

BILL ANALYSIS

H.B. 2510
By: Martinez, "Mando"
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Border Region, especially the Rio Grande Valley, is one of the fastest growing areas in Texas as well as the entire United States. As populations grow, so do transportation needs. To address the growing transportation needs and associated problems, alternative forms of transportation need to be studied. If deemed feasible and acceptable, such alternative forms of transportation should be considered for implementation.

HB 2510 allows for the creation of a light rail district to study, and if necessary, adopt the rules to create and establish a light rail system in the Border Region.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

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

Sec. 1. DEFINITIONS. Defines "commission", "commuter rail facility", "creating county", "department", "district", "district property", and "system".

Sec. 2. CREATION OF COMMUTER RAIL DISTRICT. A commuter rail district is authorized to be created to provide commuter rail service to counties along the Texas-Mexico border. The commissioners court of a county is authorized to create a commuter rail district on adoption of an order favoring the creation.

Sec. 3. BOARD. A district is governed by a board of directors. The board is responsible for the management, operation, and control of the district. The board is composed of five members. The county judge appoints one member and each county commissioner appoints one member. Each member serves a term of four years. The board is authorized to provide for the staggering of the terms of its members. The members of the board are required to elect one member as presiding officer. The presiding officer is authorized to select another member to preside in the absence of the presiding officer. The presiding officer is required to call at least one meeting of the board each year and is authorized to call other meetings as the presiding officer determines are appropriate. A member of the board is not entitled to compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred while serving as a member. The board is required to adopt rules for its proceedings and appoint an executive committee. The board is authorized to employ and compensate persons to carry out the powers and duties of the district.

Sec. 4. POWERS AND DUTIES OF DISTRICT. A district created under this article is a public body and a political subdivision of the state exercising public and essential governmental functions and has all the powers necessary or convenient to carry out the purposes of this article. A district, in the exercise of powers under this article, is performing only governmental functions and is a

governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code. A district is authorized to sue and be sued in all courts, institute and prosecute suits without giving security for costs, and is authorized to appeal from a judgment without giving a supersedeas or cost bond. An action at law or in equity against the district must be brought in the county in which a principal office of the district is located, except that in an eminent domain proceeding involving an interest in land, suit must be brought in the county in which the land is located. A district is authorized to acquire by grant, purchase, gift, devise, lease, or otherwise and is authorized to hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of its powers. A district is authorized to acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities to connect political subdivisions in the district. For this purpose and with the consent of a municipality, county, or other political subdivision, the district is authorized to use streets, alleys, roads, highways, and other public ways of the municipality, county, or other political subdivision and is authorized to relocate, raise, reroute, change the grade of, or alter, at the expense of the district, the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system. A district is not authorized to use or alter a road or highway that is part of the state highway system without the permission of the commission or a railroad without permission of the railroad. A district is authorized to acquire by purchase any interest in real property for the acquisition, construction, or operation of a commuter rail facility on terms and at a price as agreed to between the district and the owner. The governing body of a municipality, county, other political subdivision, or public agency is authorized to convey title or rights and easements to any property needed by the district to effect its purposes in connection with the acquisition, construction, or operation of the system. A district has the right of eminent domain to acquire real property in fee simple or an interest in real property less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space. The power of eminent domain under this section does not apply to land under the jurisdiction of the department or a rail line owned by a common carrier or municipality. The district is required, to the extent possible, use existing rail or intermodal transportation corridors for the alignment of its system. A proceeding for the exercise of the power of eminent domain is begun by the adoption by the board of a resolution declaring the public necessity for the acquisition by the district of the property or interest described in the resolution and that the acquisition is necessary and proper for the construction, extension, improvement, or development of commuter rail facilities and is in the public interest. The resolution of the district is conclusive evidence of the public necessity of the proposed acquisition and that the real or personal property or interest in property is necessary for public use. A district is required to make agreements with a public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties inside or outside the district and establish through routes and joint fares. A district is authorized to adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, including rules relating to health, safety, alcohol or beverage service, food service, and telephone and utility services, to protect the health, safety, and general welfare of residents of the district and people who use the district's services. A district is authorized to enter into a joint ownership agreement with any person. A district is required to establish and maintain rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district that is reasonable and nondiscriminatory and, together with grants received by the district, is sufficient to produce revenues adequate: to pay all expenses necessary for the operation and maintenance of the properties and facilities of the district; to pay the interest on and principal of bonds issued by the district and payable in

