

By: Hamric

H.B. No. 2958

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of freight rail districts; granting  
3 authority to issue bonds or other similar obligations to create  
4 public debt; granting the power of eminent domain.

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

6 SECTION 1. The legislature finds that:

7 (1) certain areas of the state suffer from an  
8 outdated, uncoordinated, and inefficient system of freight rail  
9 lines that were originally constructed in rural, sparsely populated  
10 areas that have become part of urban or metropolitan areas;

11 (2) the excessive number of rail lines in these areas  
12 and the associated at-grade crossings reduce mobility,  
13 unnecessarily increase automobile idling time, increase automobile  
14 emissions, increase the risk of automobile and train accidents,  
15 unnecessarily disrupt residential neighborhoods with freight rail  
16 traffic, and reduce the speed at which freight rail cargoes reach  
17 their destinations;

18 (3) the ports and related private industry of this  
19 state, which are essential to the commerce and economic development  
20 of the entire state, have traditionally been and continue to be  
21 major generators of freight rail traffic, as a result of which ports  
22 must be participants in the coordination of freight rail traffic in  
23 areas in which the ports operate; and

24 (4) a system of consolidated, improved freight rail

1 lines will reduce pollution, improve safety, increase regional  
2 mobility, decrease transit times for freight rail cargoes, benefit  
3 the environment, and generally enhance economic development and the  
4 quality of life in affected areas.

5 SECTION 2. Title 5, Transportation Code, is amended by  
6 adding Subtitle I to read as follows:

7 SUBTITLE I. SPECIAL DISTRICTS

8 CHAPTER 171. FREIGHT RAIL DISTRICTS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 171.001. DEFINITIONS. In this chapter:

11 (1) "Board" means the district's board of directors.

12 (2) "Bonds," "rail facilities," and "revenues" have  
13 the meanings assigned by Chapter 623, Acts of the 67th Legislature,  
14 Regular Session, 1981 (Article 6550c, Vernon's Texas Civil  
15 Statutes).

16 (3) "District" means a freight rail district created  
17 under this chapter.

18 (4) "Principal municipality" means the most populous  
19 municipality in the most populous county that created the district.

20 Sec. 171.002. APPLICABILITY OF RURAL RAIL TRANSPORTATION  
21 DISTRICTS LAW. (a) Except as provided by this chapter, Chapter  
22 623, Acts of the 67th Legislature, Regular Session, 1981 (Article  
23 6550c, Vernon's Texas Civil Statutes), applies to the district as  
24 if the district was created under that chapter.

25 (b) For purposes of this chapter, an "eligible county" under  
26 Chapter 623, Acts of the 67th Legislature, Regular Session, 1981  
27 (Article 6550c, Vernon's Texas Civil Statutes), means a county that

1 created the district.

2 [Sections 171.003-171.050 reserved for expansion]

3 SUBCHAPTER B. CREATION

4 Sec. 171.051. APPLICABILITY TO CERTAIN COUNTIES. A  
5 district may be created only in a county with a population of 3.3  
6 million or more and counties adjacent to such a county.

7 Sec. 171.052. CREATION BY COUNTIES AND MUNICIPALITIES. The  
8 governing bodies of one or more counties and a principal  
9 municipality may by concurrent order or orders and by concurrent  
10 ordinance create a district. A district must include:

11 (a) a county with a population of 3.3 million or more; and

12 (b) a principal municipality.

13 Sec. 171.053. DISTRICT TERRITORY. The district consists of  
14 the territory of each county that created the district and the  
15 principal municipality, if located in more than one county.

16 [Sections 171.054-171.100 reserved for expansion]

17 SUBCHAPTER C. BOARD OF DIRECTORS

18 Sec. 171.101. COMPOSITION OF BOARD. The concurrent order  
19 or orders and current ordinance creating the district must specify  
20 the number of directors for the district and who appoints the  
21 directors, except as otherwise provided in Sec. 171.103 and Sec.  
22 171.104.

23 Sec. 171.102. PRESIDING OFFICER. The concurrent order or  
24 orders and concurrent ordinance creating the district must specify  
25 who shall serve as presiding officer of the board.

26 Sec. 171.103. NAVIGATION DISTRICT. If the most populous  
27 county in the district contains a countywide navigation district

1 and the presiding officer of the navigation district is jointly  
2 appointed by the county and the principal municipality, one of the  
3 directors appointed by the most populous county in the district  
4 shall be the presiding officer of the navigation district. The  
5 common law doctrine of incompatibility does not apply to a director  
6 who serves under this section.

7 Sec. 171.104. DEPARTMENT OF TRANSPORTATION The Texas  
8 Transportation Commission may appoint a representative to serve as  
9 an ex officio member of the board of the District.

