

By: Martinez

H.B. No. 2510

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 Art. 6550c-3. COMMUTER RAIL DISTRICTS

9 Sec. 1. DEFINITIONS. In this article:

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

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

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

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

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

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

24 (7) "System" means all of the commuter rail and

1 intermodal facilities leased or owned by or operated on behalf of a  
2 district.

3 Sec. 2. CREATION OF COMMUTER RAIL DISTRICT. (a) A commuter  
4 rail district may be created to provide commuter rail service to  
5 counties along the Texas-Mexico border.

6 (b) The commissioners court of a county may create a  
7 commuter rail district on adoption of an order favoring the  
8 creation.

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

12 (b) The board is composed of five members. The county judge  
13 appoints one member and each county commissioner appoints one  
14 member. Each member serves a term of four years. The board may  
15 provide for the staggering of the terms of its members.

16 (c) The members of the board shall elect one member as  
17 presiding officer. The presiding officer may select another member  
18 to preside in the absence of the presiding officer.

19 (d) The presiding officer shall call at least one meeting of  
20 the board each year and may call other meetings as the presiding  
21 officer determines are appropriate.

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

25 (f) The board shall adopt rules for its proceedings and  
26 appoint an executive committee. The board may employ and  
27 compensate persons to carry out the powers and duties of the

1 district.

2 Sec. 4. POWERS AND DUTIES OF DISTRICT. (a) A district  
3 created under this article is a public body and a political  
4 subdivision of the state exercising public and essential  
5 governmental functions and has all the powers necessary or  
6 convenient to carry out the purposes of this article. A district,  
7 in the exercise of powers under this article, is performing only  
8 governmental functions and is a governmental unit within the  
9 meaning of Chapter 101, Civil Practice and Remedies Code.

10 (b) A district may sue and be sued in all courts, may  
11 institute and prosecute suits without giving security for costs,  
12 and may appeal from a judgment without giving a supersedeas or cost  
13 bond. An action at law or in equity against the district must be  
14 brought in the county in which a principal office of the district is  
15 located, except that in an eminent domain proceeding involving an  
16 interest in land, suit must be brought in the county in which the  
17 land is located.

18 (c) A district may acquire by grant, purchase, gift, devise,  
19 lease, or otherwise and may hold, use, sell, lease, or dispose of  
20 real and personal property, licenses, patents, rights, and  
21 interests necessary, convenient, or useful for the full exercise of  
22 its powers.

23 (d) A district may acquire, construct, develop, own,  
24 operate, and maintain intermodal and commuter rail facilities to  
25 connect political subdivisions in the district. For this purpose  
26 and with the consent of a municipality, county, or other political  
27 subdivision, the district may use streets, alleys, roads, highways,

1 and other public ways of the municipality, county, or other  
2 political subdivision and may relocate, raise, reroute, change the  
3 grade of, or alter, at the expense of the district, the construction  
4 of any street, alley, highway, road, railroad, electric lines and  
5 facilities, telegraph and telephone properties and facilities,  
6 pipelines and facilities, conduits and facilities, and other  
7 properties, whether publicly or privately owned, as necessary or  
8 useful in the construction, reconstruction, repair, maintenance,  
9 and operation of the system. A district may not use or alter a road  
10 or highway that is part of the state highway system without the  
11 permission of the commission or a railroad without permission of  
12 the railroad. A district may acquire by purchase any interest in  
13 real property for the acquisition, construction, or operation of a  
14 commuter rail facility on terms and at a price as agreed to between  
15 the district and the owner. The governing body of a municipality,  
16 county, other political subdivision, or public agency may convey  
17 title or rights and easements to any property needed by the district  
18 to effect its purposes in connection with the acquisition,  
19 construction, or operation of the system.

