

By: Eissler

H.B. No. 1950

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operations, and financing of a regional commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 13, Title 112, Revised Statutes, is amended by adding Article 6550c-3 to read as follows:

Art. 6550c-3. REGIONAL COMMUTER RAIL DISTRICTS

Sec. 1. DEFINITIONS. In this article:

(1) "Commission" means the Texas Transportation Commission.

(2) "Commuter rail facility" means any property necessary for the transportation of passengers and baggage between points in a district. The term includes rolling stock, locomotives, stations, parking areas, and rail lines.

(3) "Creating county" means a county described by Section 2(b) of this article.

(4) "Department" means the Texas Department of Transportation.

(5) "District" means a regional commuter rail district created under this article.

(6) "District property" means all property the district owns or leases under a long-term lease.

1 (7) "System" means all of the commuter rail and
2 intermodal facilities leased or owned by or operated on behalf of a
3 district.

4 Sec. 2. CREATION OF REGIONAL COMMUTER RAIL DISTRICT. (a) A
5 regional commuter rail district may be created to provide commuter
6 rail service to areas of the region for which a regional commuter
7 rail district is created.

8 (b) A regional commuter rail district is created by two or
9 more counties on adoption of an order favoring the creation of the
10 district by the commissioners court of each creating county.

11 (c) The following political subdivisions may become part of
12 a regional commuter rail district created under Subsection (b) of
13 this section with the approval of the governing body of the
14 political subdivision:

15 (1) a county that is adjacent to a creating county; and

16 (2) a municipality with a population of more than
17 18,000 that has territory in a county that is part of the district.

18 Sec. 3. BOARD. (a) A district is governed by a board of
19 directors. The board is responsible for the management, operation,
20 and control of the district.

21 (b) The board is composed of nine members appointed by the
22 governor. Each member serves a term of two years.

23 (c) The members of the board shall elect one member as
24 presiding officer. The presiding officer may select another member
25 to preside in the absence of the presiding officer.

26 (d) The presiding officer shall call at least one meeting of
27 the board each year and may call other meetings as the presiding

1 officer determines are appropriate.

2 (e) A member of the board is not entitled to compensation
3 for serving as a member but is entitled to reimbursement for
4 reasonable expenses incurred while serving as a member.

5 (f) The board shall adopt rules for its proceedings and
6 appoint an executive committee. The board may employ and
7 compensate persons to carry out the powers and duties of the
8 district.

9 (g) Chapter 171, Local Government Code, applies to a member
10 of the board.

11 Sec. 4. POWERS AND DUTIES OF DISTRICT. (a) A district
12 created under this article is a public body and a political
13 subdivision of the state exercising public and essential
14 governmental functions and has all the powers necessary or
15 convenient to carry out the purposes of this article. A district,
16 in the exercise of powers under this article, is performing only
17 governmental functions and is a governmental unit within the
18 meaning of Chapter 101, Civil Practice and Remedies Code.

19 (b) A district is subject every 12th year to review under
20 Chapter 325, Government Code (Texas Sunset Act).

21 (c) A district may sue and be sued in all courts, may
22 institute and prosecute suits without giving security for costs,
23 and may appeal from a judgment without giving a supersedeas or cost
24 bond. An action at law or in equity against the district must be
25 brought in the county in which a principal office of the district is
26 located, except that in an eminent domain proceeding involving an
27 interest in land, suit must be brought in the county in which the

1 land is located.

2 (d) A district may acquire by grant, purchase, gift, devise,
3 lease, or otherwise and may hold, use, sell, lease, or dispose of
4 real and personal property, licenses, patents, rights, and
5 interests necessary, convenient, or useful for the full exercise of
6 its powers.