10 Sec. 171.105. CONFLICT OF INTEREST. Chapter 171, Local  
11 Government Code, governs conflicts of interest for directors.

12 [Sections 171.106-171.150 reserved for expansion]

13 SUBCHAPTER D. POWERS AND DUTIES

14 Sec. 171.151. GENERAL POWERS. A district may study,  
15 evaluate, design, finance acquire, construct, maintain, repair,  
16 and operate a system of consolidated, improved, freight rail lines  
17 and other transportation projects.

18 Sec. 171.152. FREIGHT RAIL SYSTEM. (a) A district may  
19 plan, acquire, construct, complete, develop, finance, maintain,  
20 improve, own, and operate a new or existing system of freight rail  
21 facilities, including:

22 (1) tracks;

23 (2) rail lines;

24 (3) switching, signaling, or other operating  
25 equipment;

26 (4) a depot;

27 (5) locomotives;

- 1           (6) rolling stock;  
2           (7) maintenance facilities; and  
3           (8) any other property associated with freight rail  
4 operation.

5           (b) A district may, for a freight rail system created or  
6 operated under this section, exercise the transportation project  
7 powers of a regional mobility authority under Chapter 370.

8           Sec. 171.153. GENERAL CONTRACT POWERS. A district may  
9 contract with:

10           (1) any county or municipality, including those that  
11 created the district;

12           (2) a navigation district that includes all or part of  
13 a county or municipality that created the district;

14           (3) a municipality that operates a port in a county  
15 that created the district; or

16           (4) the state and any agency or political subdivision  
17 of the state.

18           Sec. 171.154. CONTRACT FOR GOODS OR SERVICES. A district  
19 may contract with a county or any other political subdivision of  
20 this state for the district to provide goods or services to an area  
21 outside the boundaries of the district on any conditions agreed to  
22 by the parties.

23           Sec. 171.155. EXERCISE OF POWERS IN OTHER COUNTIES. The  
24 commissioners court of a county that is not in the district may  
25 authorize the district to exercise its powers in the county.

26           [Sections 171.156-171.200 reserved for expansion]

1                   SUBCHAPTER E. FINANCIAL PROVISIONS

2           Sec. 171.201. PLEDGE OF REVENUES. A district may secure and  
3 pledge revenues derived from any source to secure the payment of  
4 district bonds.

5           Sec. 171.202. PURCHASE CONTRACTS. Subchapter C, Chapter  
6 60, Water Code, as added by Chapter 307, Acts of the 78th  
7 Legislature, Regular Session, 2003, applies to the district as if  
8 the district were a navigation district under that subchapter. For  
9 the purposes of applying that subchapter to the district under this  
10 section, "commission" means the board.

11           Sec. 171.203. AD VALOREM TAX PROHIBITED. A district may not  
12 impose an ad valorem tax.

13           [Sections 171.204-171.250 reserved for expansion]

14                   SUBCHAPTER F. WITHDRAWAL; DISSOLUTION

15           Sec. 171.251. WITHDRAWAL. A county or municipality that  
16 created the district may petition the board for approval to  
17 withdraw from the district. The board may approve the petition only  
18 if:

19                   (1) the district has no outstanding bonds; or

20                   (2) the district has debt other than bonds and the  
21 board finds that the withdrawal of the county or municipality will  
22 not materially affect the ability of the district to repay the debt.

23           Sec. 171.252. DISSOLUTION. In addition to the dissolution  
24 procedures provided by Chapter 623, Acts of the 67th Legislature,  
25 Regular Session, 1981 (Article 6550c, Vernon's Texas Civil  
26 Statutes), the board may dissolve a district if:

27                   (1) all district liabilities have been paid or

1 adequate provision has been made for the payment of all  
2 liabilities;

3 (2) the district is not a party to any lawsuits or  
4 adequate provision has been made for the satisfaction of any  
5 judgment or order that may be entered against the district in a  
6 lawsuit to which the district is a party; and

7 (3) the district has commitments from other  
8 governmental entities to assume jurisdiction of all district rail  
9 facilities.

10 [Sections 171.253-171.260 reserved for expansion]

11 SUBCHAPTER G. COMMUTER RAIL

12 Sec. 171.261. APPLICABILITY OF INTERMUNICIPAL COMMUTER  
13 RAIL DISTRICTS LAW. If the concurrent order or orders and  
14 concurrent ordinance creating the district expressly so provide, a  
15 district may exercise the powers of a district under Chapter 381,  
16 Acts of the 75th Legislature, Regular Session 1997 (Article  
17 6550c-1, Vernon's Texas Civil Statutes), in addition to the other  
18 powers as provided in this chapter.

19 [Sections 171.262-171.270 reserved for expansion]

20 SECTION 3. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2005.