

By: Phillips

H.B. No. 2987

A BILL TO BE ENTITLED

AN ACT

relating to a nonsubstantive revision of statutes relating to
railroads; including conforming amendments.

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

ARTICLE 1. GENERAL MATTERS

SECTION 1.01. PURPOSE OF ACT. (a) This Act is enacted as a
part of the state's continuing statutory revision program under
Section 323.007, Government Code. The program contemplates a
topic-by-topic revision of the state's general and permanent
statute law without substantive change.

(b) Consistent with the objectives of the statutory
revision program, the purpose of this Act is to make the law
encompassed by this Act more accessible and understandable by:

(1) rearranging the statutes into a more logical
order;

(2) employing a format and numbering system designed
to facilitate citation of the law and to accommodate future
expansion of the law;

(3) eliminating repealed, duplicative, expired, and
executed provisions; and

(4) restating the law in modern American English to
the greatest extent possible.

ARTICLE 2. TRANSFER OF PROVISIONS FROM TITLE 112, REVISED
STATUTES, TO TRANSPORTATION CODE

SECTION 2.01. Subtitle A, Title 5, Transportation Code, is redesignated as Subtitle B, Title 5, Transportation Code, and the subtitle heading is amended to read as follows:

SUBTITLE B [~~A~~]. STATE RAIL FACILITIES [~~TEXAS DEPARTMENT OF
TRANSPORTATION~~]

SECTION 2.02. Title 5, Transportation Code, is amended by adding a new Subtitle A to read as follows:

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS

Sec. 81.002. APPLICABILITY

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS. In this title:

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

(2) "Department" means the Texas Department of Transportation. (New.)

Sec. 81.002. APPLICABILITY. In this title, a reference to a railroad company includes:

(1) a railroad incorporated before September 1, 2007, under former Title 112, Revised Statutes; or

(2) any other legal entity operating a railroad, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business

1 Organizations Code. (V.A.C.S. Art. 6259a.)

2 SECTION 2.03. Title 5, Transportation Code, is amended by
3 adding Subtitles C and D to read as follows:

4 SUBTITLE C. RAILROADS GENERALLY

5 CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 111.001. DEFINITION OF PERSON

8 Sec. 111.002. POWER AND AUTHORITY

9 Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY

10 Sec. 111.004. REFERENCE TO RAILROAD COMMISSION

11 [Sections 111.005-111.050 reserved for expansion]

12 SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

13 Sec. 111.051. INSPECTION OF BOOKS AND PAPERS; PENALTY

14 Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT

15 Sec. 111.053. REFUSAL TO ANSWER BY RAILROAD COMPANY

16 OFFICER OR EMPLOYEE; CRIMINAL PENALTY

17 Sec. 111.054. REFUSAL TO ANSWER BY RAILROAD COMPANY;

18 PENALTY

19 Sec. 111.055. WITNESSES

20 Sec. 111.056. DEPOSITIONS

21 Sec. 111.057. PENALTY NOT OTHERWISE PROVIDED

22 Sec. 111.058. SUITS FOR PENALTY

23 [Sections 111.059-111.100 reserved for expansion]

24 SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

25 Sec. 111.101. IMPLEMENTATION OF FEDERAL SAFETY LAWS;

26 FEES

27 Sec. 111.102. HAZARDOUS MATERIALS INSPECTIONS

SUBTITLE C. RAILROADS GENERALLY

CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply. (New.)

Sec. 111.002. POWER AND AUTHORITY. To the extent not preempted by federal law, the department:

(1) has power and authority over:

(A) railroads, including suburban, belt, and terminal railroads;

(B) public wharves, docks, piers, elevators, warehouses, sheds, tracks, and other property used in connection with railroads; and

(C) persons, associations, and private or municipal corporations that own or operate a railroad, or a wharf, dock, pier, elevator, warehouse, shed, track, or other property used in connection with a railroad; and

(2) shall govern and regulate those railroads, persons, associations, and corporations and prevent abuses in the conduct of their business. (V.A.C.S. Art. 6445, Subsec. (a).)

Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY. On October 1, 2005, all powers and duties of the Railroad Commission of Texas that related primarily to railroads and the regulation of railroads and that existed on that date were transferred to the department, as

1 provided by Chapter 281, Acts of the 79th Legislature, Regular
2 Session, 2005. (V.A.C.S. Art. 6445, Subsec. (b).)

3 Sec. 111.004. REFERENCE TO RAILROAD COMMISSION. Any
4 reference in law to the Railroad Commission of Texas that relates
5 primarily to railroads and the regulation of railroads means the
6 department. (V.A.C.S. Art. 6445, Subsec. (c).)

7 [Sections 111.005-111.050 reserved for expansion]

8 SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

9 Sec. 111.051. INSPECTION OF BOOKS AND PAPERS; PENALTY. (a)
10 A member of the commission or a person authorized in writing by a
11 member of the commission under the hand and seal of the department
12 may at any time:

13 (1) inspect the books and papers of a railroad
14 company; and

15 (2) examine under oath a railroad company officer,
16 agent, or employee in relation to the business and affairs of the
17 company.

18 (b) A railroad company that refuses to permit an examination
19 of the company's books and papers under Subsection (a) is liable to
20 the state, for each violation, for a penalty of not less than \$125
21 or more than \$500 for each day the company fails or refuses to
22 permit the examination.

23 (c) An officer, agent, or employee of a railroad company who
24 possesses or controls any book or paper of the company commits an
25 offense if, after proper demand, the officer, agent, or employee
26 fails or refuses to exhibit, to any member of the commission or any
27 person authorized to investigate, the book or paper. An offense

1 under this subsection is a misdemeanor punishable by a fine of not
2 less than \$125 or more than \$500. (V.A.C.S. Arts. 6464, 6465,
3 6559i-1.)

4 Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT. (a)
5 The department shall as often as necessary provide each railroad
6 company a questionnaire designed to elicit all information
7 concerning the railroad.

8 (b) A railroad company receiving a questionnaire under
9 Subsection (a) shall properly fill out the questionnaire and answer
10 each question fully and correctly. A railroad company that is
11 unable to answer a question shall give satisfactory reason for the
12 inability to answer.

13 (c) A railroad company shall return the completed
14 questionnaire, sworn to by the proper officer of the company, to the
15 department not later than the 30th day after the date the company
16 received the questionnaire. (V.A.C.S. Art. 6467.)

17 Sec. 111.053. REFUSAL TO ANSWER BY RAILROAD COMPANY OFFICER
18 OR EMPLOYEE; CRIMINAL PENALTY. (a) An officer or employee of a
19 railroad company commits an offense if the officer or employee:

20 (1) fails or refuses to fill out and return a
21 questionnaire to the department as required by law;

22 (2) fails or refuses to answer any question in a
23 questionnaire;

24 (3) gives a false answer to any question in a
25 questionnaire if the answer to the question is within the officer's
26 or employee's knowledge; or

27 (4) evades the answer to any question in a

1 questionnaire.

2 (b) An offense under this section is a misdemeanor
3 punishable by a fine of \$500 for each day that the officer or
4 employee violates this section after the date the questionnaire is
5 due to the department. (V.A.C.S. Art. 6559i-2.)

