

By: Cook of Navarro

H.B. No. 3113

Substitute the following for H.B. No. 3113:

By: Hilderbran

C.S.H.B. No. 3113

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the Texas State Railroad to, and the creation of, the Texas State Railroad Authority.

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

SECTION 1. Title 4, Special District Local Laws Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. PARKS AND RECREATION

CHAPTER 4501. TEXAS STATE RAILROAD AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 4501.001. DEFINITIONS. In this chapter:

(1) "Authority" means the Texas State Railroad Authority.

(2) "Board" means the authority's board of directors.

(3) "Director" means a board member.

Sec. 4501.002. CREATION AND NATURE OF AUTHORITY. The Texas State Railroad Authority is a special district created under Section 59, Article XVI, Texas Constitution, for the development of parks and recreational facilities.

Sec. 4501.003. PURPOSES OF AUTHORITY. (a) The authority is created to:

(1) purchase, own, hold, lease, and otherwise acquire facilities or other property to operate and maintain the Texas State Railroad;

(2) continue and improve the operation of the Texas

1 State Railroad as a public recreational, historical, and cultural
2 resource;

3 (3) operate concessions, museums, campgrounds, and
4 other facilities associated with the Texas State Railroad; and

5 (4) enhance, augment, and improve the historical,
6 educational, and cultural benefits offered by the Texas State
7 Railroad.

8 (b) The creation of the authority is necessary to promote,
9 develop, encourage, and maintain employment, commerce,
10 transportation, tourism, recreation, the arts, entertainment,
11 economic development, and public welfare in Anderson and Cherokee
12 Counties.

13 Sec. 4501.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
14 The authority is created to serve a public use and benefit.

15 (b) All residents of this state will benefit from the works
16 and projects provided by the authority.

17 (c) The creation of the authority is in the public interest
18 and is essential to:

19 (1) further the public purposes of development and
20 diversification of the economy of the state;

21 (2) eliminate unemployment and underemployment; and

22 (3) develop and expand commerce, tourism, recreation,
23 historical awareness, education, and the arts.

24 (d) The authority will:

25 (1) promote the health, safety, and general welfare of
26 residents, employers, employees, visitors, and consumers in
27 Anderson and Cherokee Counties;

1 (2) preserve, maintain, and enhance the Texas State
2 Railroad; and

3 (3) preserve, maintain, and enhance the economic
4 health and vitality of Anderson and Cherokee Counties.

5 (e) The authority may not act as the agent or
6 instrumentality of any private interest, even though the authority
7 will incidentally benefit many private interests in addition to the
8 paramount public interest.

9 Sec. 4501.005. LIBERAL CONSTRUCTION OF CHAPTER. This
10 chapter shall be liberally construed in conformity with the
11 findings and purposes stated in this chapter.

12 Sec. 4501.006. GENERAL WATER DISTRICT LAW NOT APPLICABLE.
13 Chapter 49, Water Code, does not apply to the authority.

14 [Sections 4501.007-4501.050 reserved for expansion]

15 SUBCHAPTER B. BOARD OF DIRECTORS

16 Sec. 4501.051. GOVERNING BODY; TERMS. (a) The authority is
17 governed by a board of seven voting directors appointed under
18 Section 4501.053, with three directors appointed by the City of
19 Palestine, three directors appointed by the City of Rusk, and one
20 director appointed by the other directors.

21 (b) Voting directors serve staggered three-year terms,
22 with:

23 (1) as near as possible to one-third of the terms of
24 directors appointed by each city or other political subdivision
25 expiring September 1 of each year; and

26 (2) the term of the director appointed by the other
27 directors expiring October 1 of each third year.

1 Sec. 4501.052. ELIGIBILITY. (a) To be qualified to serve
2 as a director, a person must be at least 21 years of age.

3 (b) A voting director may not serve more than three
4 consecutive terms.

5 (c) At least two of the three directors appointed by:

6 (1) the City of Palestine must reside in Anderson
7 County; and

8 (2) the City of Rusk must reside in Cherokee County.

9 Sec. 4501.053. APPOINTMENT OF DIRECTORS. (a) Not later
10 than August 31 of each year, by majority vote:

11 (1) the city council of the City of Palestine shall
12 appoint as a voting director one person proposed by the mayor of
13 Palestine; and

14 (2) the city council of the City of Rusk shall appoint
15 as a voting director one person proposed by the mayor of Rusk.

16 (b) Not later than September 30 of every third year, by
17 majority vote, the directors appointed under Subsection (a) shall
18 appoint a seventh director.

19 Sec. 4501.054. NONVOTING DIRECTORS. (a) The following
20 persons serve as nonvoting directors:

21 (1) the mayor of the City of Palestine or a member of
22 the city council of the City of Palestine designated by the mayor;
23 and

24 (2) the mayor of the City of Rusk or a member of the
25 city council of the City of Rusk designated by the mayor.

26 (b) A nonvoting director is not counted in determining the
27 board quorum.

