

SENATE AMENDMENTS

2nd Printing

By: Martinez, Gonzales, Guillen, Flores,
Lucio III

H.B. No. 2510

A BILL TO BE ENTITLED

AN ACT

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

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

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

Art. 6550c-3. COMMUTER RAIL DISTRICTS

Sec. 1. DEFINITIONS. In this article:

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

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

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

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

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

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

(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) of this section,
23 may impose for an 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.

FLOOR AMENDMENT NO. 1

BY: J-J. King

1 Amend H.B. 2510 (Senate Committee Printing) in added
2 Subsection (d), Section 4, Article 6550c-3, Chapter 13, Title 112,
3 Revised Statutes (page 2, line 23), between "may" and "relocate",
4 by inserting "require the owner to".


ADOPTED

MAY 18 2007

Patricia Spaw
Secretary of the Senate

ADOPTED

MAY 18 2007


Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: Carroll

1 Amend H.B. No. 2510 (Senate committee printing) as follows:

2 (1) Add the following appropriately numbered SECTIONS and
3 renumber subsequent SECTIONS accordingly:

4 SECTION _____. (a) The purpose of Chapter 329, Tax Code, as
5 added by this section, is to promote and provide for funding for
6 commuter rail transit between municipalities located in the
7 counties to which that chapter applies.

8 (b) Subtitle C, Title 3, Tax Code, is amended by adding
9 Chapter 329 to read as follows:

10 CHAPTER 329. SALES AND USE TAXES BY CERTAIN MUNICIPALITIES

11 Sec. 329.001. DEFINITION. In this chapter, "transit sales
12 and use tax" means a sales and use tax imposed for the support of
13 transportation services authorized under the Transportation Code.

14 Sec. 329.002. APPLICABILITY. This chapter applies only to
15 a municipality located wholly or partly in:

16 (1) a district created under Article 6550c-3, Revised
17 Statutes;

18 (2) one or both of two contiguous counties, each of
19 which has a population of one million or more; or

20 (3) a county contiguous to one of the counties
21 described in Subdivision (2).

22 Sec. 329.003. TRANSIT SALES AND USE TAX NOT COUNTED IN
23 COMBINED LOCAL TAX RATE. Notwithstanding any other law, the rate of
24 a transit sales and use tax imposed within the territory of a
25 municipality to which this chapter applies may not be considered in
26 determining the combined or overlapping rate of local sales and use
27 taxes in the municipality for any purpose other than as provided in
28 Section 329.004.

29 Sec. 329.004. LIMITATION FOR TRANSIT SALES AND USE TAXES.

1 Notwithstanding any other law, the rate of all transit sales and use
2 taxes imposed within the territory of a municipality to which this
3 chapter applies may not exceed one percent at any location in the
4 municipality.

5 SECTION _____. Sections 321.101(b) and (e), Tax Code, are
6 amended to read as follows:

7 (b) A municipality that is not disqualified may, by a
8 majority vote of the qualified voters of the municipality voting at
9 an election held for that purpose, adopt an additional sales and use
10 tax for the benefit of the municipality in accordance with this
11 chapter. A municipality, other than a municipality to which
12 Chapter 329 applies, is disqualified from adopting the additional
13 sales and use tax if the municipality:

14 (1) is included within the boundaries of a rapid
15 transit authority created under Chapter 451, Transportation Code;

16 (2) is included within the boundaries of a regional
17 transportation authority created under Chapter 452, Transportation
18 Code, by a principal municipality having a population of less than
19 800,000, unless the municipality has a population of 400,000 or
20 more and is located in more than one county;

21 (3) is wholly or partly located in a county that
22 contains territory within the boundaries of a regional
23 transportation authority created under Chapter 452, Transportation
24 Code, by a principal municipality having a population in excess of
25 800,000, unless:

26 (A) the municipality is a contiguous
27 municipality; or

28 (B) the municipality is not included within the
29 boundaries of the authority and is located wholly or partly in a
30 county in which fewer than 250 persons are residents of both the
31 county and the authority according to the most recent federal

1 census; or

2 (C) the municipality is not and on January 1,
3 1993, was not included within the boundaries of the authority; or

4 (4) imposes a tax authorized by Chapter 453,
5 Transportation Code.