20 (e) A district has the right of eminent domain to acquire  
21 real property in fee simple or an interest in real property less  
22 than fee simple in, on, under, or above land, including an easement,  
23 right-of-way, or right of use of airspace or subsurface space. The  
24 power of eminent domain under this section does not apply to land  
25 under the jurisdiction of the department or a rail line owned by a  
26 common carrier or municipality. The district shall, to the extent  
27 possible, use existing rail or intermodal transportation corridors

1 for the alignment of its system. A proceeding for the exercise of  
2 the power of eminent domain is begun by the adoption by the board of  
3 a resolution declaring the public necessity for the acquisition by  
4 the district of the property or interest described in the  
5 resolution and that the acquisition is necessary and proper for the  
6 construction, extension, improvement, or development of commuter  
7 rail facilities and is in the public interest. The resolution of  
8 the district is conclusive evidence of the public necessity of the  
9 proposed acquisition and that the real or personal property or  
10 interest in property is necessary for public use.

11 (f) A district may make agreements with a public utility,  
12 private utility, communication system, common carrier, state  
13 agency, or transportation system for the joint use of facilities,  
14 installations, or properties inside or outside the district and  
15 establish through routes and joint fares.

16 (g) A district may adopt rules to govern the operation of  
17 the district, its employees, the system, service provided by the  
18 district, and any other necessary matter concerning its purposes,  
19 including rules relating to health, safety, alcohol or beverage  
20 service, food service, and telephone and utility services, to  
21 protect the health, safety, and general welfare of residents of the  
22 district and people who use the district's services.

23 (h) A district may enter into a joint ownership agreement  
24 with any person.

25 (i) A district shall establish and maintain rates or other  
26 compensation for the use of the facilities of the system acquired,  
27 constructed, operated, regulated, or maintained by the district

1 that is reasonable and nondiscriminatory and, together with grants  
2 received by the district, is sufficient to produce revenues  
3 adequate:

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

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

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

11 (j) A district may make contracts, leases, and agreements  
12 with, and accept grants and loans from, the United States of  
13 America, its departments and agencies, this state, agencies and  
14 political subdivisions of this state, and other persons and  
15 entities and may perform any act necessary for the full exercise of  
16 the powers vested in it. The commission may enter an interlocal  
17 agreement with a district under which the district may exercise a  
18 power or duty of the commission for the development and efficient  
19 operation of an intermodal corridor in the district. A district may  
20 acquire rolling stock or other property under conditional sales  
21 contracts, leases, equipment trust certificates, or any other form  
22 of contract or trust agreement. A revenue bond indenture may limit  
23 the exercise of the powers granted by this section, and a limit  
24 applies as long as the revenue bonds issued under the indenture are  
25 outstanding and unpaid.

26 (k) A district by resolution may adopt rules governing the  
27 use, operation, and maintenance of the system and may determine or

1 change a routing as the board considers advisable.

2 (l) A district may lease all or part of the commuter rail  
3 facilities to, or contract for the use or operation of all or part  
4 of the commuter rail facilities by, an operator. A district shall  
5 encourage to the maximum extent practicable the participation of  
6 private enterprise in the operation of commuter rail facilities.  
7 The term of an operating contract under this subsection may not  
8 exceed 20 years.

9 (m) A district may contract with a county or other political  
10 subdivision of this state for the district to provide commuter rail  
11 transportation services to an area outside the boundaries of the  
12 district on such terms and conditions as the parties agree to.

13 (n) A district may purchase an additional insured provision  
14 to any liability insurance contract.

15 (o) Before beginning the operation of commuter rail  
16 facilities, the board shall adopt an annual operating budget  
17 specifying the anticipated revenues and expenses of the district  
18 for the remainder of the fiscal year. Each year the board shall  
19 adopt an operating budget for the district. The fiscal year of the  
20 district ends September 30 unless changed by the board. The board  
21 shall hold a public hearing before adopting a budget other than the  
22 initial budget. Notice of each hearing must be published at least  
23 seven days before the date of the hearing in a newspaper of general  
24 circulation in the district. A budget may be amended at any time if  
25 notice of the proposed amendment is given in the notice of the  
26 meeting at which the amendment will be considered. An expenditure  
27 that is not budgeted may not be made.