6 Sec. 111.054. REFUSAL TO ANSWER BY RAILROAD COMPANY;
7 PENALTY. (a) A railroad company is liable to the state for a
8 penalty of \$500 if:

9 (1) an officer or employee of the company:

10 (A) fails or refuses to fill out and return a
11 questionnaire under Section 111.052;

12 (B) fails or refuses to answer a question in a
13 questionnaire under Section 111.052;

14 (C) gives a false answer to a question in a
15 questionnaire under Section 111.052 and the fact inquired of is
16 within the officer's or employee's knowledge; or

17 (D) evades the answer to such a question in a
18 questionnaire under Section 111.052; and

19 (2) it appears that the officer or employee acted in
20 obedience to the company's direction, permission, or request in the
21 officer's or employee's failure, refusal, or evasion.

22 (b) The department may prescribe a system of bookkeeping to
23 be observed by each railroad company that receives a questionnaire
24 under Section 111.052, under the penalties of Subsection (a).
25 (V.A.C.S. Art. 6468.)

26 Sec. 111.055. WITNESSES. (a) This section applies only to
27 the extent that it does not conflict with Chapter 2001, Government

1 Code.

2 (b) In an examination or investigation under this chapter,
3 the department may compel the attendance of witnesses and may issue
4 subpoenas for witnesses in accordance with rules prescribed by the
5 department. The officer to whom process is directed shall serve it.

6 (c) A witness who appears before the department by order of
7 the department at a place outside the county where the witness
8 resides is entitled to receive for the witness's attendance:

9 (1) \$1 for each day; and

10 (2) three cents for each mile the witness travels, by
11 the nearest practical route, in going to and returning from that
12 place.

13 (d) On the presentation of proper vouchers, sworn to by the
14 witness and approved by the department, the comptroller shall pay
15 the witness the amount to which the witness is entitled.

16 (e) A witness is not entitled to fees or mileage if, when
17 summoned at the request of a railroad, the witness:

18 (1) is directly or indirectly interested in the
19 railroad;

20 (2) is in any way interested in stock, a bond, a
21 mortgage, or a security, or the earnings of the railroad; or

22 (3) was an officer, agent, or employee of the
23 railroad.

24 (f) A witness furnished with free transportation may not
25 receive pay for the distance the witness travels on the free
26 transportation.

27 (g) The department may issue an attachment as in civil cases

1 for a witness who fails or refuses to obey a subpoena and may compel
2 the witness to appear before the department and testify on a matter
3 as the department requires.

4 (h) If a witness, after being summoned, fails or refuses to
5 attend or to answer a question asked of the witness that the witness
6 would be required to answer if in court, the department may fine and
7 imprison the witness for contempt in the same manner that a judge of
8 the district court might do under similar circumstances.

9 (i) The claim that testimony might tend to incriminate the
10 person giving the testimony does not excuse a witness from
11 testifying, but the evidence or testimony may not be used against
12 the witness in a criminal trial. (New; V.A.C.S. Art. 6471.)

13 Sec. 111.056. DEPOSITIONS. (a) The department may in its
14 discretion issue process to take the testimony of a witness by a
15 written or oral deposition instead of compelling the personal
16 attendance of the witness.

17 (b) An officer executing process issued under a provision of
18 this subtitle or Subtitle D may charge a fee as determined by the
19 department, not to exceed fees prescribed by law for similar
20 services. (V.A.C.S. Art. 6472.)

21 Sec. 111.057. PENALTY NOT OTHERWISE PROVIDED. A railway
22 company doing business in this state is liable to the state for a
23 penalty of not more than \$5,000 each time the railway company:

24 (1) violates any provision of this subtitle or
25 Subtitle D or fails or refuses to perform any duty imposed upon it
26 for which a penalty has not been provided by law; or

27 (2) fails, neglects, or refuses to obey any

1 requirement, order, judgment, or decree of the department.
2 (V.A.C.S. Art. 6476.)

3 Sec. 111.058. SUITS FOR PENALTY. (a) For a penalty
4 provided under this chapter that is recoverable by the state, the
5 attorney general, or an attorney acting under the direction of the
6 attorney general, may bring suit in the name of the state in:

7 (1) Travis County; or

8 (2) any county in or through which the railroad runs.

9 (b) The attorney bringing a suit under this section is
10 entitled to receive:

11 (1) a fee to be paid by the state of \$50 for each
12 penalty recovered and collected by the attorney; and

13 (2) 10 percent of the amount collected.

14 (c) In all suits arising under this chapter or Section
15 112.003, the rules of evidence shall be the same as in ordinary
16 civil actions, except as otherwise provided by this chapter.
17 (V.A.C.S. Art. 6477 (part).)

18 [Sections 111.059-111.100 reserved for expansion]

19 SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

20 Sec. 111.101. IMPLEMENTATION OF FEDERAL SAFETY LAWS; FEES.

21 (a) The department may perform any act, adopt any rules, and issue
22 any orders as permitted by the Federal Railroad Safety Act of 1970,
23 originally codified as 45 U.S.C. Sections 421, 431 et seq. and
24 recodified in 1994 as 49 U.S.C. Sections 20101-20117, 20131,
25 20133-20141, 20143, 21301, 21302, 21304, 21311, 24902, and 24905
26 and Sections 4(b)(1), (i), and (t) of Pub. L. No. 103-272.

27 (b) The department by rule shall:

1 (1) adopt reasonable fees to be assessed annually
2 against railroads operating within the state; and

3 (2) establish the method by which the fees are
4 calculated and assessed.

5 (c) The total amount of fees estimated to be collected by
6 rules adopted by the department under this section may not exceed
7 the amount estimated by the department to be necessary to recover
8 the costs of administering the department's rail safety program.

9 (d) In adopting a fee structure, the department may consider
10 the gross ton miles for railroad operations within this state for
11 each railroad operating in the state to provide for the equitable
12 allocation among railroads of the cost of administering the
13 department's rail safety program.

14 (e) A fee collected under this section shall be deposited to
15 the credit of the general revenue fund to be used for the rail
16 safety program. (V.A.C.S. Art. 6448a.)

17 Sec. 111.102. HAZARDOUS MATERIALS INSPECTIONS. (a) The
18 department may enter private property on which a railroad facility
19 that is connected to but not a part of a general railroad system of
20 transportation is located at a reasonable time and in a reasonable
21 manner to perform an inspection, investigation, or surveillance of
22 facilities, equipment, records, and operations relating to the
23 packaging, loading, or transportation of hazardous materials to
24 determine whether the railroad facility complies with the
25 applicable safety requirements of this chapter or a rule adopted
26 under this chapter.

27 (b) In performing an inspection under this section, the

department may not require a railroad facility owner or operator to alter or cease rail operations.

(c) Any inspection, investigation, or surveillance performed on the site of a manufacturing facility shall be performed in compliance with the safety rules of the facility, including a rule regarding security clearance at the front gate if appropriate. (V.A.C.S. Art. 6448b.)

