

By: Nichols

S.B. No. 1659

Substitute the following for S.B. No. 1659:

By: Hilderbran

C.S.S.B. No. 1659

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. GENERAL WATER DISTRICT LAW NOT APPLICABLE.
10 Chapter 49, Water Code, does not apply to the authority.

11 [Sections 4501.006-4501.050 reserved for expansion]

12 SUBCHAPTER B. BOARD OF DIRECTORS

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

18 (b) Voting directors serve staggered three-year terms,
19 with:

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

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

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

27 (b) A voting director may not serve more than three

1 consecutive terms.

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

3 (1) the City of Palestine must reside in Anderson
4 County; and

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

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

8 (1) the city council of the City of Palestine shall
9 appoint as a voting director one person proposed by the mayor of
10 Palestine; and

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

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

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

18 (1) the mayor of the City of Palestine or a member of
19 the city council of the City of Palestine designated by the mayor;
20 and

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

23 (b) A nonvoting director is not counted in determining the
24 board quorum.

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

27 Sec. 4501.056. VOTING AUTHORITY OF PRESIDENT. The board

1 president is a voting director but may vote only to break a tie. All
2 other voting directors are entitled to one vote on any issue before
3 the board.

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

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

10 [Sections 4501.058-4501.100 reserved for expansion]

11 SUBCHAPTER C. POWERS AND DUTIES

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

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

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

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

26 (1) is entered into before the effective date of the
27 Act creating this chapter;

1 (2) is conditioned on the passage of the Act creating
2 this chapter; and

3 (3) is assigned by a party to the contract after the
4 effective date of the Act creating this chapter.

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

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

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

11 Sec. 4501.105. CONDITIONAL TRANSFER OF PROPERTY. (a) A
12 conveyance of authority property, including a lease, to a private
13 operator or any other person must be conditioned on an obligation
14 that the property must be used as provided by this section.

15 (b) The conveyance must provide that ownership of authority
16 property automatically reverts to the Parks and Wildlife Department
17 if the authority or a private operator:

18 (1) does not use the property:

19 (A) to support the operations of the Texas State
20 Railroad; or

21 (B) in a manner that primarily promotes a state
22 public interest; or

23 (2) converts the Texas State Railroad to a static
24 display.

25 Sec. 4501.106. SURPLUS PROPERTY. The authority, with the
26 consent of the Parks and Wildlife Department, may dispose of
27 surplus property, including by exchanging the surplus property with

1 another person for other property, to improve the quality and
2 usefulness of property used by the authority.

3 Sec. 4501.107. DISPOSITION OF PUBLIC PARKS AND RECREATIONAL
4 LANDS; EXEMPTION FROM APPLICABILITY OF OTHER LAW. Chapter 253,
5 Local Government Code, and Chapter 26, Parks and Wildlife Code, do
6 not apply to the use, transfer, or other disposition of property by
7 any method:

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

9 (2) by the authority to any person.

10 Sec. 4501.108. NONPROFIT CORPORATION. (a) The board by
11 resolution may authorize the creation of a nonprofit corporation to
12 assist the authority in implementing a project or providing a
13 service authorized by this chapter.

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

16 (c) The board shall appoint the board of directors of the
17 nonprofit corporation.

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

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

22 [Sections 4501.110-4501.150 reserved for expansion]

23 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

26 Sec. 4501.152. GRANTS; DONATIONS. The authority may accept
27 grants and donations, including property, for any authority

1 purpose.

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

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

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

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

13 [Sections 4501.154-4501.200 reserved for expansion]

14 SUBCHAPTER E. DISSOLUTION

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

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

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

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

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

25 (1) the city council of the City of Palestine shall
26 appoint three voting directors from three persons proposed by the
27 mayor of Palestine to serve as directors under Subchapter B,

1 Chapter 4501, Special District Local Laws Code, as added by this
2 Act; and

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

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

10 (1) September 1, 2008;

11 (2) September 1, 2009; and

12 (3) September 1, 2010.

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

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

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

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

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

26 (b) Before September 1, 2007, the Parks and Wildlife
27 Department may agree with the Texas State Railroad Authority to

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

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

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

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

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

26 (1) requires the Texas State Railroad Authority to use
27 the property in a manner that primarily promotes a state public

1 purpose;

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

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

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

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

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

20 (1) the right-of-way and trackage of the Texas State
21 Railroad;

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

24 (3) all equipment or other property of the Parks and
25 Wildlife Department used for the administration of or related to
26 the Texas State Railroad.

27 SECTION 6. The legislature finds that:

1 (1) proper and legal notice of the intention to
2 introduce this Act, setting forth the general substance of this
3 Act, has been published as provided by law, and the notice and a
4 copy of this Act have been furnished to all persons, agencies,
5 officials, or entities to which they are required to be furnished by
6 the constitution and laws of this state, including the governor,
7 who has submitted the notice and Act to the Texas Commission on
8 Environmental Quality;

9 (2) the Texas Commission on Environmental Quality has
10 filed its recommendations relating to this Act with the governor,
11 lieutenant governor, and speaker of the house of representatives
12 within the required time;

13 (3) the general law relating to consent by political
14 subdivisions to the creation of districts with conservation,
15 reclamation, and road powers and the inclusion of land in those
16 districts has been complied with; and

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

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