

By: Cook of Navarro

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; granting authority to issue bonds or other similar obligations or to create public debt.

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

1 State Railroad;

2 (2) continue and improve the operation of the Texas
3 State Railroad as a public recreational, historical, and cultural
4 resource;

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

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

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

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

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

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

21 (1) further the public purposes of development and
22 diversification of the economy of the state;

23 (2) eliminate unemployment and underemployment; and

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

26 (d) The authority will:

27 (1) promote the health, safety, and general welfare of

1 residents, employers, employees, visitors, and consumers in
2 Anderson and Cherokee Counties;

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

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

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

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

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

16 [Sections 4501.007-4501.050 reserved for expansion]

17 SUBCHAPTER B. BOARD OF DIRECTORS

18 Sec. 4501.051. GOVERNING BODY; TERMS. (a) Except as
19 provided by Section 4501.058, the authority is governed by a board
20 of seven voting directors appointed under Section 4501.053, with
21 three directors appointed by the City of Palestine, three directors
22 appointed by the City of Rusk, and one director appointed by the
23 other directors.

24 (b) Voting directors serve staggered three-year terms,
25 with:

26 (1) as near as possible to one-third of the terms of
27 directors appointed by each city or other political subdivision

1 expiring September 1 of each year; and

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

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

6 (b) A voting director may not serve more than three
7 consecutive terms.

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

9 (1) the City of Palestine must reside in Anderson
10 County; and

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

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

14 (1) the city council of the City of Palestine shall
15 appoint as a voting director one person proposed by the mayor of
16 Palestine; and

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

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

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

24 (1) the mayor of the City of Palestine or a member of
25 the city council of the City of Palestine designated by the mayor;
26 and

27 (2) the mayor of the City of Rusk or a member of the

1 city council of the City of Rusk designated by the mayor.

2 (b) A nonvoting director is not counted in determining the
3 board quorum.

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

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

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

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

16 Sec. 4501.058. EXPANSION OF BOARD. (a) The board by
17 resolution adopted by a two-thirds majority vote may increase the
18 number of voting directors by authorizing the governing body of any
19 political subdivision in this state other than the cities of
20 Palestine and Rusk to appoint one or more voting directors.

21 (b) The resolution shall establish:

22 (1) which governing body appoints each director;

23 (2) each new director's initial term, which may not
24 exceed three years; and

25 (3) that each director must be appointed not later
26 than August 31 of the appropriate year.

27 [Sections 4501.059-4501.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

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

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

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

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

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

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

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

Sec. 4501.105. DISPOSITION OF PUBLIC PARKS AND RECREATIONAL LANDS; EXEMPTION FROM APPLICABILITY OF OTHER LAW. Chapter 26, Parks and Wildlife Code, does not apply to the use, transfer, or other disposition of property by any method:

(1) to the authority by any person; or

(2) by the authority to any person.

Sec. 4501.106. NONPROFIT CORPORATION. (a) The board by

1 resolution may authorize the creation of a nonprofit corporation to
2 assist the authority in implementing a project or providing a
3 service authorized by this chapter.

4 (b) The nonprofit corporation may implement any project and
5 provide any service authorized by this chapter.

6 (c) The board shall appoint the board of directors of the
7 nonprofit corporation.

8 Sec. 4501.107. AUTHORITY TO SUE AND BE SUED; IMMUNITY. (a)
9 The authority may sue and be sued in this state.

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

12 [Sections 4501.108-4501.150 reserved for expansion]

13 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

16 Sec. 4501.152. GRANTS; DONATIONS. The authority may accept
17 grants and donations, including property, for any authority
18 purpose.

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

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

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

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

3 [Sections 4501.154-4501.200 reserved for expansion]

4 SUBCHAPTER E. BONDS

5 Sec. 4501.201. DEFINITION. In this subchapter, "bond"
6 includes a note, debenture, interim certificate or receipt, or
7 other evidence of debt issued by the authority.

8 Sec. 4501.202. POWER TO ISSUE BONDS. The authority may
9 issue bonds to carry out any power conferred by this chapter. The
10 bonds must be authorized by a board resolution.

11 Sec. 4501.203. MATURITY. Authority bonds must mature not
12 later than 40 years after their date of issuance.

13 Sec. 4501.204. BONDS PAYABLE FROM REVENUE. (a) Bonds
14 issued under this subchapter may be secured under board resolution
15 by a pledge of:

16 (1) all or part of the net revenue of the authority;
17 (2) the net revenue of one or more contracts made
18 before or after the issuance of the bonds; or

19 (3) other revenue or income specified by board
20 resolution or in the trust indenture.

21 (b) In the resolution authorizing the bonds, the board may:

22 (1) provide for:
23 (A) the flow of funds; and
24 (B) the establishment and maintenance of an
25 interest and sinking fund, reserve fund, or other fund;

26 (2) make additional covenants relating to the bonds
27 and the pledged revenue and the operation and maintenance of the

1 property the revenue of which is pledged, which may include
2 provisions for the operation or leasing of all or part of the
3 property and the use or pledge of money received from the operation
4 contract or lease as the board considers appropriate;

5 (3) prohibit the further issuance of bonds or other
6 obligations payable from the pledged revenue or reserve the right
7 to issue additional bonds to be secured by a pledge of and payable
8 from the revenue on a parity with, or subordinate to, the lien and
9 pledge in support of the bonds being issued, subject to any
10 conditions set forth in the resolution; and

11 (4) include any other provision or covenant not
12 prohibited by the Texas Constitution or this chapter.