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITION OF PERSON

Sec. 112.002. GENERAL RIGHTS OF RAILROADS

Sec. 112.003. DAMAGES

[Sections 112.004-112.050 reserved for expansion]

SUBCHAPTER B. ACQUISITION AND USE OF PROPERTY BY RAILROAD OR OF RAILROAD

Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY

Sec. 112.052. ACQUISITION OF PROPERTY FOR CHANGE, RELOCATION, OR ABANDONMENT OF RAILROAD LINE

Sec. 112.053. CONDEMNATION OF PROPERTY: WHEN RAILROAD COMPANY AND OWNER DISAGREE

Sec. 112.054. CONDEMNATION OF PROPERTY: CERTAIN TERMINAL SWITCHING RAILROADS

Sec. 112.055. RIGHT-OF-WAY ACQUIRED BY CONDEMNATION

Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS

1 Sec. 112.057. CONSTRUCTION ON OR NEAR CERTAIN
2 WATERWAYS OR ROADS
3 Sec. 112.058. INTERSECTION OF RAIL LINE AND ROAD OR
4 STREET
5 Sec. 112.059. CROSSINGS OF PUBLIC ROADS
6 Sec. 112.060. CONVERSION OF PROPERTY IN CUSTODY OF
7 RAILROAD COMPANY
8 Sec. 112.061. SUIT INVOLVING RAILROAD COMPANY PROPERTY
9 Sec. 112.062. RAILROAD COMPANY PROPERTY SUBJECT TO EXECUTION;
10 CHARACTERIZATION OF ROLLING STOCK
11 [Sections 112.063-112.100 reserved for expansion]
12 SUBCHAPTER C. SAFETY
13 Sec. 112.101. CATTLE GUARDS
14 Sec. 112.102. LIABILITY FOR DEATH OR INJURY TO STOCK
15 Sec. 112.103. DUTY TO STOP AND RENDER AID; OFFENSE
16 [Sections 112.104-112.150 reserved for expansion]
17 SUBCHAPTER D. LIABILITY FOR INJURIES TO EMPLOYEES
18 Sec. 112.151. APPLICABILITY OF SUBCHAPTER
19 Sec. 112.152. LIABILITY GENERALLY FOR INJURY TO OR
20 DEATH OF EMPLOYEE
21 Sec. 112.153. CONTRIBUTORY NEGLIGENCE
22 Sec. 112.154. ASSUMED RISK
23 Sec. 112.155. CERTAIN PROVISIONS VOID
24 Sec. 112.156. LIABILITY OFFSET
25 Sec. 112.157. CONSTRUCTION OF CERTAIN SECTIONS
26 Sec. 112.158. INJURY TO FELLOW SERVANT

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply. (New.)

Sec. 112.002. GENERAL RIGHTS OF RAILROADS. (a) A railroad company has the right to succession.

(b) A railroad company may:

(1) sue, be sued, plead, and be impleaded in its corporate name;

(2) have and use a seal and alter the seal at will;

(3) receive and convey persons and property on its railway by any mechanical power, including the use of steam;

(4) regulate the time and manner in which, and the compensation for which, passengers and property are transported, subject to the provisions of law;

(5) exercise the power of eminent domain for the purposes prescribed by this subtitle or Subtitle D;

(6) purchase, hold, and use all property as necessary for the construction and use of its railway, stations, and other accommodations necessary to accomplish company objectives, and convey that property when no longer required for railway use; and

(7) take, hold, and use property granted to the company to aid in the construction and use of its railway, and convey that property in a manner consistent with the terms of the

grant when the property is no longer required for railway use.
(V.A.C.S. Art. 6341.)

Sec. 112.003. DAMAGES. A railroad subject to this subtitle or Subtitle D is liable to a person, firm, or corporation injured for the damages resulting from:

(1) a prohibited or unlawful act or thing that the railroad does or causes or permits to be done; or

(2) failure of the railroad to perform an act the railroad is required to perform under this subtitle or Subtitle D.
(V.A.C.S. Art. 6475.)

[Sections 112.004-112.050 reserved for expansion]

SUBCHAPTER B. ACQUISITION AND USE OF PROPERTY BY RAILROAD OR OF
RAILROAD

Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY. (a) A railroad company is entitled to make an examination and survey for the company's proposed railway, to be performed as necessary to select the most advantageous route for the proposed railway, and, subject to Subsection (c), may enter on the lands or waters of any person or corporation for that purpose.

(b) A railroad company is responsible for any damages arising from an examination or survey under this section.

(c) Except for the purposes of performing a lineal survey, a railroad company may not enter on private real property for the purpose of condemning the property or any material on the property for any purpose until the company agrees with and pays the owner of the property all damages that may be caused to the owner's property by the condemnation of the property and by the construction of the

1 company's road. (V.A.C.S. Arts. 6318, 6337.)

2 Sec. 112.052. ACQUISITION OF PROPERTY FOR CHANGE,
3 RELOCATION, OR ABANDONMENT OF RAILROAD LINE. (a) Subject to
4 Subsection (b), a railroad company or a receiver of a railroad that
5 changes, relocates, or abandons a line of railroad in this state may
6 acquire by condemnation or otherwise land for:

- 7 (1) right-of-way;
- 8 (2) depot grounds;
- 9 (3) shops;
- 10 (4) roundhouses;
- 11 (5) water supply sites;
- 12 (6) sidings;
- 13 (7) switches;
- 14 (8) spurs; or
- 15 (9) any other purpose connected with or necessary to
16 the building or operating of the line of railroad, as changed,
17 relocated, or abandoned.

18 (b) Property acquired under this section must be declared
19 for and charged with public use. (V.A.C.S. Art. 6351.)

20 Sec. 112.053. CONDEMNATION OF PROPERTY: WHEN RAILROAD
21 COMPANY AND OWNER DISAGREE. (a) A railroad company may acquire
22 property by condemnation if the company cannot agree with the owner
23 for the purchase of the property and the property is required for
24 any of the following purposes:

- 25 (1) the incorporation of the railroad;
- 26 (2) the transaction of company business;
- 27 (3) depots, station buildings, and machine and repair

1 shops;

2 (4) the construction of reservoirs for the water
3 supply;

4 (5) the right-of-way, or new or additional
5 right-of-way;

6 (6) a change or relocation;

7 (7) a roadbed;

8 (8) the shortening of a line;

9 (9) the reduction of grades;

10 (10) the double tracking of the railroad or the
11 construction and operation of tracks; or

12 (11) any other purpose connected with or necessary to
13 the building, operating, or running of the railroad.

14 (b) A railroad company may not, under this section, condemn
15 property that is located more than two miles from the company's
16 right-of-way. (V.A.C.S. Art. 6336.)

17 Sec. 112.054. CONDEMNATION OF PROPERTY: CERTAIN TERMINAL
18 SWITCHING RAILROADS. (a) This section applies only to the
19 condemnation of property for a terminal switching railroad that:

20 (1) handles fewer than 10,000 but more than 3,000
21 carloads a year; and

22 (2) operates in a single county that:

23 (A) has a population of 110,000 or more;

24 (B) is not adjacent to the Texas border; and

25 (C) does not contain a portion of a national
26 forest.

27 (b) The power to condemn property given to a railroad

1 company under this subtitle or Subtitle D, including Section
2 112.052 or 112.053, does not apply to any property used for or
3 designated under local zoning regulations for residential use
4 unless the use of the condemned property is authorized under or in
5 conformity with local zoning or development regulations. (V.A.C.S.
6 Art. 6336a.)

7 Sec. 112.055. RIGHT-OF-WAY ACQUIRED BY CONDEMNATION. (a)
8 A right-of-way that a railway company in this state acquires by
9 condemnation does not include a fee simple estate in public or
10 private land.

11 (b) A right-of-way that a railway company acquires by
12 condemnation is not lost on forfeiture or expiration of the railway
13 company's charter. The right-of-way remains subject to an
14 extension of the charter or the grant of a new charter, and a new
15 condemnation of the way is not required. (V.A.C.S. Art. 6339.)

16 Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS.

17 (a) Subject to Subsection (b), a corporation created to build,
18 maintain, and operate a line of railroads to a mine, gin, quarry,
19 manufacturing plant, or mill may acquire by condemnation land
20 necessary for the right-of-way for a road connecting the mine, gin,
21 quarry, manufacturing plant, or mill to the nearest line of
22 railroad.

23 (b) The corporation may condemn property under this section
24 only if the corporation declares itself a common carrier and its
25 railroads public highways, placing the road under the control of
26 the department. (V.A.C.S. Art. 6550.)

