulatory authority over that industry to TxDOT, which more appropriately should have jurisdiction over transportation issues.

The regulation of railroads is fundamentally a transportation concern, and TxDOT has become increasingly involved with rail issues around the state. Plans for the construction of the Trans-Texas Corridor, a multimodal statewide transportation network, include rail lines as a fundamental component of the corridor. TxDOT already has a railroad division within its Traffic Operations Division that is responsible for the safety of railroad crossings on state highways and that serves as a liaison to the Federal Railroad Administration. The transfer of the RRC's rail responsibilities to TxDOT would be consistent with TxDOT's overall mission as a transportation agency.

HB 1816 would consolidate the state's institutional knowledge and expertise on rail issues within a single agency. Currently, railroads are regulated by both TxDOT and the RRC. HB 1816 would combine the regulation of railroads into one agency in order to facilitate communication and skill development among employees.

OPPONENTS  
SAY:

HB 1816 would move responsibilities for oversight of rail safety inspectors to TxDOT, which has a long-range plan to enter extensively into the railroad business. Moving state inspectors to an agency like TxDOT that is in the railroad business would create a conflict of interest. Rail safety inspectors should be independent in order effectively to execute their responsibilities.

NOTES:

HB 1078 by West, which would change the name of the RRC to the Texas Energy Commission, is pending in the Energy Resources Committee. SB 1382 by Shapiro, which would restructure the commission and also would transfer rail authority to TxDOT and change its name to the Texas Energy Commission, was reported favorably, as substituted, by the Senate Government Organization Committee on April 25.