1       (p) A district is eligible to participate in the Texas  
2 County and District Retirement System.

3       (q) The board of a district shall by resolution name one or  
4 more banks for the deposit of district funds. District funds are  
5 public funds and may be invested in securities permitted by Chapter  
6 2256, Government Code. To the extent funds of the district are not  
7 insured by the Federal Deposit Insurance Corporation or its  
8 successor, they shall be collateralized in the manner provided for  
9 county funds.

10       Sec. 5. BONDS AND NOTES. (a) A district may issue revenue  
11 bonds and notes in amounts as the board considers necessary or  
12 appropriate for the acquisition, purchase, construction,  
13 reconstruction, repair, equipping, improvement, or extension of  
14 the district's commuter rail facilities. A bond or note is fully  
15 negotiable and may be made redeemable before maturity, at the  
16 option of the district and at the price and under the terms the  
17 board determines in the resolution authorizing the bond or note and  
18 may be sold at public or private sale, as the board determines.

19       (b) A district shall submit all bonds and notes and the  
20 record of proceedings relating to their issuance to the attorney  
21 general for examination before delivery. If the attorney general  
22 determines that they have been issued in accordance with the  
23 constitution and this article and that they will be binding  
24 obligations of the district issuing them, the attorney general  
25 shall approve them, and the comptroller shall register them. A bond  
26 or note issued under this article is incontestable after approval,  
27 registration, and sale and delivery of the bond or note to the



1 purchaser.

2 (c) To secure the payment of the bond or note, the district  
3 may encumber and pledge all or any part of the revenues of its  
4 commuter rail facilities, may mortgage and encumber all or part of  
5 the property of the commuter rail facilities and everything  
6 pertaining to them that is acquired or to be acquired, and may  
7 prescribe the terms and provisions of the bond or note in any manner  
8 not inconsistent with this article. If not prohibited by the  
9 resolution or indenture relating to outstanding bonds or notes, a  
10 district may encumber separately any item of real or personal  
11 property.

12 (d) A bond or note is a legal and authorized investment for  
13 banks, trust companies, savings and loan associations, and  
14 insurance companies. The bond or note is eligible to secure the  
15 deposit of public funds of this state or a municipality, county,  
16 school district, or other political corporation or subdivision of  
17 this state. The bond or note is lawful and sufficient security for  
18 the deposits to the extent of the principal amount or market value  
19 of the bond or note, whichever is less.

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

- 1           (1) personal or professional services;  
2           (2) the acquisition of an existing rail transportation  
3 system; or  
4           (3) a contract with a common carrier to construct  
5 lines or to operate commuter rail service on lines owned in whole or  
6 in part by the carrier.

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

11           Sec. 8. TAXATION. (a) A district may impose any kind of tax  
12 except an ad valorem property tax.

13           (b) A district may not impose a tax or increase the rate of  
14 an existing tax unless a proposition proposing the imposition or  
15 rate increase is approved by a majority of the votes received at an  
16 election held for that purpose.

17           (c) Each new tax or rate increase must be expressed in a  
18 separate proposition consisting of a brief statement of the nature  
19 of the proposed tax.

20           (d) The notice of the election must contain a statement of  
21 the base or rate of the proposed tax.

22           (e) The board, subject to Subsection (b), may impose for an  
23 authority a sales and use tax at the rate of:

- 24           (1) one-quarter of one percent;  
25           (2) one-half of one percent;  
26           (3) three-quarters of one percent; or  
27           (4) one percent.

1       (f) A district may not adopt a sales and use tax rate,  
2 including a rate increase, that when combined with the rates of all  
3 sales and use taxes imposed by other political subdivisions of the  
4 state having territory in the district exceeds two percent in any  
5 location in the district.

6       (g) The adoption of a district's sales and use tax takes  
7 effect on the first day of the second calendar quarter beginning  
8 after the election approving the tax.

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

13       SECTION 2. This Act takes effect September 1, 2007.