27 Sec. 112.057. CONSTRUCTION ON OR NEAR CERTAIN WATERWAYS OR

1 ROADS. (a) A railroad company may construct the company's road
2 across, along, or on any stream of water, water course, street,
3 highway, turnpike, or canal where the route of the company's
4 railway intersects or touches the stream, water course, street,
5 highway, turnpike, or canal.

6 (b) The railroad company shall:

7 (1) restore the stream, water course, street, highway,
8 turnpike, or canal to its former state or to a state in which its
9 usefulness is not unnecessarily impaired; and

10 (2) keep the crossing in repair. (V.A.C.S. Art.
11 6320.)

12 Sec. 112.058. INTERSECTION OF RAIL LINE AND ROAD OR STREET.
13 Sections 112.051, 112.053, 112.054, 112.055, 112.057, 112.059, and
14 112.061 do not affect a law that requires a railroad company to
15 provide a proper crossing at each intersection of a road or street.
16 (V.A.C.S. Art. 6326.)

17 Sec. 112.059. CROSSINGS OF PUBLIC ROADS. (a) Each railroad
18 company in this state shall place and keep the portion of the
19 company's roadbed and right-of-way over or across which a public
20 county road runs in proper condition for the use of the traveling
21 public.

22 (b) A railroad company is liable for a penalty of \$10 for
23 each week the company does not comply with the requirements of this
24 section if:

25 (1) the overseer of a public road gives written notice
26 to the company's person responsible for maintaining the area where
27 the work is needed; and

1 (2) the company fails to complete the work or repairs
2 within 30 days after the date written notice is given under
3 Subdivision (1).

4 (c) A county attorney, on the making of an affidavit of the
5 facts by any person, shall immediately institute a suit against the
6 railroad company to recover the penalty provided by this section. A
7 county attorney's wilful failure or refusal to comply with this
8 subsection is sufficient cause for the county attorney to be
9 removed from office unless it is evident that the suit could not
10 have been maintained.

11 (d) A proceeding under this section shall be conducted in
12 the name of the county and in the same manner as a proceeding in a
13 civil suit.

14 (e) A county attorney is entitled to a fee of \$10, taxed as
15 costs, for each suit maintained by the county attorney under this
16 section. If two or more penalties are sought in the same suit only
17 one fee may be recovered under this subsection.

18 (f) If the county is cast in the suit, the county may not be
19 charged costs.

20 (g) A penalty collected under this section shall be
21 deposited in the road and bridge fund of the county in which the
22 suit is brought. (V.A.C.S. Art. 6327.)

23 Sec. 112.060. CONVERSION OF PROPERTY IN CUSTODY OF RAILROAD
24 COMPANY. (a) A railroad company in this state or a receiver of a
25 railroad company in this state may not confiscate or otherwise
26 convert to the company's or receiver's own use, in whole or in
27 substantial part, a carload shipment of any article or commodity of

1 freight traffic received by the company or receiver for
2 transportation and delivery without the express consent of the
3 owner or consignee of the shipment.

4 (b) An act of an agent, officer, or employee of a railroad
5 company or receiver under this section that is within the apparent
6 scope of the agent's, officer's, or employee's duties or authority
7 with respect to the confiscation or conversion is considered to be
8 an act of the company or receiver.

9 (c) This section does not apply to a conversion of freight
10 that has been damaged or intermingled with other freight in wrecks,
11 or to refused or unclaimed freight, that the railroad is unable to
12 deliver.

13 (d) In addition to all other remedies or penalties that may
14 be provided by law, a railroad company or receiver that violates
15 this section is subject to:

16 (1) a penalty in favor of the state of not less than
17 \$125 or more than \$500; and

18 (2) an additional penalty in favor of the owner or
19 consignee of the converted shipment equal to twice the amount of the
20 purchase price of the converted shipment. (V.A.C.S. Arts. 6366,
21 6367.)

22 Sec. 112.061. SUIT INVOLVING RAILROAD COMPANY PROPERTY.

23 (a) If a railroad company is sued for property occupied by the
24 company for railroad purposes or for damages to property occupied
25 by the company for railroad purposes, the court in which the suit is
26 pending may determine all matters in dispute between the parties,
27 including the condemnation of the property, on petition or cross

1 bill by the defendant requesting that remedy.

2 (b) A plea for condemnation under Subsection (a) is
3 considered an admission of the plaintiff's title to the property.
4 (V.A.C.S. Art. 6338.)

5 Sec. 112.062. RAILROAD COMPANY PROPERTY SUBJECT TO
6 EXECUTION; CHARACTERIZATION OF ROLLING STOCK. (a) All or any part
7 of a railroad company's real and personal property is subject to
8 execution and sale in the same manner as the property of
9 individuals.

10 (b) No portion of a railroad company's real or personal
11 property is exempt from execution and sale.

12 (c) The rolling stock and all other movable property
13 belonging to a railroad company is considered personal property.
14 (V.A.C.S. Art. 6420.)

15 [Sections 112.063-112.100 reserved for expansion]

16 SUBCHAPTER C. SAFETY

17 Sec. 112.101. CATTLE GUARDS. (a) A railroad company whose
18 railroad passes through a field or enclosure shall construct and
19 keep in good repair a good and sufficient cattle guard or stop at
20 each location the railroad enters the field or enclosure.

21 (b) If a field or enclosure through which a railway passes
22 is enlarged or extended, or the owner of any land over which a
23 railway runs clears and opens a field so as to include the track of a
24 railway, the railroad company shall construct and keep in repair
25 good and sufficient cattle guards or stops at the borders of the
26 extended enclosures or fields or the new fields.

27 (c) A cattle guard or stop required by this section shall be

1 constructed and kept in repair to protect the fields and enclosures
2 from the depredations of stock of any kind.

3 (d) If a railroad company fails to construct and keep in
4 repair a cattle guard or stop required by this section, the owner of
5 the enclosure or field may:

6 (1) have the required cattle guards or stops
7 constructed at the proper places and kept in repair; and

8 (2) recover from the company the costs of constructing
9 or repairing the required cattle guards or stops, unless it is shown
10 that the enlargement or extension was made capriciously and with
11 intent to harass and molest the company.

12 (e) A railroad company that neglects to construct or keep in
13 repair a proper cattle guard or stop as required by this section is
14 liable to a party injured by the neglect for all damages that may
15 result from the neglect. The injured party may seek to recover the
16 damages by filing suit. (V.A.C.S. Art. 6400.)

17 Sec. 112.102. LIABILITY FOR DEATH OR INJURY TO STOCK. (a)
18 Subject to Subsection (b), a railroad company is liable to the owner
19 for the value of all stock killed or injured by the company's
20 locomotives and cars operating over the company's railways,
21 regardless of whether the county or subdivision of a county in which
22 the death or injury occurs has, under Subchapter B or D, Chapter
23 143, Agriculture Code, prohibited certain animals from running at
24 large.

25 (b) A railroad company that fences its railway is liable
26 only for injury to stock that results from a want of ordinary care.
27 (V.A.C.S. Art. 6402.)

1 Sec. 112.103. DUTY TO STOP AND RENDER AID; OFFENSE. (a) In
2 this section, "operator" means the person assigned by a railroad
3 company to be responsible for the operation of a train.

4 (b) An operator who is involved, while operating a
5 locomotive, in an accident resulting in injury to or death of a
6 person or damage to a vehicle that is driven or attended by a person
7 shall immediately stop the locomotive at the scene of the accident.

