

1-1 By: Martinez, et al. (Senate Sponsor - Hinojosa) H.B. No. 2510
1-2 (In the Senate - Received from the House May 9, 2007;
1-3 May 10, 2007, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 16, 2007, reported
1-5 favorably by the following vote: Yeas 6, Nays 0, 1 present not
1-6 voting; May 16, 2007, sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the creation, administration, powers, duties,
1-10 operations, and financing of a commuter rail district; granting the
1-11 authority to issue bonds; granting the power of eminent domain.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 13, Title 112, Revised Statutes, is
1-14 amended by adding Article 6550c-3 to read as follows:

1-15 Art. 6550c-3. COMMUTER RAIL DISTRICTS

1-16 Sec. 1. DEFINITIONS. In this article:

1-17 (1) "Commission" means the Texas Transportation
1-18 Commission.

1-19 (2) "Commuter rail facility" means any property
1-20 necessary for the transportation of passengers and baggage between
1-21 points in a district. The term includes rolling stock,
1-22 locomotives, stations, parking areas, and rail lines.

1-23 (3) "Creating county" means a county described by
1-24 Section 2(b) of this article.

1-25 (4) "Department" means the Texas Department of
1-26 Transportation.

1-27 (5) "District" means a commuter rail district created
1-28 under this article.

1-29 (6) "District property" means all property the
1-30 district owns or leases under a long-term lease.

1-31 (7) "System" means all of the commuter rail and
1-32 intermodal facilities leased or owned by or operated on behalf of a
1-33 district.

1-34 Sec. 2. CREATION OF COMMUTER RAIL DISTRICT. (a) A commuter
1-35 rail district may be created to provide commuter rail service to
1-36 counties along the Texas-Mexico border.

1-37 (b) The commissioners court of a county may create a
1-38 commuter rail district on adoption of an order favoring the
1-39 creation.

1-40 Sec. 3. BOARD. (a) A district is governed by a board of
1-41 directors. The board is responsible for the management, operation,
1-42 and control of the district.

1-43 (b) The board is composed of five members. The county judge
1-44 appoints one member and each county commissioner appoints one
1-45 member. Each member serves a term of four years. The board may
1-46 provide for the staggering of the terms of its members.

1-47 (c) The members of the board shall elect one member as
1-48 presiding officer. The presiding officer may select another member
1-49 to preside in the absence of the presiding officer.

1-50 (d) The presiding officer shall call at least one meeting of
1-51 the board each year and may call other meetings as the presiding
1-52 officer determines are appropriate.

1-53 (e) A member of the board is not entitled to compensation
1-54 for serving as a member but is entitled to reimbursement for
1-55 reasonable expenses incurred while serving as a member.

1-56 (f) The board shall adopt rules for its proceedings and
1-57 appoint an executive committee. The board may employ and
1-58 compensate persons to carry out the powers and duties of the
1-59 district.

1-60 Sec. 4. POWERS AND DUTIES OF DISTRICT. (a) A district
1-61 created under this article is a public body and a political
1-62 subdivision of the state exercising public and essential
1-63 governmental functions and has all the powers necessary or
1-64 convenient to carry out the purposes of this article. A district,

2-1 in the exercise of powers under this article, is performing only
 2-2 governmental functions and is a governmental unit within the
 2-3 meaning of Chapter 101, Civil Practice and Remedies Code.

2-4 (b) A district may sue and be sued in all courts, may
 2-5 institute and prosecute suits without giving security for costs,
 2-6 and may appeal from a judgment without giving a supersedeas or cost
 2-7 bond. An action at law or in equity against the district must be
 2-8 brought in the county in which a principal office of the district is
 2-9 located, except that in an eminent domain proceeding involving an
 2-10 interest in land, suit must be brought in the county in which the
 2-11 land is located.

2-12 (c) A district may acquire by grant, purchase, gift, devise,
 2-13 lease, or otherwise and may hold, use, sell, lease, or dispose of
 2-14 real and personal property, licenses, patents, rights, and
 2-15 interests necessary, convenient, or useful for the full exercise of
 2-16 its powers.

2-17 (d) A district may acquire, construct, develop, own,
 2-18 operate, and maintain intermodal and commuter rail facilities to
 2-19 connect political subdivisions in the district. For this purpose
 2-20 and with the consent of a municipality, county, or other political
 2-21 subdivision, the district may use streets, alleys, roads, highways,
 2-22 and other public ways of the municipality, county, or other
 2-23 political subdivision and may relocate, raise, reroute, change the
 2-24 grade of, or alter, at the expense of the district, the construction
 2-25 of any street, alley, highway, road, railroad, electric lines and
 2-26 facilities, telegraph and telephone properties and facilities,
 2-27 pipelines and facilities, conduits and facilities, and other
 2-28 properties, whether publicly or privately owned, as necessary or
 2-29 useful in the construction, reconstruction, repair, maintenance,
 2-30 and operation of the system. A district may not use or alter a road
 2-31 or highway that is part of the state highway system without the
 2-32 permission of the commission or a railroad without permission of
 2-33 the railroad. A district may acquire by purchase any interest in
 2-34 real property for the acquisition, construction, or operation of a
 2-35 commuter rail facility on terms and at a price as agreed to between
 2-36 the district and the owner. The governing body of a municipality,
 2-37 county, other political subdivision, or public agency may convey
 2-38 title or rights and easements to any property needed by the district
 2-39 to effect its purposes in connection with the acquisition,
 2-40 construction, or operation of the system.

