

**SUBJECT:** Authorizing the creation of freight rail districts

**COMMITTEE:** Transportation — committee substitute recommended

**VOTE:** 7 ayes — Krusee, Phillips, Hamric, Callegari, Casteel, Hill, West

0 nays

2 absent — Deshotel, Flores

**WITNESSES:** For — Jim Edmonds, Port of Houston Authority

Against — None

**BACKGROUND:** The Port of Houston is the world's sixth largest port and the largest in terms of foreign tonnage. The volume of rail traffic serving the port in the next 10 years is expected to increase by 13 percent on the lines that provide direct access to the port facilities and by 11 percent on the regional main lines.

The Port of Houston Authority has proposed a plan to consolidate inbound and outbound trains to corridors that are expanded in capacity and grade-separated in order to place freight trains and passenger trains in separate corridors and reduce the number of railroad crossings at roads.

A Rural Rail Transportation District (RRTD) is a local government unit that has been granted certain powers under V.T.C.S., art. 6550c to develop, finance, maintain, or operate a new rail system or make improvements to an existing line. There are 19 existing and potential RRTDs in Texas operating in more than 60 counties.

**DIGEST:** HB 2958 would allow Harris County to create a freight rail district in conjunction with adjacent counties and the City of Houston. A freight rail district would operate as a local government unit that maintained jurisdiction over the railroads in the district. The structure and operation of freight rail districts would closely resemble that of RRTDs, Regional Mobility Authorities (RMAs), and navigation districts.

**Powers and duties.** A freight rail district would have the same powers held by RMAs in respect to transportation projects as authorized by Transportation Code, ch. 370. These include, but are not limited to:

- the power to issue bonds and enter into credit agreements for the financing of freight rail systems; and
- the power to impose tolls, fares, and other charges for the use of freight rail systems.

In addition, freight rail districts would have powers and duties of Intermunicipal Commuter Rail Districts, which include but are not limited to:

- the authority to acquire property, licenses, patents, rights and interests;
- the ability to acquire, construct, develop, own, operate and maintain intermodal and commuter rail facilities;
- the power of eminent domain to acquire land, including easements, rights-of-way, and rights of use of airspace and subsurface space;
- the ability to enter into agreements with public or private utilities, communication systems, common carriers, state agencies or transportation systems, and;
- the authority to impose a sales and use tax.

A freight rail district could contract with the state, counties, cities, political subdivisions of the state, the federal government and railroads. A county outside a freight rail district could authorize the operation of a freight rail district in that county.

**Structure.** A freight rail district would be governed by a board of directors that held regular meetings to conduct the business of the district. The presiding officer of the Port of Houston Authority also would serve as a director of the Harris County freight rail district. The Texas Transportation Commission (TTC) would appoint a non-voting representative to the board. The boundaries of the freight rail district authorized under this bill would consist of the territory of the two required founding members — Harris County and the City of Houston — and any other county that created the district.

**Railroad industry rights.** HB 2958 would preserve the railroad industry's existing regulations and the ownership rights of railroad companies. A

freight rail district could not adopt a project that interfered with competition within the railroad industry or that impaired a railroad's ability to serve its customers. Furthermore, a freight rail district could not condemn a right-of-way owned by a railroad. The bill also would require that a freight rail district enter into a written agreement with a railroad before affecting the railroad's property. In addition, a railroad could contribute financially to a project if the railroad stood to benefit from the project.

**Financial operation.** Freight rail districts would employ the same best value procurement method used by navigation districts when entering into purchase contracts. A freight rail district would be able to obtain revenue from any available source to repay bonds. HB 2958 would prohibit a freight rail district from imposing a property tax or purchasing rail facilities that were operated by port terminal railroads.

**Withdrawal.** A city or county would be able to withdraw from a freight rail district provided that the district had no outstanding bonds or debt that could not be repaid if the city or county left the district. HB 2958 would allow the board of directors to dissolve the freight rail district if all liabilities had been arranged to be paid, the district was not involved in any lawsuits, and arrangements had been made for other governmental entities to take over the jurisdiction of the railroads in the district.

HB 2958 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on September 1, 2005.

SUPPORTERS  
SAY:

HB 2958 would provide the statutory framework necessary at the state level for the Port of Houston Authority to implement its proposed plan for improving the efficiency of freight rail in the region. In light of the fact that port authorities generate a substantial amount of the freight rail traffic in the state, port authorities should be able to participate in the planning and organization of the freight rail system in their immediate vicinities.

The existing freight rail system in Harris County and surrounding counties is outdated and inefficient. The system originally was constructed in rural areas that now have developed into populous metropolitan areas. A recent study co-sponsored by Harris County and the Port of Houston Authority identified more than 750 public at-grade crossings. HB 2658 would help

revamp this antiquated freight rail system so that it better would meet modern demands.

Not only is the current freight rail system outdated, it also impedes mobility in urban areas and poses a hazard to public safety. At-grade railroad crossings in metropolitan areas increase congestion by requiring motorists to stop and wait for passing trains and sometimes result in serious collisions between automobiles and trains. HB 2658 would establish a mechanism for reducing the number of at-grade crossings in urban areas.

HB 2658 would benefit the environment by decreasing automobile emissions and expanding possibilities for commuter rail. At-grade crossings cause cars to idle, which leads to increased vehicle emissions. HB 2658 would help Texas comply with federal air-quality standards by reducing vehicle emissions in non-attainment areas, such as Harris County.

The efficiency of freight rail is a vital component of the Port of Houston's economy. The current freight rail system transports cargo at a relatively slow pace. Freight rail districts would help to reorganize the current system to allow for the faster shipment of goods to and from the Port of Houston. Improving the efficiency of freight rail would attract investment to freight rail districts and thereby spur economic growth in the region.

**OPPONENTS  
SAY:**

By facilitating the possible expansion of commuter rail, this bill would encourage the proliferation of a costly and potentially dangerous form of transportation. Studies have shown that rail transit is the most expensive form of transportation, and most commuter rail systems consume more energy per passenger mile than cars. Data shows that highways are 14 times more cost effective than rail and that buses are 1.7 times more cost effective than rail. Also, commuter rail has proven dangerous for drivers and pedestrians. Furthermore, emissions from trains are extremely costly to eliminate from the air — about \$1 million per ton of ozone precursors eliminated, which is considerably higher than the widely accepted efficiency standard of \$10,000 to \$20,000 cost per ton.

**NOTES:**

The committee substitute differs from the original in that the substitute does not contain funding language. Also, the substitute added that TTC would be able to appoint a non-voting representative to the board of directors of a freight rail district. It also would grant freight rail districts

the same powers as RRTDs and additional powers to those granted to RMAs. The substitute includes additional entities with which a freight rail district could contract and would allow these districts to operate in other counties.

The companion bill, SB 1624 by Lindsay, was heard in a public hearing by the Senate Transportation and Homeland Security Committee on April 13 and was left pending in committee.