8 (c) The operator shall render to a person injured in the
9 accident reasonable assistance, including transporting, or the
10 making of arrangements for transporting, the person to a physician,
11 surgeon, or hospital for medical or surgical treatment if it is
12 apparent that treatment is necessary or if the injured person
13 requests transportation.

14 (d) A person who violates this section commits an offense.
15 An offense under this subsection is a Class C misdemeanor.
16 (V.A.C.S. Art. 6419b; New.)

17 [Sections 112.104-112.150 reserved for expansion]

18 SUBCHAPTER D. LIABILITY FOR INJURIES TO EMPLOYEES

19 Sec. 112.151. APPLICABILITY OF SUBCHAPTER.
20 Notwithstanding any other law, this subchapter does not apply to
21 the portion of a person's, receiver's, or corporation's operations
22 that:

23 (1) consists solely of the fabrication, manufacture,
24 repair, or storage of rail rolling stock; or

25 (2) uses rail cars solely as a part of its own internal
26 manufacturing or production process. (V.A.C.S. Art. 6432A.)

27 Sec. 112.152. LIABILITY GENERALLY FOR INJURY TO OR DEATH OF

1 EMPLOYEE. (a) A corporation, receiver, or other person operating a
2 railroad in this state is liable for damages to a person who, while
3 employed by the railroad operator, is injured as a result of:

4 (1) the negligence of an officer, agent, or employee
5 of the railroad operator; or

6 (2) any defect or insufficiency due to the railroad
7 operator's negligence in its cars, engines, appliances, machinery,
8 track, roadbed, works, boats, wharves, or other equipment.

9 (b) If an employee dies as a result of the negligence,
10 defect, or insufficiency described by Subsection (a), the railroad
11 operator is liable to the employee's personal representative for
12 the benefit of the employee's surviving spouse and children and the
13 employee's parents or, if the employee is not survived by a spouse,
14 child, or parent, to the employee's next of kin who is dependent on
15 the employee.

16 (c) Damages recovered under Subsection (b) are not liable
17 for the debts of the deceased and shall be divided among the persons
18 entitled to the benefit of the action who are living, in shares the
19 fact finder considers proper.

20 (d) An action under Subsection (b) may be brought without
21 administration by all parties entitled to damages under that
22 subsection, or by any one or more of those parties, for the benefit
23 of all of those parties. If all parties entitled to recover are not
24 before the court, the action may proceed for the benefit of the
25 parties who are before the court. (V.A.C.S. Art. 6439.)

26 Sec. 112.153. CONTRIBUTORY NEGLIGENCE. (a) In an action
27 under Section 112.152, the employee's contributory negligence is

1 not a bar to recovery but the fact finder shall reduce the
2 employee's damages in proportion to the amount of contributory
3 negligence attributable to the employee.

4 (b) An employee may not be found contributorily negligent in
5 a case in which the railroad operator's violation of a statute
6 enacted for the safety of employees contributed to the employee's
7 injury or death. (V.A.C.S. Art. 6440.)

8 Sec. 112.154. ASSUMED RISK. (a) The plea of assumed risk
9 is not available as a bar to recovery of damages in a suit brought in
10 a court in this state against a corporation, receiver, or other
11 person operating a railroad, interurban railway, or street railway
12 in this state for the recovery of damages for the death of or
13 personal injury to an employee caused by the wrong or negligence of
14 the railroad or railway operator. An employee assumes the ordinary
15 risk incident to the employee's employment but does not assume the
16 risk resulting from any negligence of the employee's employer,
17 regardless of whether the negligence is known to the employee.

18 (b) If in a suit described by Subsection (a) it is alleged
19 and proven that the deceased or injured employee was negligent in
20 continuing in the service of the railroad or railway operator in
21 view of the risk, dangers, and hazards of which the employee knew or
22 must necessarily have known, in the ordinary performance of the
23 employee's duties, that fact does not bar the employee's recovery,
24 but is considered contributory negligence. If contributory
25 negligence described by this subsection proximately caused or
26 contributed to the cause of the death or injury, the damages
27 recoverable by the employee or the employee's heirs or

1 representatives shall be reduced only in proportion to the amount
2 of negligence attributable to the employee.

3 (c) An employee of a railway company who is injured while
4 engaged in the operation of a train in this state that is propelled
5 by two or more engines is not considered to have assumed the risk of
6 that injury if the injury is a result of the operation of two or more
7 engines on the train rather than one.

8 (d) In an action against a railroad operator under Section
9 112.152, an employee may not be held to have assumed the risk of the
10 employee's employment in a case in which the railroad operator's
11 violation of a statute enacted for the safety of employees
12 contributed to the employee's injury or death. (V.A.C.S. Arts.
13 6437, 6438, 6441.)

14 Sec. 112.155. CERTAIN PROVISIONS VOID. A provision of a
15 contract, rule, or device the purpose of which is to exempt a
16 railroad operator from liability under Section 112.152 is void to
17 the extent of the purported exemption. (V.A.C.S. Art. 6442
18 (part).)

19 Sec. 112.156. LIABILITY OFFSET. In an action against a
20 railroad operator under Section 112.152, the railroad operator may
21 offset the railroad operator's liability by the amount of the
22 railroad operator's contribution or payment to any insurance,
23 relief benefit, or indemnity from which benefits have been paid to
24 the injured employee or another person entitled to the benefits as a
25 result of the injury or death that is the subject of the action.
26 (V.A.C.S. Art. 6442 (part).)

27 Sec. 112.157. CONSTRUCTION OF CERTAIN SECTIONS. (a)

Sections 112.152, 112.153, 112.154(d), 112.155, and 112.156 do not:

(1) limit the duty or liability of a railroad operator or impair the rights of an employee under the Revised Statutes of 1925; or

(2) affect a right of action under another law of this state.

(b) Except as provided by Section 112.151, a section listed in Subsection (a) controls over any other provision of the Revised Statutes of 1925 with which it conflicts. (V.A.C.S. Art. 6443.)

Sec. 112.158. INJURY TO FELLOW SERVANT. (a) This section applies only to a corporation, receiver, or other person that controls or operates a railroad or street railway the line of which is located wholly or partly in this state.

(b) An entity described by Subsection (a) is liable for damages sustained by an employee of the entity while the employee is engaged in the work of operating the cars, locomotives, or trains of the entity as a result of the negligence of any other employee of the entity, regardless of whether the negligent employee and the employee who sustained the damages are considered fellow servants.

(c) Persons who are engaged in the common service of an entity described by Subsection (a) are considered fellow servants only if the persons are:

(1) employed in the same grade of employment;
(2) doing the same character of work or service; and
(3) working together at the same time and place and at the same piece of work for a common purpose.

(d) A person engaged in the service of an entity described

1 by Subsection (a) is considered a vice principal of that entity if
2 the person is entrusted by the entity with the authority of
3 superintendence, control, or command of the other employees of the
4 entity, with the authority to direct any other employee in the
5 performance of any duty of the employee.

6 (e) A vice principal of an entity described by Subsection
7 (a) is not considered a fellow servant with other employees of the
8 entity.

9 (f) A contract between an employer and employee that limits
10 the employer's liability under this section in the event of the
11 death of or injury to the employee or setting damages that may be
12 recovered under this section is not valid or binding.

13 (g) This section does not impair or diminish the defense of
14 contributory negligence if the injury of the employee is
15 proximately caused by the employee's own contributory negligence.
16 (V.A.C.S. Arts. 6432, 6433, 6434, 6435, 6436.)