2-41 (e) A district has the right of eminent domain to acquire
 2-42 real property in fee simple or an interest in real property less
 2-43 than fee simple in, on, under, or above land, including an easement,
 2-44 right-of-way, or right of use of airspace or subsurface space. The
 2-45 power of eminent domain under this section does not apply to land
 2-46 under the jurisdiction of the department or a rail line owned by a
 2-47 common carrier or municipality. The district shall, to the extent
 2-48 possible, use existing rail or intermodal transportation corridors
 2-49 for the alignment of its system. A proceeding for the exercise of
 2-50 the power of eminent domain is begun by the adoption by the board of
 2-51 a resolution declaring the public necessity for the acquisition by
 2-52 the district of the property or interest described in the
 2-53 resolution and that the acquisition is necessary and proper for the
 2-54 construction, extension, improvement, or development of commuter
 2-55 rail facilities and is in the public interest. The resolution of
 2-56 the district is conclusive evidence of the public necessity of the
 2-57 proposed acquisition and that the real or personal property or
 2-58 interest in property is necessary for public use.

2-59 (f) A district may make agreements with a public utility,
 2-60 private utility, communication system, common carrier, state
 2-61 agency, or transportation system for the joint use of facilities,
 2-62 installations, or properties inside or outside the district and
 2-63 establish through routes and joint fares.

2-64 (g) A district may adopt rules to govern the operation of
 2-65 the district, its employees, the system, service provided by the
 2-66 district, and any other necessary matter concerning its purposes,
 2-67 including rules relating to health, safety, alcohol or beverage
 2-68 service, food service, and telephone and utility services, to
 2-69 protect the health, safety, and general welfare of residents of the

3-1 district and people who use the district's services.

3-2 (h) A district may enter into a joint ownership agreement
3-3 with any person.

3-4 (i) A district shall establish and maintain rates or other
3-5 compensation for the use of the facilities of the system acquired,
3-6 constructed, operated, regulated, or maintained by the district
3-7 that is reasonable and nondiscriminatory and, together with grants
3-8 received by the district, is sufficient to produce revenues
3-9 adequate:

3-10 (1) to pay all expenses necessary for the operation
3-11 and maintenance of the properties and facilities of the district;

3-12 (2) to pay the interest on and principal of bonds
3-13 issued by the district and payable in whole or in part from the
3-14 revenues, as they become due and payable; and

3-15 (3) to fulfill the terms of an agreement made with the
3-16 holders of bonds or with any person in their behalf.

3-17 (j) A district may make contracts, leases, and agreements
3-18 with, and accept grants and loans from, the United States of
3-19 America, its departments and agencies, this state, agencies and
3-20 political subdivisions of this state, and other persons and
3-21 entities and may perform any act necessary for the full exercise of
3-22 the powers vested in it. The commission may enter an interlocal
3-23 agreement with a district under which the district may exercise a
3-24 power or duty of the commission for the development and efficient
3-25 operation of an intermodal corridor in the district. A district may
3-26 acquire rolling stock or other property under conditional sales
3-27 contracts, leases, equipment trust certificates, or any other form
3-28 of contract or trust agreement. A revenue bond indenture may limit
3-29 the exercise of the powers granted by this section, and a limit
3-30 applies as long as the revenue bonds issued under the indenture are
3-31 outstanding and unpaid.

3-32 (k) A district by resolution may adopt rules governing the
3-33 use, operation, and maintenance of the system and may determine or
3-34 change a routing as the board considers advisable.

3-35 (l) A district may lease all or part of the commuter rail
3-36 facilities to, or contract for the use or operation of all or part
3-37 of the commuter rail facilities by, an operator. A district shall
3-38 encourage to the maximum extent practicable the participation of
3-39 private enterprise in the operation of commuter rail facilities.
3-40 The term of an operating contract under this subsection may not
3-41 exceed 20 years.

3-42 (m) A district may contract with a county or other political
3-43 subdivision of this state for the district to provide commuter rail
3-44 transportation services to an area outside the boundaries of the
3-45 district on such terms and conditions as the parties agree to.

3-46 (n) A district may purchase an additional insured provision
3-47 to any liability insurance contract.