7 (e) A district may acquire, construct, develop, own,
8 operate, and maintain intermodal and commuter rail facilities to
9 connect political subdivisions in the district. For this purpose
10 and with the consent of a municipality, county, or other political
11 subdivision, the district may use streets, alleys, roads, highways,
12 and other public ways of the municipality, county, or other
13 political subdivision and may relocate, raise, reroute, change the
14 grade of, or alter, at the expense of the district, the construction
15 of any street, alley, highway, road, railroad, electric lines and
16 facilities, telegraph and telephone properties and facilities,
17 pipelines and facilities, conduits and facilities, and other
18 properties, whether publicly or privately owned, as necessary or
19 useful in the construction, reconstruction, repair, maintenance,
20 and operation of the system. A district may not use or alter a road
21 or highway that is part of the state highway system without the
22 permission of the commission or a railroad without permission of
23 the railroad. A district may acquire by purchase any interest in
24 real property for the acquisition, construction, or operation of a
25 commuter rail facility on terms and at a price as agreed to between
26 the district and the owner. The governing body of a municipality,
27 county, other political subdivision, or public agency may convey

1 title or rights and easements to any property needed by the district
2 to effect its purposes in connection with the acquisition,
3 construction, or operation of the system.

4 (f) A district has the right of eminent domain to acquire
5 real property in fee simple or an interest in real property less
6 than fee simple in, on, under, or above land, including an easement,
7 right-of-way, or right of use of airspace or subsurface space. The
8 power of eminent domain under this section does not apply to land
9 under the jurisdiction of the department or a metropolitan rapid
10 transit authority organized under Chapter 451, Transportation
11 Code, or a rail line owned by a common carrier or municipality. The
12 district shall, to the extent possible, use existing rail or
13 intermodal transportation corridors for the alignment of its
14 system. A proceeding for the exercise of the power of eminent
15 domain is begun by the adoption by the board of a resolution
16 declaring the public necessity for the acquisition by the district
17 of the property or interest described in the resolution and that the
18 acquisition is necessary and proper for the construction,
19 extension, improvement, or development of commuter rail facilities
20 and is in the public interest. The resolution of the district is
21 conclusive evidence of the public necessity of the proposed
22 acquisition and that the real or personal property or interest in
23 property is necessary for public use.

24 (g) A district may make agreements with a public utility,
25 private utility, communication system, common carrier, state
26 agency, or transportation system for the joint use of facilities,
27 installations, or properties inside or outside the district and

1 establish through routes and joint fares.

2 (h) A district may adopt rules to govern the operation of
3 the district, its employees, the system, service provided by the
4 district, and any other necessary matter concerning its purposes,
5 including rules relating to health, safety, alcohol or beverage
6 service, food service, and telephone and utility services, to
7 protect the health, safety, and general welfare of residents of the
8 district and people who use the district's services.

9 (i) A district may enter into a joint ownership agreement
10 with any person.

11 (j) A district shall establish and maintain rates or other
12 compensation for the use of the facilities of the system acquired,
13 constructed, operated, regulated, or maintained by the district
14 that is reasonable and nondiscriminatory and, together with grants
15 received by the district, is sufficient to produce revenues
16 adequate:

17 (1) to pay all expenses necessary for the operation
18 and maintenance of the properties and facilities of the district;

19 (2) to pay the interest on and principal of bonds
20 issued by the district and payable in whole or in part from the
21 revenues, as they become due and payable; and

22 (3) to fulfill the terms of an agreement made with the
23 holders of bonds or with any person in their behalf.

24 (k) A district may make contracts, leases, and agreements
25 with, and accept grants and loans from, the United States of
26 America, its departments and agencies, this state, agencies and
27 political subdivisions of this state, and other persons and

1 entities and may perform any act necessary for the full exercise of
2 the powers vested in it. The commission may enter an interlocal
3 agreement with a district under which the district may exercise a
4 power or duty of the commission for the development and efficient
5 operation of an intermodal corridor in the district. A district may
6 acquire rolling stock or other property under conditional sales
7 contracts, leases, equipment trust certificates, or any other form
8 of contract or trust agreement. A revenue bond indenture may limit
9 the exercise of the powers granted by this section, and a limit
10 applies as long as the revenue bonds issued under the indenture are
11 outstanding and unpaid.

12 (l) A district by resolution may adopt rules governing the
13 use, operation, and maintenance of the system and may determine or
14 change a routing as the board considers advisable.

15 (m) A district may lease all or part of the commuter rail
16 facilities to, or contract for the use or operation of all or part
17 of the commuter rail facilities by, an operator. A district shall
18 encourage to the maximum extent practicable the participation of
19 private enterprise in the operation of commuter rail facilities.
20 The term of an operating contract under this subsection may not
21 exceed 20 years.