1 Sec. 4501.055. VACANCIES. A board vacancy is filled in the
2 same manner as the original appointment.

3 Sec. 4501.056. VOTING AUTHORITY OF PRESIDENT. The board
4 president is a voting director but may vote only to break a tie. All
5 other voting directors are entitled to one vote on any issue before
6 the board.

7 Sec. 4501.057. OFFICERS. (a) Each year, the board shall
8 elect from among the voting directors officers for the authority,
9 including a president, a vice president, a secretary, and a
10 treasurer.

11 (b) The president and the vice president may not be
12 directors appointed by the same city.

13 [Sections 4501.058-4501.100 reserved for expansion]

14 SUBCHAPTER C. POWERS AND DUTIES

15 Sec. 4501.101. GENERAL POWERS. The authority has the
16 powers necessary to accomplish any authority purpose, including the
17 purposes specified in Section 4501.003.

18 Sec. 4501.102. CONTRACT TO MANAGE OR OPERATE AUTHORITY
19 PROPERTY. The authority may contract with any person to manage or
20 operate all or part of authority property.

21 Sec. 4501.103. COMPETITIVE BIDDING. (a) Except as
22 provided by Subsection (b), the competitive bidding requirements
23 for a municipality under Chapter 252, Local Government Code, apply
24 to the authority.

25 (b) A contract with a private person under Section 4501.102
26 or 4501.104(2) is exempt from the competitive bidding requirements
27 of Chapter 252, Local Government Code, or any other statute.

1 Sec. 4501.104. GENERAL PROPERTY POWERS. The authority may:

2 (1) acquire, own, lease, operate, construct,
3 maintain, repair, improve, or extend improvements, equipment, or
4 any other property necessary to accomplish an authority purpose; or

5 (2) lease or otherwise convey authority property to
6 private parties for an authority purpose.

7 Sec. 4501.105. CONDITIONAL TRANSFER OF PROPERTY TO PRIVATE
8 OPERATOR. A conveyance of authority property, including a lease,
9 to a private operator must be conditioned on an obligation that the
10 property must be used to support the operations of the Texas State
11 Railroad.

12 Sec. 4501.106. SURPLUS PROPERTY. The authority, with the
13 consent of the Parks and Wildlife Department, may dispose of
14 surplus property, including by exchanging the surplus property with
15 another person for other property, to improve the quality and
16 usefulness of property used by the authority.

17 Sec. 4501.107. DISPOSITION OF PUBLIC PARKS AND RECREATIONAL
18 LANDS; EXEMPTION FROM APPLICABILITY OF OTHER LAW. Chapter 26,
19 Parks and Wildlife Code, does not apply to the use, transfer, or
20 other disposition of property by any method:

21 (1) to the authority by any person; or

22 (2) by the authority to any person.

23 Sec. 4501.108. NONPROFIT CORPORATION. (a) The board by
24 resolution may authorize the creation of a nonprofit corporation to
25 assist the authority in implementing a project or providing a
26 service authorized by this chapter.

27 (b) The nonprofit corporation may implement any project and

1 provide any service authorized by this chapter.

2 (c) The board shall appoint the board of directors of the
3 nonprofit corporation.

4 Sec. 4501.109. AUTHORITY TO SUE AND BE SUED; IMMUNITY. (a)
5 The authority may sue and be sued in this state.

6 (b) This section does not waive any governmental immunity
7 that would otherwise apply to the authority.

8 [Sections 4501.110-4501.150 reserved for expansion]

9 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

10 Sec. 4501.151. AD VALOREM TAXES PROHIBITED. The authority
11 may not impose an ad valorem tax.

12 Sec. 4501.152. GRANTS; DONATIONS. The authority may accept
13 grants and donations, including property, for any authority
14 purpose.

15 Sec. 4501.153. GRANTS FROM OTHER TAXING AUTHORITY;
16 CONTRACT. (a) A taxing authority in Anderson or Cherokee County
17 may by contract grant to the authority:

18 (1) sales tax revenue received from a sale made on
19 property owned, controlled, or leased by the authority or by a
20 person with whom the authority contracts under Section 4501.102; or

21 (2) local hotel occupancy tax revenue received from a
22 hotel located within one mile of a place where the Texas State
23 Railroad loads or unloads passengers.

24 (b) The grant must serve a public purpose of the taxing
25 authority making the grant.

26 [Sections 4501.154-4501.200 reserved for expansion]

1 SUBCHAPTER E. DISSOLUTION

2 Sec. 4501.201. DISSOLUTION OF AUTHORITY; OUTSTANDING DEBT.

3 (a) The board may dissolve the authority regardless of whether the
4 authority has debt.

5 (b) If the authority has debt when it is dissolved, the
6 authority shall remain in existence solely for the purpose of
7 discharging its debts. The dissolution is effective when all debts
8 have been discharged.

9 SECTION 2. Section 22.182, Parks and Wildlife Code, is
10 repealed.

11 SECTION 3. (a) Not later than September 1, 2007:

12 (1) the city council of the City of Palestine shall
13 appoint three voting directors from three persons proposed by the
14 mayor of Palestine to serve as directors under Subchapter B,
15 Chapter 4501, Special District Local Laws Code, as added by this
16 Act; and

17 (2) the city council of the City of Rusk shall appoint
18 three voting directors from three persons proposed by the mayor of
19 Rusk to serve as directors under Subchapter B, Chapter 4501,
20 Special District Local Laws Code, as added by this Act.