17 [Chapters 113-130 reserved for expansion]

18 SUBTITLE D. MISCELLANEOUS RAILROADS

19 CHAPTER 131. MISCELLANEOUS RAILWAYS

20 SUBCHAPTER A. GENERAL PROVISIONS

21 Sec. 131.001. DEFINITION OF PERSON

22 [Sections 131.002-131.010 reserved for expansion]

23 SUBCHAPTER B. ELECTRIC RAILWAYS

24 Sec. 131.011. DEFINITION

25 Sec. 131.012. EMINENT DOMAIN

26 Sec. 131.013. RIGHT-OF-WAY

1 Sec. 131.014. CONSTRUCTION OF RAILWAY ALONG OR OVER
2 WATERWAY OR INFRASTRUCTURE
3 Sec. 131.015. USE OF ELECTRIC STREET RAILWAY TRACKS
4 Sec. 131.016. TIME REQUIRED FOR CONSTRUCTION
5 Sec. 131.017. USE OF CONDEMNED TRACK
6 [Sections 131.018-131.030 reserved for expansion]
7 SUBCHAPTER C. MERGER OF INTERURBAN RAILWAY
8 Sec. 131.031. DEFINITION
9 Sec. 131.032. ACQUISITION OF RAILWAY PROPERTY
10 AUTHORIZED
11 Sec. 131.033. MUNICIPAL CONSENT REQUIRED
12 Sec. 131.034. USE OF STREET RAILWAYS
13 Sec. 131.035. LIMITATION ON ACQUISITION
14 [Sections 131.036-131.060 reserved for expansion]
15 SUBCHAPTER D. PROVISION OF UTILITIES
16 Sec. 131.061. INTERURBAN ELECTRIC RAILWAYS
17 Sec. 131.062. SUPPLY AND SALE OF ELECTRICITY BY
18 STREET, SUBURBAN, OR BELT LINE RAILWAY
19 [Sections 131.063-131.100 reserved for expansion]
20 SUBCHAPTER E. REDUCED STREET RAILWAY FARES
21 Sec. 131.101. APPLICABILITY
22 Sec. 131.102. CHILDREN YOUNGER THAN 13 YEARS OF AGE
23 Sec. 131.103. STUDENTS
24 Sec. 131.104. CHILDREN YOUNGER THAN SIX YEARS OF AGE
25 Sec. 131.105. TRANSFER RIGHTS
26 [Sections 131.106-131.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. STREET AND SUBURBAN RAILWAYS

Sec. 131.902. FREIGHT INTERURBAN RAILWAYS

Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN
RAILWAYS

Sec. 131.904. MOTOR BUS LINES

SUBTITLE D. MISCELLANEOUS RAILROADS

CHAPTER 131. MISCELLANEOUS RAILWAYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 131.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by
Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section
311.005, Government Code, does not apply. (New.)

[Sections 131.002-131.010 reserved for expansion]

SUBCHAPTER B. ELECTRIC RAILWAYS

Sec. 131.011. DEFINITION. In this subchapter, "interurban
electric railway company" means a corporation chartered under the
laws of this state to conduct and operate an electric railway
between two municipalities in this state. (V.A.C.S. Art. 6540
(part).)

Sec. 131.012. EMINENT DOMAIN. A corporation chartered for
the purpose of constructing, acquiring, maintaining, or operating
lines of electric railway between municipalities in this state for
the transportation of freight, passengers, or both freight and
passengers may:

(1) exercise the power of eminent domain with all the

1 rights and powers granted by law to a railroad company; and

2 (2) enter, condemn, and appropriate land,
3 right-of-way, easements, or other property of any person or
4 corporation to acquire:

5 (A) right-of-way on which to construct and
6 operate lines of railway for the acquiring corporation; or

7 (B) sites for depots or power plants. (V.A.C.S.
8 Art. 6535.)

9 Sec. 131.013. RIGHT-OF-WAY. (a) A corporation described
10 by Section 131.012 may:

11 (1) lay out right-of-way not to exceed 200 feet in
12 width for its railways;

13 (2) construct its railways and appurtenances on that
14 right-of-way; and

15 (3) with compensation being made in accordance with
16 law:

17 (A) take for the purpose of cuttings and
18 embankments additional land necessary for the proper construction
19 and security of its railways; and

20 (B) cut down any tree or remove any structure
21 that may be in danger of falling on or obstructing its railway.

22 (b) The corporation may:

23 (1) have an examination and survey of its proposed
24 railway made as necessary to select the most advantageous route;
25 and

26 (2) for the purposes of Subdivision (1), enter on the
27 land or water of any person or corporation, subject to

responsibility for all damages that may be caused by the entrance,
examination, or survey. (V.A.C.S. Art. 6536.)

Sec. 131.014. CONSTRUCTION OF RAILWAY ALONG OR OVER
WATERWAY OR INFRASTRUCTURE. (a) A corporation described by
Section 131.012 may construct its railway along, across, or over
any stream, water course, bay, navigable water, arm of the sea,
street, highway, steam railway, turnpike, or canal located in the
route of its electric railway.

(b) The corporation may erect and operate a bridge, tram,
trestle, or causeway, over, along, or across any stream, water
course, bay, navigable water, arm of the sea, street, highway,
turnpike, or canal described by Subsection (a).

(c) A bridge or other structure described by Subsection (b)
may not be erected so as to unnecessarily or unreasonably prevent
the navigation of the stream, water course, bay, arm of the sea, or
navigable water.

(d) This section does not authorize the construction of an
electric railway on or across a street, alley, square, or property
of a municipality without the consent of the governing body of the
municipality.

(e) Before constructing an electric railway along or on a
highway, turnpike, or canal, an interurban electric railway company
must obtain the consent of the authority having jurisdiction over
the highway, turnpike, or canal. (V.A.C.S. Art. 6537.)

Sec. 131.015. USE OF ELECTRIC STREET RAILWAY TRACKS. (a)
An interurban electric railway company's power of eminent domain
under this subchapter includes the power to condemn for its use and

1 benefit easements and right-of-way to operate interurban cars along
2 and on the track of an electric street railway company owning,
3 controlling, or operating track on any public street or alley in a
4 municipality for a purpose described by Subsection (b), subject to
5 the consent, authority, and control of the governing body of the
6 municipality.

7 (b) Condemnation under Subsection (a) may be used only to
8 secure an entrance into and an outlet from a municipality on a route
9 designated by the governing body of the municipality.

10 (c) In a proceeding to condemn an easement or right-of-way
11 under this section, the court or the jury trying the case shall
12 define and establish the terms on which the easement or
13 right-of-way may be used.

14 (d) A court rendering a judgment in a proceeding under this
15 section may review and reform the terms of a grant and the
16 provisions of the judgment on a subsequent application by a party to
17 the original proceeding or a person claiming through or under a
18 party to the original proceeding.

19 (e) The hearing on an application brought under Subsection
20 (d) is in the nature of a retrial of the proceeding with respect to
21 the terms on which the easement may be used except that the court
22 may not declare the easement forfeited or impair the exercise of the
23 easement.

24 (f) An application under Subsection (d) may not be made
25 before the second anniversary of the date of the final judgment on
26 the most recent application. (V.A.C.S. Arts. 6538, 6539.)

27 Sec. 131.016. TIME REQUIRED FOR CONSTRUCTION. The rights

1 secured under this chapter by an interurban electric railway
2 company are void unless the road to be constructed under the charter
3 of the company is fully constructed from one municipality to
4 another within 12 months of the date of the final judgment awarding
5 the company an easement or right-of-way under Section 131.015.
6 (V.A.C.S. Art. 6540 (part).)