3-48 (o) Before beginning the operation of commuter rail
3-49 facilities, the board shall adopt an annual operating budget
3-50 specifying the anticipated revenues and expenses of the district
3-51 for the remainder of the fiscal year. Each year the board shall
3-52 adopt an operating budget for the district. The fiscal year of the
3-53 district ends September 30 unless changed by the board. The board
3-54 shall hold a public hearing before adopting a budget other than the
3-55 initial budget. Notice of each hearing must be published at least
3-56 seven days before the date of the hearing in a newspaper of general
3-57 circulation in the district. A budget may be amended at any time if
3-58 notice of the proposed amendment is given in the notice of the
3-59 meeting at which the amendment will be considered. An expenditure
3-60 that is not budgeted may not be made.

3-61 (p) A district is eligible to participate in the Texas
3-62 County and District Retirement System.

3-63 (q) The board of a district shall by resolution name one or
3-64 more banks for the deposit of district funds. District funds are
3-65 public funds and may be invested in securities permitted by Chapter
3-66 2256, Government Code. To the extent funds of the district are not
3-67 insured by the Federal Deposit Insurance Corporation or its
3-68 successor, they shall be collateralized in the manner provided for
3-69 county funds.

4-1 Sec. 5. BONDS AND NOTES. (a) A district may issue revenue
 4-2 bonds and notes in amounts as the board considers necessary or
 4-3 appropriate for the acquisition, purchase, construction,
 4-4 reconstruction, repair, equipping, improvement, or extension of
 4-5 the district's commuter rail facilities. A bond or note is fully
 4-6 negotiable and may be made redeemable before maturity, at the
 4-7 option of the district and at the price and under the terms the
 4-8 board determines in the resolution authorizing the bond or note and
 4-9 may be sold at public or private sale, as the board determines.

4-10 (b) A district shall submit all bonds and notes and the
 4-11 record of proceedings relating to their issuance to the attorney
 4-12 general for examination before delivery. If the attorney general
 4-13 determines that they have been issued in accordance with the
 4-14 constitution and this article and that they will be binding
 4-15 obligations of the district issuing them, the attorney general
 4-16 shall approve them, and the comptroller shall register them. A bond
 4-17 or note issued under this article is incontestable after approval,
 4-18 registration, and sale and delivery of the bond or note to the
 4-19 purchaser.

4-20 (c) To secure the payment of the bond or note, the district
 4-21 may encumber and pledge all or any part of the revenues of its
 4-22 commuter rail facilities, may mortgage and encumber all or part of
 4-23 the property of the commuter rail facilities and everything
 4-24 pertaining to them that is acquired or to be acquired, and may
 4-25 prescribe the terms and provisions of the bond or note in any manner
 4-26 not inconsistent with this article. If not prohibited by the
 4-27 resolution or indenture relating to outstanding bonds or notes, a
 4-28 district may encumber separately any item of real or personal
 4-29 property.

4-30 (d) A bond or note is a legal and authorized investment for
 4-31 banks, trust companies, savings and loan associations, and
 4-32 insurance companies. The bond or note is eligible to secure the
 4-33 deposit of public funds of this state or a municipality, county,
 4-34 school district, or other political corporation or subdivision of
 4-35 this state. The bond or note is lawful and sufficient security for
 4-36 the deposits to the extent of the principal amount or market value
 4-37 of the bond or note, whichever is less.

4-38 Sec. 6. COMPETITIVE BIDS. A contract in the amount of more
 4-39 than \$15,000 for the construction of improvements or the purchase
 4-40 of material, machinery, equipment, supplies, or any other property
 4-41 other than real property may be let only on competitive bids after
 4-42 notice published, at least 15 days before the date set for receiving
 4-43 bids, in a newspaper of general circulation in the district. The
 4-44 board may adopt rules governing the taking of bids and the awarding
 4-45 of contracts. This section does not apply to:

- 4-46 (1) personal or professional services;
- 4-47 (2) the acquisition of an existing rail transportation
 4-48 system; or
- 4-49 (3) a contract with a common carrier to construct
 4-50 lines or to operate commuter rail service on lines owned in whole or
 4-51 in part by the carrier.

4-52 Sec. 7. EXEMPTION FROM TAXES. The property, material
 4-53 purchases, revenues, and income of a district and the interest on a
 4-54 bond or note issued by a district are exempt from all taxes imposed
 4-55 by this state or a political subdivision of this state.

4-56 Sec. 8. TAXATION. (a) A district may impose any kind of tax
 4-57 except an ad valorem property tax.

4-58 (b) A district may not impose a tax or increase the rate of
 4-59 an existing tax unless a proposition proposing the imposition or
 4-60 rate increase is approved by a majority of the votes received at an
 4-61 election held for that purpose.

4-62 (c) Each new tax or rate increase must be expressed in a
 4-63 separate proposition consisting of a brief statement of the nature
 4-64 of the proposed tax.

4-65 (d) The notice of the election must contain a statement of
 4-66 the base or rate of the proposed tax.

4-67 (e) The board, subject to Subsection (b) of this section,
 4-68 may impose for an authority a sales and use tax at the rate of:

- 4-69 (1) one-quarter of one percent;

