

BILL ANALYSIS

Senate Research Center
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S.B. 628
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Infrastructure
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As Filed

DIGEST

Currently, two major Class 1 railroads and a single smaller Class 1 carrier, one Class 2 carrier and approximately thirty-four Class 3 railroads, remain in Texas. Major rail-dependent industries such as the agricultural production industry which stretches from the Panhandle to the Rio Grande Valley, the petrochemical industry of the Gulf Coast, and the raw materials industry along the Balcones Escarpment in Central Texas, are limited to a single, monopoly carrier. This bill would provide a decentralized mechanism by which the state may encourage the development of competitive rail transportation markets through the agency of rail transportation districts.

PURPOSE

As proposed, S.B. 628 provides guidelines for the issuance of a declaration of taking and establishes a competitive rail account to assist rail transportation districts.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the railroad commission in SECTION 7 (Article 6550c, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1, Article 6550c, V.T.C.S., to provide that the legislature finds the state contains many industries that are dependent on rail transportation, and thus the competitiveness of Texas industries and agriculture is threatened by a monopolization of railroad companies; and that it is in the interest of all citizens to have access to a competitive rail transportation market. Provides that rail transportation districts, rather than rural rail transportation districts, are appropriate for the continued operation of railroads. Makes conforming changes.

SECTION 2. Amends Sections 2(1), (4), and (11), Article 6550c, V.T.C.S., to make conforming changes.

SECTION 3. Amends Section 3(a), Article 6550c, V.T.C.S., to make a conforming change.

SECTION 4. Amends Section 3A(a), Article 6550c, V.T.C.S., to make a conforming change.

SECTION 5. Amends Section 5(a), Article 6550c, V.T.C.S., to make a conforming change.

SECTION 6. Amends Chapter 623, Article 6550c, V.T.C.S., by adding Section 5A, as follows:

Sec. 5A. DECLARATION OF TAKING; POSSESSION OF PROPERTY. (a) Authorizes a district to file a declaration of taking with the clerk of the court in which the district files a condemnation petition or to which the case is assigned.

(b) Authorizes a district to file a declaration of taking with the filing of the condemnation petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(c) Requires the declaration to include certain provisions.

(d) Requires a deposit equal to the amount of the appraised fair market value of the property to

be condemned and any damages to the remainder to accompany the declaration of taking.

(e) Authorizes a district, with a court's approval, to tender in favor of the owner of the subject property a security for the value of the property taken and damages to remaining property.

(f) Provides that the date on which the declaration is filed is the date of taking.

(g) Authorizes an owner to draw upon the deposit held by a court under state law regarding a property owner's withdrawal of a commissioners' award deposited under Section 21.021(a) (1), Property Code.

(h) Provides that a defendant in an eminent domain action has 20 days after the date of service of process of a condemnation petition and a notice of declaration of taking to give notice to a court to have the condemnation placed on the court's docket. Requires the court to place the case on its docket on receipt of timely notice from the defendant.

(i) Requires a district to provide a copy of the declaration of taking to all persons possessing an interest in the condemned property. Requires the district to file evidence of the service with the clerk of the court and authorizes the district to take possession of the property on certain terms.

(k) Provides that a property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code.

SECTION 7. Amends Chapter 623, Article 6650c, V.T.C.S., by adding Section 6B, as follows:

Sec. 6B. COMPETITIVE RAIL ACCOUNT. Provides that the competitive rail account is part of the general revenue fund and the account may only be appropriated to the railroad commission for grants or loans under this section. Authorizes the commission to grant or loan money to a district to assist covering cost for the project. Requires the commission to adopt rules governing the qualifications and the application process to receive assistance under this section.

SECTION 8. Effective date: September 1, 1999.

SECTION 9. Emergency clause.