

BILL ANALYSIS

Senate Research Center
77R3870 JD-F

S.B. 348
By: Truan
State Affairs
2/5/2001
As Filed

DIGEST AND PURPOSE

Currently, Texas has no formal mechanism for preserving railroads and rail right-of-ways that are being abandoned, putting some rail-dependent industries and agricultural and rural communities at a competitive disadvantage through loss of rail service. As proposed, S.B. 348 provides a mechanism by which the Texas Department of Transportation could preserve right-of-ways in cases of complete rail abandonment and provides opportunities for counties with rail-dependent industry or agricultural or rural communities to preserve rail service where it is practical to do so.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 2 (Sections 4 and 9, Article 6550c-2, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth legislative findings.

SECTION 2. Amends Chapter 13, Title 112, V.T.C.S., by adding Article 6550c-2, as follows:

Art. 6550c-2. PRESERVATION OF RAIL FACILITIES BY TEXAS DEPARTMENT OF TRANSPORTATION

Sec. 1. DEFINITIONS. Defines “commission,” “department,” “maintenance facility,” “rail facility,” “railroad operator,” “right-of-way,” “short line railroad,” “station,” “switching railroad,” “trackwork,” and “train controls.”

Sec. 2. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. Requires the Texas Department of Transportation (department), on receipt of notice of intent to abandon or discontinue rail service described by 49 C. F. R. Section 1152.20, and its subsequent amendments, to coordinate with the governing body of any municipality, county, or rural rail transportation district in which all or a segment of the line is located as to whether, under this article, the department should acquire the rail facilities to which the notice relates, or any other actions should be taken to provide for continued rail transportation service in this state.

Sec. 3. ACQUISITION AND LEASE OF RAIL FACILITIES. (a) Authorizes the Texas Transportation Commission (commission) to authorize the department to acquire rail facilities at locations and on routes the commission determines to be feasible and viable for continued rail transportation service in this state.

(b) Authorizes the department to enter into an agreement with an owner of an operating railroad for the acquisition or use of rail facilities on terms the department finds to be in the best interests of this state.

(c) Authorizes the department to enter into an agreement with a railroad operator selected as provided by this article to lease, or contract for the use or operation of, all or any part of a state-owned rail facility. Requires the agreement to provide for the department's monitoring of a railroad operator's service and performance.

(d) Authorizes the department to enter into an agreement with a railroad operator to sell all or any part of a state-owned rail facility on terms the department finds to be in the best interests of this state.

Sec. 4. SELECTION OF RAILROAD OPERATORS. (a) Requires the department to file notice with the secretary of state for publication in the Texas Register of its intent to solicit proposals to lease all or part of a state-owned rail facility.

(b) Requires the commission to adopt rules to allow the department to discuss a proposal with the offeror to assess the feasibility of the proposal, and negotiate the terms of a lease agreement with a railroad operator under this article.

(c) Authorizes the department to enter into a lease agreement with a railroad operator under this article only if the department determines the agreement provides the best value to the state.

Sec. 5. ACQUISITION AND DISPOSAL OF REAL PROPERTY. (a) Authorizes the commission to authorize the department to acquire by purchase, in the name of this state, any right-of-way or other interest in real property the department finds necessary or convenient to the acquisition of rail facilities under this article.

(b) Authorizes the governing body of a public agency or a municipality, county, or other political subdivision to convey to the department without advertisement title to, or right in, property that the department determines to be necessary or convenient under this section.

(c) Authorizes the department to sell, convey, or otherwise dispose of a right or interest in real property acquired under this section that the commission determines is no longer needed for department purposes.

Sec. 6. PLACEMENT OF UTILITY FACILITIES, LINES, AND EQUIPMENT. (a) Requires a utility that is authorized by law to place its facilities, lines, or equipment in, over, or across railroad right-of-way to notify the department of the utility's intention to exercise that authority over right-of-way that is part of state-owned rail facilities.

(b) Authorizes a utility to exercise the authority described by Subsection (a) of this section over right-of-way that is part of state-owned rail facilities only with the consent of the department.

(c) Authorizes the department, on receipt of notice under Subsection (a) of this section, to designate the location in the right-of-way at which the utility may place its facilities, lines, or equipment.

(d) Authorizes the department to require a utility to relocate the utility's facilities, lines, or equipment, at the utility's expense, to allow for the expansion or relocation of rail facilities owned by the state.

Sec. 7. ABANDONED RAIL ACCOUNT. (a) Provides that the abandoned rail account is an account in the state highway fund. Authorizes money in the account to be appropriated only to the department to implement this article.

(b) Requires certain funds to be deposited to the credit of the abandoned rail account.

(c) Provides that the abandoned rail account is exempt from any law that relates to the abolition of funds or accounts in the state treasury, or that relates to the abolition of dedications or rededications of revenue in the state treasury.

Sec. 8. EXPENDITURE OF FUNDS. (a) Authorizes the department to receive, accept, and expend money received from the state, a federal agency, or from another public or private source for certain specific expenditures.

(b) Authorizes the department to use money in the abandoned rail account established under Section 7 of this article to carry out any power granted or duty imposed under this article.

Sec. 9. RULES. Requires the commission to adopt rules as necessary to implement this article.

Sec. 10. LIMITATION. Provides that this article does not authorize the department to regulate, operate, or maintain rail facilities.

SECTION 3. Effective date: September 1, 2001.