7 Sec. 131.017. USE OF CONDEMNED TRACK. (a) Unless the
8 company whose track is condemned under this subchapter consents, an
9 interurban electric railway company exercising the powers granted
10 under this chapter may not receive for transportation freight or
11 passengers at any location on the condemned track destined to
12 another location on the condemned track.

13 (b) A company that wilfully violates Subsection (a)
14 forfeits the easement or right-of-way used to provide the
15 transportation. (V.A.C.S. Art. 6540 (part).)

16 [Sections 131.018-131.030 reserved for expansion]

17 SUBCHAPTER C. MERGER OF INTERURBAN RAILWAY

18 Sec. 131.031. DEFINITION. In this subchapter, "interurban
19 railway" means an electric or other interurban line of railway in
20 this state. (V.A.C.S. Art. 6543 (part).)

21 Sec. 131.032. ACQUISITION OF RAILWAY PROPERTY AUTHORIZED.

22 (a) A corporation organized under the laws of this state that is
23 authorized to construct, acquire, and operate an interurban railway
24 may:

25 (1) acquire, lease, or purchase the physical property,
26 rights, and franchise of any other railway corporation with similar
27 powers; or

1 (2) lease or purchase physical property, rights, and
2 franchises of any suburban or street railway corporation the
3 railway lines of which are to be operated in connection with the
4 interurban railway.

5 (b) The owner of physical property or a right or franchise
6 described by Subsection (a)(1) or (2) may sell or dispose of the
7 property, right, or franchise to the corporation making an
8 acquisition, lease, or purchase under Subsection (a).

9 (c) An acquisition or purchase under this section may be on
10 the terms:

11 (1) agreed to by the board of directors of each
12 corporation; and

13 (2) authorized or approved by a majority of the
14 stockholders of each corporation. (V.A.C.S. Art. 6543 (part).)

15 Sec. 131.033. MUNICIPAL CONSENT REQUIRED. (a) Before
16 selling property under this subchapter, a corporation that owns or
17 operates a street car railway must obtain the consent of the
18 governing body of the municipality in which the street car line is
19 located.

20 (b) This subchapter does not affect a charter provision of a
21 municipality that provides for the right of qualified voters of the
22 municipality to vote on the granting or amending of franchise to a
23 street or interurban railway. (V.A.C.S. Art. 6543 (part).)

24 Sec. 131.034. USE OF STREET RAILWAYS. A corporation
25 authorized to construct, acquire, and operate an interurban railway
26 and a corporation owning and operating a street railway may enter
27 into a trackage or lease contract to allow for continuous passage

1 into or through a municipality, subject to the consent of the
2 governing body of the municipality. (V.A.C.S. Art. 6543 (part).)

3 Sec. 131.035. LIMITATION ON ACQUISITION. A corporation
4 described by this subchapter may not:

5 (1) acquire, own, control, or operate a parallel or
6 competing interurban line; or

7 (2) purchase, lease, acquire, own, or control,
8 directly or indirectly, the shares or certificates of stock or
9 bonds, a franchise or other right, or the physical property or any
10 part of the property, of any corporation in violation of the law
11 commonly known as the antitrust law. (V.A.C.S. Art. 6543 (part).)

12 [Sections 131.036-131.060 reserved for expansion]

13 SUBCHAPTER D. PROVISION OF UTILITIES

14 Sec. 131.061. INTERURBAN ELECTRIC RAILWAYS. An interurban
15 electric railway company, as defined by Section 131.011, is
16 entitled to produce, supply, and sell electric light and power to
17 the public and to municipalities. (V.A.C.S. Art. 6541.)

18 Sec. 131.062. SUPPLY AND SALE OF ELECTRICITY BY STREET,
19 SUBURBAN, OR BELT LINE RAILWAY. A corporation organized under the
20 general laws of this state that owns or operates with electric power
21 any street or suburban railway or belt line of railways in and near
22 a municipality for the transportation of freight and passengers
23 within this state may:

24 (1) supply and sell electric light and power to the
25 public or a municipality;

26 (2) acquire or otherwise provide appliances necessary
27 for an activity authorized by Subdivision (1); and

1 (3) in the manner provided by law, amend its articles
2 of incorporation to expressly include the authority under this
3 section. (V.A.C.S. Art. 6545 (part).)

4 [Sections 131.063-131.100 reserved for expansion]

5 SUBCHAPTER E. REDUCED STREET RAILWAY FARES

6 Sec. 131.101. APPLICABILITY. This subchapter applies only
7 to a person or corporation owning or operating a street railway in
8 or on the public streets of a municipality with a population of
9 40,000 or more. (V.A.C.S. Art. 6544 (part).)

10 Sec. 131.102. CHILDREN YOUNGER THAN 13 YEARS OF AGE. (a)
11 The owner or operator of a street railway shall transport a child
12 younger than 13 years of age for half the fare regularly collected
13 for the transportation of an adult.

14 (b) This section does not apply to the transportation of a
15 child to or from a school or other institution of learning located
16 one mile or more outside the corporate limits of the municipality in
17 which the street car operates. (V.A.C.S. Art. 6544 (part).)

18 Sec. 131.103. STUDENTS. (a) The owner or operator of a
19 street railway shall sell or provide for the sale of tickets for
20 half of the regular fare collected for the transportation of adults
21 to students younger than 18 years of age who attend academic,
22 public, or private school in a grade not higher than the highest
23 grade of the public high schools located in or adjacent to the
24 municipality in which the railway is located.

25 (b) Tickets under this section must be sold in lots of 20,
26 with each ticket valid for one trip over the railway lines.

27 (c) Tickets under this section are not required to be sold

1 unless the student making the purchase presents the written
2 certificate of the principal of the school the student attends
3 stating that the student:

4 (1) is younger than 18 years of age; and

5 (2) is in regular attendance at a school in a grade
6 that qualifies under Subsection (a).

7 (d) Tickets under this section are not required to be sold
8 and may not be used except during the months when a school
9 qualifying under Subsection (a) is in session.

10 (e) A student described by Subsection (a) shall be
11 transported at half fare only when the student presents a ticket
12 issued under this section. (V.A.C.S. Art. 6544 (part).)

13 Sec. 131.104. CHILDREN YOUNGER THAN SIX YEARS OF AGE. The
14 owner or operator of a street railway shall transport free of charge
15 a child younger than six years of age when attended by a passenger
16 who is at least six years of age. (V.A.C.S. Art. 6544 (part).)

17 Sec. 131.105. TRANSFER RIGHTS. The owner or operator of a
18 street railway shall offer a passenger paying a reduced fare or no
19 fare under this subchapter the same rights as to the use of
20 transfers issued by the owner or operator's line or other lines as
21 offered to a passenger paying full fare. (V.A.C.S. Art. 6544
22 (part).)

23 [Sections 131.106-131.900 reserved for expansion]

24 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

25 Sec. 131.901. STREET AND SUBURBAN RAILWAYS. (a) Street and
26 suburban railways engaged in the transportation of freight in and
27 near a municipality are subject to the control of the department.

1 (b) A street railway company is not exempt from payment of
2 assessments that may be imposed against it for street improvements.
3 (V.A.C.S. Art. 6545 (part).)

4 Sec. 131.902. FREIGHT INTERURBAN RAILWAYS. (a) An entity
5 incorporated as an electric, gas or gasoline, denatured alcohol, or
6 naphtha interurban or motor railway that engages in transporting
7 freight is subject to the control of the department.

8 (b) A corporation described by Subsection (a) is not exempt
9 from payment of assessments that may be imposed against it for
10 street improvements.

