

## **BILL ANALYSIS**

Senate Research Center

S.B. 1523  
By: Nichols  
Transportation  
5/26/2017  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 1996, the Federal Transit Administration (FTA) established the State Safety Oversight (SSO) program, which oversees rail fixed guideway public transportation systems. As a result, an eligible state must obtain statutory authority for its SSO program and designate a state agency to oversee and enforce safety at rail fixed guideway public transportation systems in its jurisdiction from engineering, construction, and revenue operations. In 1997, the Texas Legislature enacted S.B. 735, which added Section 455.005, Transportation Code, designating the Texas Department of Transportation (TxDOT) as the SSO agency.

Pursuant to the last two surface highway transportation bills, Moving Ahead for Progress in the 21st Century Act (MAP-21) and Fixing America's Surface Transportation (FAST ACT), TxDOT must:

- be financially and legally independent from the rail fixed guideway public transportation systems and provide oversight on these systems;
- not directly provide public transportation services in an area with a rail fixed guideway public transportation system subject to oversight;
- not employ any individual who is also responsible for the administration of rail fixed guideway public transportation systems;
- have the authority to review, approve, oversee, and enforce the implementation of the rail fixed guideway public transportation systems safety plan;
- have enforcement authority for overseeing all aspects of rail fixed guideway public transportation system safety during engineering, construction, and revenue operations; enforcement of relevant federal and state laws;
- have enforcement authority regarding the implementation of the agency safety plan; investigative, auditing, and inspection authority; and
- be responsible for the incorporation of safety management system principles and practices into the rail fixed guideway public transportation system SSO program.

S.B. 1523 simply puts Texas in line with federal SSO requirements of MAP-21 (Section 20021, Public Transportation Safety) and Part 674, Title 49, Code of Federal Regulation, Section 455.005, Transportation Code, which must be updated.

S.B. 1523 amends current law relating to the creation of the state safety oversight program for rail fixed guideway public transportation systems.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to Texas Transportation Commission (TTC) in SECTION 4 (Section 455.060, Transportation Code) of this bill.

Rulemaking authority previously granted to TTC is rescinded in SECTION 5 (Section 455.005, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Chapter 455, Transportation Code, to read as follows:

#### **CHAPTER 455. POWERS AND DUTIES OF DEPARTMENT OF TRANSPORTATION REGARDING MASS TRANSPORTATION**

SECTION 2. Amends Chapter 455, Transportation Code, by designating Sections 455.001 through 455.004 as Subchapter A and adding a subchapter heading, to read as follows:

#### **SUBCHAPTER A. GENERAL POWERS AND DUTIES**

SECTION 3. Amends Section 455.002, Transportation Code, to authorize the Texas Department of Transportation (TxDOT), subject to Section 455.052, to apply for and receive a gift or grant from a governmental or private source for use in performing TxDOT's functions under this chapter.

SECTION 4. Amends Chapter 455, Transportation Code, by adding Subchapter B, as follows:

#### **SUBCHAPTER B. STATE SAFETY OVERSIGHT PROGRAM**

Sec. 455.051. DEFINITION. Defines "rail fixed guideway public transportation system."

Sec. 455.052. DESIGNATION OF STATE SAFETY OVERSIGHT AGENCY; REQUIREMENTS AND PROHIBITIONS. (a) Provides that TxDOT is designated as the agency responsible for implementing a state safety oversight program that satisfies the requirements of 49 U.S.C. Section 5329(e).

(b) Requires TxDOT, unless waived under 49 U.S.C. Section 5329(e), to be financially and legally independent from any rail fixed guideway public transportation system under the oversight of TxDOT, and prohibits TxDOT from employing an individual who is also employed by a rail fixed guideway public transportation system under the oversight of TxDOT.

(c) Prohibits TxDOT from directly providing public transportation services in an area with a rail fixed guideway public transportation system under the oversight of TxDOT.

(d) Prohibits a public transportation entity from providing funds to TxDOT.

Sec. 455.053. OVERSIGHT. Requires TxDOT to oversee all safety aspects of rail fixed guideway public transportation systems in accordance with 49 U.S.C. Section 5329, including the development, implementation, and application of the public transportation agency safety plan.

Sec. 455.054. ENFORCEMENT. (a) Requires TxDOT to:

(1) enforce federal and state laws on rail fixed guideway public transportation safety;

(2) review, revise, approve, oversee, and enforce the required public transportation agency safety plan, including the implementation by a rail fixed guideway public transportation system of the system's plan;

(3) investigate and enforce the safety of rail fixed guideway public transportation systems; and

(4) coordinate all enforcement responsibilities with other governmental entities as needed.

Sec. 455.055. STAFFING LEVELS; TRAINING. (a) Requires TxDOT, in consultation with the Federal Transit Administration (FTA), to determine an appropriate staffing level for the state safety oversight program that is commensurate with the number, size, and complexity of rail fixed guideway public transportation systems in this state.

(b) Requires TxDOT to ensure that the personnel who are responsible for rail fixed guideway public transportation safety oversight are qualified to perform oversight functions through appropriate training, including the successful completion of the public transportation safety certification training program established under 49 U.S.C. Section 5329(c).

Sec. 455.056. AUDIT OF COMPLIANCE WITH PUBLIC TRANSPORTATION AGENCY SAFETY PLAN. Requires TxDOT, at least once every three years, to audit the compliance of the rail fixed guideway public transportation systems in this state with the required public transportation agency safety plan.

Sec. 455.057. ANNUAL STATUS REPORT. Requires TxDOT to provide an annual status report on the safety of the state's rail fixed guideway public transportation systems to the governor, the lieutenant governor, the speaker of the house of representatives, the FTA, and the governing body of each rail fixed guideway public transportation system under the oversight of TxDOT.

Sec. 455.058. USE OF CONTRACTOR. (a) Authorizes TxDOT to enter into an agreement with a contractor to act on behalf of TxDOT in carrying out the duties of TxDOT under this subchapter.

(b) Prohibits a contractor from providing services to both TxDOT and a rail fixed guideway public transportation system under the oversight of TxDOT, unless the provision of those services is authorized by a waiver issued by the Federal Transit Administrator or the administrator's designee.

Sec. 455.059. CONFIDENTIAL INFORMATION. Provides that the data collected for and the report of an investigation conducted under this subchapter by TxDOT or a contractor acting on behalf of TxDOT and any part of a rail fixed guideway public transportation system safety plan that concerns security for the system are confidential and not subject to disclosure under Chapter 552 (Public Information), Government Code.

Sec. 455.060. RULES. Requires the Texas Transportation Commission (TTC) to adopt rules necessary to implement this subchapter.

SECTION 5. Repealer: Section 455.005 (Rail Fixed Guideway Mass Transportation System Safety Oversight), Transportation Code.

SECTION 6. Requires TTC, not later than March 1, 2019, to adopt rules to implement Subchapter B, Chapter 455, Transportation Code, as added by this Act.

SECTION 7. Effective date: upon passage or September 1, 2017.