22 (n) A district may contract with a county or other political
23 subdivision of this state for the district to provide commuter rail
24 transportation services to an area outside the boundaries of the
25 district on such terms and conditions as the parties agree to.

26 (o) A district may purchase an additional insured provision
27 to any liability insurance contract.

1 (p) Before beginning the operation of commuter rail
2 facilities, the board shall adopt an annual operating budget
3 specifying the anticipated revenues and expenses of the district
4 for the remainder of the fiscal year. Each year the board shall
5 adopt an operating budget for the district. The fiscal year of the
6 district ends September 30 unless changed by the board. The board
7 shall hold a public hearing before adopting a budget other than the
8 initial budget. Notice of each hearing must be published at least
9 seven days before the date of the hearing in a newspaper of general
10 circulation in the district. A budget may be amended at any time if
11 notice of the proposed amendment is given in the notice of the
12 meeting at which the amendment will be considered. An expenditure
13 that is not budgeted may not be made.

14 (q) A district is eligible to participate in the Texas
15 County and District Retirement System.

16 (r) The board of a district shall by resolution name one or
17 more banks for the deposit of district funds. District funds are
18 public funds and may be invested in securities permitted by Chapter
19 2256, Government Code. To the extent funds of the district are not
20 insured by the Federal Deposit Insurance Corporation or its
21 successor, they shall be collateralized in the manner provided for
22 county funds.

23 Sec. 5. BONDS AND NOTES. (a) A district may issue revenue
24 bonds and notes in amounts as the board considers necessary or
25 appropriate for the acquisition, purchase, construction,
26 reconstruction, repair, equipping, improvement, or extension of
27 the district's commuter rail facilities. A bond or note is fully

1 negotiable and may be made redeemable before maturity, at the
2 option of the district and at the price and under the terms the
3 board determines in the resolution authorizing the bond or note and
4 may be sold at public or private sale, as the board determines.

5 (b) A district shall submit all bonds and notes and the
6 record of proceedings relating to their issuance to the attorney
7 general for examination before delivery. If the attorney general
8 determines that they have been issued in accordance with the
9 constitution and this article and that they will be binding
10 obligations of the district issuing them, the attorney general
11 shall approve them, and the comptroller shall register them. A bond
12 or note issued under this article is incontestable after approval,
13 registration, and sale and delivery of the bond or note to the
14 purchaser.

15 (c) To secure the payment of the bond or note, the district
16 may encumber and pledge all or any part of the revenues of its
17 commuter rail facilities, may mortgage and encumber all or part of
18 the property of the commuter rail facilities and everything
19 pertaining to them that is acquired or to be acquired, and may
20 prescribe the terms and provisions of the bond or note in any manner
21 not inconsistent with this article. If not prohibited by the
22 resolution or indenture relating to outstanding bonds or notes, a
23 district may encumber separately any item of real or personal
24 property.

25 (d) A bond or note is a legal and authorized investment for
26 banks, trust companies, savings and loan associations, and
27 insurance companies. The bond or note is eligible to secure the

1 deposit of public funds of this state or a municipality, county,
2 school district, or other political corporation or subdivision of
3 this state. The bond or note is lawful and sufficient security for
4 the deposits to the extent of the principal amount or market value
5 of the bond or note, whichever is less.

6 Sec. 6. COMPETITIVE BIDS. A contract in the amount of more
7 than \$15,000 for the construction of improvements or the purchase
8 of material, machinery, equipment, supplies, or any other property
9 other than real property may be let only on competitive bids after
10 notice published, at least 15 days before the date set for receiving
11 bids, in a newspaper of general circulation in the district. The
12 board may adopt rules governing the taking of bids and the awarding
13 of contracts. This section does not apply to:

14 (1) personal or professional services;

15 (2) the acquisition of an existing rail transportation
16 system; or

17 (3) a contract with a common carrier to construct
18 lines or to operate commuter rail service on lines owned in whole or
19 in part by the carrier.

20 Sec. 7. EXEMPTION FROM TAXES. The property, material
21 purchases, revenues, and income of a district and the interest on a
22 bond or note issued by a district are exempt from all taxes imposed
23 by this state or a political subdivision of this state.

24 SECTION 2. This Act takes effect September 1, 2003.