13 (c) The board may adopt and execute any other proceeding or
14 instrument necessary or convenient in the issuance of the bonds.

15 Sec. 4501.205. ADDITIONAL SECURITY. (a) Bonds may be
16 additionally secured, at the discretion of the board, by a deed of
17 trust or mortgage lien on physical property of the authority,
18 franchises, easements, water rights and appropriation permits,
19 leases, contracts, and all rights appurtenant to the property,
20 vesting in the trustee the power to:

21 (1) sell the property for the payment of the debt;

22 (2) operate the property; and

23 (3) take other action to further secure the bonds.

24 (b) A purchaser under a sale under the deed of trust lien, if
25 one is given:

26 (1) is the absolute owner of property and rights
27 purchased; and

1 (2) is entitled to maintain and operate the property
2 and rights.

3 (c) A trust indenture, regardless of the existence of the
4 deed of trust or mortgage lien on the property, may:

5 (1) provide for the security of the bonds and the
6 preservation of the trust estate in the manner prescribed by the
7 board; and

8 (2) provide for amendment or modification of the trust
9 indenture.

10 Sec. 4501.206. BONDS EXEMPT FROM TAXATION. A bond issued
11 under this subchapter, the transfer of the bond, and income from the
12 bond, including profits made on the sale of the bond, are exempt
13 from taxation in this state.

14 [Sections 4501.207-4501.250 reserved for expansion]

15 SUBCHAPTER F. DISSOLUTION

16 Sec. 4501.251. DISSOLUTION OF AUTHORITY; OUTSTANDING DEBT.

17 (a) The board may dissolve the authority regardless of whether the
18 authority has debt.

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

23 SECTION 2. Section 22.182, Parks and Wildlife Code, is
24 repealed.

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

26 (1) the city council of the City of Palestine shall
27 appoint three voting directors from three persons proposed by the

1 mayor of Palestine to serve as directors under Subchapter B,
2 Chapter 4501, Special District Local Laws Code, as added by this
3 Act; and

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

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

11 (1) September 1, 2008;

12 (2) September 1, 2009; and

13 (3) September 1, 2010.

14 (c) Not later than September 30, 2007, the directors
15 appointed under Subsection (a) of this section shall meet in open
16 session and appoint a seventh director. The seventh director shall
17 serve a term expiring October 1, 2010.

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

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

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

24 (3) all files and other records of the Parks and
25 Wildlife Department kept by the department regarding the Texas
26 State Railroad.

27 (b) Before September 1, 2007, the Parks and Wildlife

1 Department may agree with the Texas State Railroad Authority to
2 transfer any property of the Parks and Wildlife Department to the
3 Texas State Railroad Authority to implement the transfer required
4 by this Act.

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

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

16 (b) Consideration for the transfer authorized by Subsection
17 (a) of this section is an agreement between the parties that
18 requires the Texas State Railroad Authority to use the property in a
19 manner that primarily promotes a state public purpose by using the
20 property to operate the Texas State Railroad. If the Texas State
21 Railroad Authority does not use the property transferred under this
22 Act in a manner that primarily promotes a state public interest by
23 using the property to operate the Texas State Railroad, ownership
24 of the property automatically reverts to the Parks and Wildlife
25 Department.

26 (c) The Parks and Wildlife Department shall transfer the
27 property by an appropriate instrument of transfer. The instrument

1 of transfer must include a provision that:

2 (1) requires the Texas State Railroad Authority to use
3 the property in a manner that primarily promotes a state public
4 purpose by using the property to operate the Texas State Railroad;

5 (2) indicates that ownership of the property
6 automatically reverts to the Parks and Wildlife Department if the
7 Texas State Railroad Authority fails to use the property in that
8 manner; and

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

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

15 (1) the right-of-way and trackage of the Texas State
16 Railroad;

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

19 (3) all equipment or other property of the Parks and
20 Wildlife Department used for the administration of or related to
21 the Texas State Railroad.

22 SECTION 6. The legislature finds that:

23 (1) proper and legal notice of the intention to
24 introduce this Act, setting forth the general substance of this
25 Act, has been published as provided by law, and the notice and a
26 copy of this Act have been furnished to all persons, agencies,
27 officials, or entities to which they are required to be furnished by

1 the constitution and laws of this state, including the governor,
2 who has submitted the notice and Act to the Texas Commission on
3 Environmental Quality;

4 (2) the Texas Commission on Environmental Quality has
5 filed its recommendations relating to this Act with the governor,
6 lieutenant governor, and speaker of the house of representatives
7 within the required time;

8 (3) the general law relating to consent by political
9 subdivisions to the creation of districts with conservation,
10 reclamation, and road powers and the inclusion of land in those
11 districts has been complied with; and

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

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