21 (b) After the directors have been appointed under this
22 section, the directors representing each city shall draw lots to
23 determine which director from each city serves a term expiring:

- 24 (1) September 1, 2008;
25 (2) September 1, 2009; and
26 (3) September 1, 2010.

27 (c) Not later than September 30, 2007, the directors

1 appointed under Subsection (a) of this section shall meet in open
2 session and appoint a seventh director. The seventh director shall
3 serve a term expiring October 1, 2010.

4 SECTION 4. (a) Not earlier than September 1, 2007, and on
5 execution of the requirements of Section 5 of this Act, the
6 following are transferred to the Texas State Railroad Authority:

7 (1) the property described by Section 5 of this Act;

8 (2) all obligations and liabilities of the Parks and
9 Wildlife Department relating to the Texas State Railroad; and

10 (3) all files and other records of the Parks and
11 Wildlife Department kept by the department regarding the Texas
12 State Railroad.

13 (b) Before September 1, 2007, the Parks and Wildlife
14 Department may agree with the Texas State Railroad Authority to
15 transfer any property of the Parks and Wildlife Department to the
16 Texas State Railroad Authority to implement the transfer required
17 by this Act.

18 (c) In the period beginning on the effective date of this
19 Act and ending on execution of the requirements of Section 5 of this
20 Act, the Parks and Wildlife Department shall continue to perform
21 functions and activities under Section 22.182, Parks and Wildlife
22 Code, as if that section had not been repealed by this Act, and the
23 former law is continued in effect for that purpose.

24 SECTION 5. (a) Not later than October 1, 2007, the Parks
25 and Wildlife Department shall transfer to the Texas State Railroad
26 Authority, for the consideration described by Subsection (b) of
27 this section, the property described by Subsection (d) of this

1 section.

2 (b) Consideration for the transfer authorized by Subsection
3 (a) of this section is an agreement between the parties that
4 requires the Texas State Railroad Authority to use the property in a
5 manner that primarily promotes a state public purpose. If the Texas
6 State Railroad Authority does not use the property transferred
7 under this Act in a manner that primarily promotes a state public
8 interest, ownership of the property automatically reverts to the
9 Parks and Wildlife Department.

10 (c) The Parks and Wildlife Department shall transfer the
11 property by an appropriate instrument of transfer. The instrument
12 of transfer must include a provision that:

13 (1) requires the Texas State Railroad Authority to use
14 the property in a manner that primarily promotes a state public
15 purpose;

16 (2) indicates that ownership of the property
17 automatically reverts to the Parks and Wildlife Department if the
18 Texas State Railroad Authority fails to use the property in that
19 manner;

20 (3) authorizes the Texas State Railroad Authority to
21 transfer the property to a private operator under conditions as
22 provided by Section 4501.105, Special District Local Laws Code, as
23 added by this Act;

24 (4) authorizes the Texas State Railroad Authority,
25 with the consent of the Parks and Wildlife Department, to dispose of
26 surplus property as provided by Section 4501.106, Special District
27 Local Laws Code, as added by this Act; and

1 (5) transfers the right-of-way and trackage of the
2 Texas State Railroad by a 99-year lease or a similar instrument
3 under which fee ownership is retained by the State of Texas.

4 (d) The property to which Subsection (a) of this section
5 refers is all real and personal property associated with the Texas
6 State Railroad owned by the State of Texas, including:

7 (1) the right-of-way and trackage of the Texas State
8 Railroad;

9 (2) all trains and other property used to operate the
10 Texas State Railroad; and

11 (3) all equipment or other property of the Parks and
12 Wildlife Department used for the administration of or related to
13 the Texas State Railroad.

14 SECTION 6. The legislature finds that:

15 (1) proper and legal notice of the intention to
16 introduce this Act, setting forth the general substance of this
17 Act, has been published as provided by law, and the notice and a
18 copy of this Act have been furnished to all persons, agencies,
19 officials, or entities to which they are required to be furnished by
20 the constitution and laws of this state, including the governor,
21 who has submitted the notice and Act to the Texas Commission on
22 Environmental Quality;

23 (2) the Texas Commission on Environmental Quality has
24 filed its recommendations relating to this Act with the governor,
25 lieutenant governor, and speaker of the house of representatives
26 within the required time;

27 (3) the general law relating to consent by political

1 subdivisions to the creation of districts with conservation,
2 reclamation, and road powers and the inclusion of land in those
3 districts has been complied with; and

4 (4) all requirements of the constitution and laws of
5 this state and the rules and procedures of the legislature with
6 respect to the notice, introduction, and passage of this Act have
7 been fulfilled and accomplished.

8 SECTION 7. This Act takes effect immediately if it receives
9 a vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution. If this
11 Act does not receive the vote necessary for immediate effect, this
12 Act takes effect September 1, 2007.