6 (e) An authority created under Chapter 451 or 452,
7 Transportation Code, is prohibited from imposing the tax provided
8 for by those chapters if within the boundaries of the authority
9 there is a municipality, other than a municipality to which Chapter
10 329 applies, that has adopted the additional sales and use tax
11 provided for by this section.

12 (2) In SECTION 1 of the bill, in new Section 8, Article
13 6550c-3, Revised Statutes, strike Subsection (f) (page 5, lines
14 4-8), and reletter subsequent subsections accordingly.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable John Carona, Chair, Senate Committee on Transportation & Homeland Security

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2510 by Martinez, "Mando" (Relating to the creation, administration, powers, duties, operations, and financing of a commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would add Article 6550c-3 to Chapter 13, Title 112, Revised Statutes, to authorize the commissioners court of a county to create a commuter rail district to provide commuter rail service to counties along the Texas-Mexico border. The bill stipulates the steps for creating a district and establishing the district's board; the powers and duties of the district; how the district shall operate; and methods of funding the district and its operations. In addition, the Texas Transportation Commission would be authorized to enter into an interlocal agreement with a district under which the district may exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the district.

A district would be authorized to contract with a county or other political subdivision to provide commuter rail transportation services to an area outside the boundaries of the district on such terms and conditions as the parties agree.

A district's property, material purchases, revenues, and income and the interest on a bond or note issued by a district would be exempt from taxes imposed by the state or a political subdivision. The district would be authorized to impose any kind of tax except an ad valorem property tax.

A municipality located within a district and that wants to be served by district commuter rail facilities must pay for construction of a commuter rail station.

The bill would take effect September 1, 2007.

Local Government Impact

Because the bill would grant the district the ability to establish fees, maintain rates, obtain grants, and issue bonds at a level to pay all expenses necessary for operations, maintenance, and repayment of any bond debt, as well as impose taxes, it is assumed that the fiscal impact for the creation and operation of a district would be recouped.

The fiscal impact to units of local government that would choose to participate in obtaining commuter rail services would vary depending on the services that would be provided under the provisions of the bill. Costs to local governmental entities for participating in the promotion, facilitation, development, and improvement of commuter rail along the Texas-Mexico border would depend on the size and type of the projects that are constructed, but it is assumed those entities would enter into agreements only if the entity has sufficient funding.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, DB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 25, 2007

TO: Honorable Mike Krusee, Chair, House Committee on Transportation

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2510 by Martinez, "Mando" (Relating to the creation, administration, powers, duties, operations, and financing of a commuter rail district; granting the authority to issue bonds; granting the power of eminent domain.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would add Article 6550c-3 to Chapter 13, Title 112, Revised Statutes, to authorize the commissioners court of a county to create a commuter rail district to provide commuter rail service to counties along the Texas-Mexico border. The bill stipulates the steps for creating a district and establishing the district's board; the powers and duties of the district; how the district shall operate; and methods of funding the district and its operations. In addition, the Texas Transportation Commission would be authorized to enter into an interlocal agreement with a district under which the district may exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the district.

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The fiscal impact to units of local government that would choose to participate in obtaining commuter rail services would vary depending on the services that would be provided under the provisions of the bill. Costs to local governmental entities for participating in the promotion, facilitation, development, and improvement of commuter rail along the Texas-Mexico border would depend on the size and type of the projects that are constructed, but it is assumed those entities would enter into agreements only if the entity has sufficient funding.

Source Agencies: 601 Department of Transportation

LBB Staff: JOB, DB, KJG

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