

BILL ANALYSIS

Senate Research Center
80R19940 JRJ-D

C.S.H.B. 3711
By: Krusee (Shapleigh)
Transportation & Homeland Security
5/17/2007
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many of the civil statutes within Title 112 (Railroads), Revised Statutes, are outdated or are preempted by federal law. The federal Surface Transportation Board has exclusive jurisdiction over the business operation of railroads. The Federal Railroad Administration has jurisdiction over railroad safety that preempts state regulation on the same topic. Generally, Texas' modern statutes on railroads are contained in the Transportation Code. There may no longer be a need to have separate law on corporations that concern only railroad corporations.

C.S.H.B. 3711 repeals most of Title 112, Revised Statutes, and amends remaining language to conform with current statute.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 112, Revised Statutes, by adding Article 6259a, as follows:

Art. 6259a. DEFINITION. Defines "railroad corporation" or "railroad company."

SECTION 2. Amends Article 6336, Revised Statutes, as follows:

Art. 6336. WHEN CORPORATION AND OWNER DISAGREE. (a) Creates this subsection from existing text. Deletes existing text outlining the authorization of a railroad corporation to acquire property by condemnation. Authorizes a railroad corporation to acquire property by condemnation if the corporation cannot agree with the owner for the purchase of the property and the property is required for certain purposes. Makes conforming changes.

(b) Creates this subsection from existing text. Prohibits a railroad corporation from condemning property under this article that is located more than two miles from the right of way of the railroad corporation. Makes nonsubstantive changes.

SECTION 3. Amends Article 6351, Revised Statutes, as follows:

Art. 6351. EMINENT DOMAIN. Authorizes a railroad corporation or a receiver of any railroad that changes, relocates, or abandons a line of railroad in this state to acquire by condemnation or otherwise all lands for certain purposes, rather than lawful purposes, connected with or necessary to the building, operating, or running of the railroad as changed, relocated, or abandoned. Provides that all property acquired under this article is declared for and charged with public use, rather than use so far as the same may be necessary. Makes nonsubstantive changes.

SECTION 4. Amends Article 6445(a), Revised Statutes, as follows:

(a) Provides that the Texas Department of Transportation (TxDOT), to the extent not preempted by federal law, has power and authority over railroads, including suburban, belt and terminal railroads, rather than all railroads, certain property used in connection

with railroads, rather than all such property, and persons, associations, corporations, private or municipal, that own or operate a railroad or property used in connection with a railroad, rather than over all such entities. Requires TxDOT to govern and regulate those railroads, persons, associations, and corporations and to prevent abuses in the conduct of their business. Deletes existing text requiring TxDOT to adopt all necessary rates, charges, and regulations to govern those entities. Deletes existing text requiring TxDOT to correct abuses and to prevent unjust discrimination in the rates, charges, and tolls of those entities and to fix division of rates, charges, and regulations between railroads and other utilities and common carriers where a division is proper and correct. Deletes existing text authorizing TxDOT to do and perform such other duties and details in connection therewith as may be provided by law.

SECTION 5. (1) Repealer: Articles 6259 through 6274, Revised Statutes.

(2) Repealer: Articles 6275 through 6287, Revised Statutes.

(3) Repealer: Articles 6288 through 6293, Revised Statutes.

(4) Repealer: Articles 6294 through 6308, Revised Statutes.

(5) Repealer: Articles 6309 through 6315, Revised Statutes.

(6)(A) Repealer: Articles 6316, 6317, 6319, 6321 through 6325, 6328 through 6335, and 6340, Revised Statutes.

(B) Repealer: Chapter 73 (Right to Construct Spur Tracks), Acts of the 39th Legislature, Regular Session, 1925 (Article 6316a, V.T.C.S.).

(7) Repealer: Articles 6342 through 6350, 6352, and 6353, Revised Statutes.

(8)(A) Repealer: Articles 6354 through 6365, 6368, 6369, 6372 through 6376, 6379 through 6399, 6401, 6403 through 6416, 6418, and 6419, Revised Statutes.

(B) Repealer: Chapter 33 (Toilet Facilities and Sanitary Drinking Water on Engine and Caboose), Acts of the 69th Legislature, Regular Session, 1985 (Article 6398a, V.T.C.S.).

(C) Repealer: Chapter 240 (Relief to Railway Corporations Failing to Construct Roads), Acts of the 40th Legislature, Regular Session, 1927 (Article 6418a, V.T.C.S.).

(D) Repealer: Chapter 296 (Extension of Time for Construction of Railroads), Acts of the 41st Legislature, Regular Session, 1929 (Article 6418b, V.T.C.S.).

(9) Repealer: Articles 6421 through 6431, Revised Statutes.

(10)(A) Repealer: Articles 6448 through 6463, 6466, 6469, 6470, 6473, 6474, and 6478 through 6519, Revised Statutes.

(B) Repealer: Chapter 127 (Reception in Evidence of Schedules, Classifications, and Tariffs of Rates, Fares, and Charges), Acts of the 56th Legislature, Regular Session, 1959 (Article 6478a, V.T.C.S.).

(C) Repealer: Chapter 110 (Frequency of Freight Train Service; Powers of Commission; Hearing; Certificate; Furnishing Cars), Acts of the 43rd Legislature, Regular Session, 1933 (Article 6479a, V.T.C.S.).

(11) Repealer: Articles 6520 through 6534, Revised Statutes.

(12) Repealer: Article 6549, Revised Statutes.

(13) Repealer: Articles 6551 through 6554, Revised Statutes.

(14)(A) Repealer: Articles 6555 through 6559, Revised Statutes.

(B) Repealer: 6559g-1, 6559g-2, 6559h-1, 6559h-2, 6559h-3, 6559h-4, 6559h-5, 6559h-6, 6559h-7, 6559h-8, 6559h-9, 6559h-10, 6559h-11, 6559i-3, 6559i-4, 6559i-5, 6559i-6, and 6559i-7, as compiled in V.T.C.S.

SECTION 6. Provides that a railroad incorporated under Title 112, Revised Statutes, is not affected by the repeal under this Act of the laws involving incorporation under that title. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2007.