whole or in part from the revenues, as they become due and payable; and to fulfill the terms of an agreement made with the holders of bonds or with any person in their behalf. A district is authorized to make contracts, leases, and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, this state, agencies and political subdivisions of this state, and other persons and entities and is authorized to perform any act necessary for the full exercise of the powers vested in it. The commission is authorized to enter an interlocal agreement with a district under which the district is authorized to exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the district. A district is authorized to acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. A revenue bond indenture is authorized to limit the exercise of the powers granted by this section, and a limit applies as long as the revenue bonds issued under the indenture are outstanding and unpaid. A district by resolution is authorized to adopt rules governing the use, operation, and maintenance of the system and is authorized to determine or change a routing as the board considers advisable. A district is authorized to lease all or part of the commuter rail facilities to, or contract for the use or operation of all or part of the commuter rail facilities by, an operator. A district is required to encourage to the maximum extent practicable the participation of private enterprise in the operation of commuter rail facilities. The term of an operating contract under this subsection is not authorized to not exceed 20 years. A district is authorized to contract with a county or other political subdivision of this state for the district to provide commuter rail transportation services to an area outside the boundaries of the district on such terms and conditions as the parties agree to. A district is authorized to purchase an additional insured provision to any liability insurance contract. Before beginning the operation of commuter rail facilities, the board is required to adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year. Each year the board is required to adopt an operating budget for the district. The fiscal year of the district ends September 30 unless changed by the board. The board is required to hold a public hearing before adopting a budget other than the initial budget. Notice of each hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district. A budget is authorized to be amended at any time if notice of the proposed amendment is given in the notice of the meeting at which the amendment will be considered. An expenditure that is not budgeted is not authorized to be made. A district is eligible to participate in the Texas County and District Retirement System. The board of a district is required to by resolution name one or more banks for the deposit of district funds. District funds are public funds and are authorized to be invested in securities permitted by Chapter 2256, Government Code. To the extent funds of the district are not insured by the Federal Deposit Insurance Corporation or its successor, they are required to be collateralized in the manner provided for county funds.

Sec. 5. BONDS AND NOTES. A district is authorized to issue revenue bonds and notes in amounts as the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of the district's commuter rail facilities. A bond or note is fully negotiable and is authorized to be made redeemable before maturity, at the option of the district and at the price and under the terms the board determines in the resolution authorizing the bond or note and is authorized to be sold at public or private sale, as the board determines. A district is required to submit all bonds and notes and the record of proceedings relating to their issuance to the attorney general for examination before delivery. If the attorney general determines that they have been issued in accordance with the constitution and this article and that they will be binding obligations of the district issuing them, the attorney general is required to approve them, and the comptroller is required to register them. A bond or note issued under this article is incontestable after approval, registration, and sale and delivery of the bond or note to the

purchaser. To secure the payment of the bond or note, the district is authorized to be encumber and pledge all or any part of the revenues of its commuter rail facilities, mortgage and encumber all or part of the property of the commuter rail facilities and everything pertaining to them that is acquired or to be acquired, and is authorized to prescribe the terms and provisions of the bond or note in any manner not inconsistent with this article. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, a district is required to encumber separately any item of real or personal property. A bond or note is a legal and authorized investment for banks, trust companies, savings and loan associations, and insurance companies. The bond or note is eligible to secure the deposit of public funds of this state or a municipality, county, school district, or other political corporation or subdivision of this state. The bond or note is lawful and sufficient security for the deposits to the extent of the principal amount or market value of the bond or note, whichever is less.

Sec. 6. COMPETITIVE BIDS. A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property other than real property is authorized to be let only on competitive bids after notice published, at least 15 days before the date set for receiving bids, in a newspaper of general circulation in the district. The board is authorized to adopt rules governing the taking of bids and the awarding of contracts. This section does not apply to: personal or professional services; the acquisition of an existing rail transportation system; or, a contract with a common carrier to construct lines or to operate commuter rail service on lines owned in whole or in part by the carrier.

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

Sec. 8. TAXATION. A district is authorized to impose any kind of tax except an ad valorem property tax. A district is not authorized to impose a tax or increase the rate of an existing tax unless a proposition proposing the imposition or rate increase is approved by a majority of the votes received at an election held for that purpose. Each new tax or rate increase must be expressed in a separate proposition consisting of a brief statement of the nature of the proposed tax. The notice of the election must contain a statement of the base or rate of the proposed tax. The board, subject to Subsection (b), is authorized to impose for an authority a sales and use tax at the rate of: one-quarter of one percent; one-half of one percent; three-quarters of one percent; or one percent. A district is not authorized to adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions of the state having territory in the district exceeds two percent in any location in the district. The adoption of a district's sales and use tax takes effect on the first day of the second calendar quarter beginning after the election approving the tax.

Sec. 9. CERTAIN MUNICIPALITIES. A municipality located within the district that wishes to be served by district commuter rail facilities must pay for construction of a commuter rail station.

SECTION 2. The effective date.

EFFECTIVE DATE

September 1, 2007.