11 (c) An interurban railway described by Subsection (a):

12 (1) may exercise the same power of eminent domain as
13 given by law to railroads;

14 (2) may exercise the power of eminent domain to
15 acquire right-of-way on which to construct its railway lines and
16 sites for depots and power plants;

17 (3) has the same rights, powers, and privileges as
18 granted by law to an interurban electric railway company; and

19 (4) may acquire, hold, and operate other public
20 utilities in and adjacent to a municipality in or through which the
21 company operates.

22 (d) An interurban railway company described by Subsection
23 (a) may not condemn property on which is located a cemetery unless
24 it is affirmatively shown, and found by the court trying the
25 condemnation suit, that:

26 (1) it is necessary to take the property; and

27 (2) no other route is possible or practicable.

1 (V.A.C.S. Art. 6546.)

2 Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN
3 RAILWAYS. A corporation organized before September 1, 1925, under
4 any law of this state, that operates a line of electric, gas or
5 gasoline, denatured alcohol, or naphtha motor railway in and
6 between municipalities in this state, may:

7 (1) own and operate union depots and office buildings;
8 and

9 (2) acquire, hold, and operate electric light and
10 power plants in and adjacent to a municipality in or through which
11 the railway operates. (V.A.C.S. Art. 6547 (part).)

12 Sec. 131.904. MOTOR BUS LINES. (a) This section applies
13 only to a corporation authorized to operate a street or suburban
14 railway or an interurban railway and to carry passengers for hire.

15 (b) Subject to the approval of the governing body of the
16 municipality in which the corporation operates its railway, the
17 corporation may:

18 (1) substitute, wholly or partly, motor bus lines for
19 its railway; and

20 (2) maintain and operate automobile motor buses to
21 carry passengers for hire on:

22 (A) public roads, streets, plazas, alleys, and
23 highways within the corporate limits of a municipality under
24 regulations prescribed by the municipality; and

25 (B) public roads and highways that are located
26 outside the corporate limits of that municipality but within five
27 miles of the corporate limits, under regulations prescribed by the

commissioners court of the county.

(c) The substitution of motor buses or the discontinuance of a railway under this section does not impair any corporate power of a corporation incorporated before August 30, 1933, as a street or interurban railway with respect to the operation of other public utilities authorized by a corporate charter or statute in effect on August 30, 1933.

(d) A corporation acting under this section must amend its charter and pay any fee provided by law for the filing of the amendment.

(e) This section may not be construed to impair the rights of a municipality under a franchise granted to a corporation or its predecessor before August 30, 1933. (V.A.C.S. Art. 6548 (part).)

SECTION 2.04. Subtitle I, Title 5, Transportation Code, is amended by adding Chapters 172, 173, and 174 to read as follows:

CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 172.001. DEFINITIONS

Sec. 172.002. NATURE OF DISTRICT

Sec. 172.003. FINDINGS

[Sections 172.004-172.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 172.051. APPLICABILITY

Sec. 172.052. CREATION OF DISTRICT BY MORE THAN ONE

COUNTY

Sec. 172.053. CREATION OF DISTRICT BY ONE COUNTY

Sec. 172.054. NOTICE OF CREATION

1 Sec. 172.055. AUTOMATIC ASSUMPTION OF CONTRACTUAL
2 OBLIGATIONS AFTER CREATION BY CERTAIN
3 DISTRICTS
4 [Sections 172.056-172.100 reserved for expansion]
5 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES
6 Sec. 172.101. CONTROL OF DISTRICT
7 Sec. 172.102. TERMS
8 Sec. 172.103. QUALIFICATIONS FOR OFFICE
9 Sec. 172.104. VACANCY
10 Sec. 172.105. REMOVAL
11 Sec. 172.106. OFFICERS
12 Sec. 172.107. MEETINGS; NOTICE
13 Sec. 172.108. RULES FOR PROCEEDINGS
14 Sec. 172.109. EMPLOYEES
15 Sec. 172.110. PECUNIARY INTEREST IN CERTAIN CONTRACTS
16 PROHIBITED
17 [Sections 172.111-172.150 reserved for expansion]
18 SUBCHAPTER D. GENERAL POWERS AND DUTIES
19 Sec. 172.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL
20 FUNCTIONS
21 Sec. 172.152. RULES
22 Sec. 172.153. AGREEMENTS GENERALLY
23 Sec. 172.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT
24 USE
25 Sec. 172.155. JOINT OWNERSHIP AGREEMENTS
26 Sec. 172.156. AWARDED CONSTRUCTION OR PURCHASE
27 CONTRACTS

1 Sec. 172.157. EMINENT DOMAIN
2 Sec. 172.158. DISPOSITION OF SURPLUS PROPERTY
3 Sec. 172.159. SUITS
4 Sec. 172.160. PERPETUAL SUCCESSION
5 [Sections 172.161-172.200 reserved for expansion]
6 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
7 CONSTRUCTION, AND OPERATION OF RAIL FACILITIES
8 Sec. 172.201. GENERAL AUTHORITY OVER RAIL FACILITIES
9 Sec. 172.202. USE AND ALTERATION OF PROPERTY OF
10 ANOTHER POLITICAL SUBDIVISION
11 Sec. 172.203. RULES GOVERNING SYSTEM; ROUTINGS
12 Sec. 172.204. ACQUISITION OF PROPERTY
13 Sec. 172.205. POWERS RELATING TO DISTRICT PROPERTY
14 Sec. 172.206. ACQUISITION OF ROLLING STOCK AND OTHER
15 PROPERTY
16 Sec. 172.207. COMPENSATION FOR USE OF SYSTEM FACILITIES
17 Sec. 172.208. OPERATION OR USE CONTRACTS
18 Sec. 172.209. RAIL TRANSPORTATION SERVICES AGREEMENTS
19 WITH OTHER POLITICAL SUBDIVISIONS
20 Sec. 172.210. ABANDONMENT OF RAIL LINE
21 [Sections 172.211-172.250 reserved for expansion]
22 SUBCHAPTER F. FINANCIAL PROVISIONS
23 Sec. 172.251. FISCAL YEAR
24 Sec. 172.252. ANNUAL BUDGET
25 Sec. 172.253. GRANTS AND LOANS
26 Sec. 172.254. DEPOSITORY

1 Sec. 172.255. APPLICABILITY OF PUBLIC PROPERTY

2 FINANCING LAW; PROHIBITION ON AD VALOREM TAX

3 Sec. 172.256. NONNEGOTIABLE PURCHASE MONEY NOTES; BOND

4 ANTICIPATION NOTES

5 Sec. 172.257. TAX EXEMPTION

6 [Sections 172.258-172.300 reserved for expansion]

7 SUBCHAPTER G. BONDS

8 Sec. 172.301. REVENUE BONDS

9 Sec. 172.302. SECURITY FOR PAYMENT OF BONDS

10 Sec. 172.303. BONDS AS AUTHORIZED INVESTMENTS

11 AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS

12 Sec. 172.304. APPLICABILITY OF PUBLIC IMPROVEMENT

13 FINANCING LAW

14 Sec. 172.305. LIMIT ON POWER

15 Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY

16 ATTORNEY GENERAL

17 CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 172.001. DEFINITIONS. In this chapter:

20 (1) "Board" means a district's board of directors.

21 (2) "Bonds" means:

22 (A) bonds;

23 (B) notes, including bond anticipation notes,

24 revenue anticipation notes, and grant anticipation notes;

25 (C) warrants;

26 (D) certificates of obligation;

27 (E) interest-bearing contracts;

1 (F) interest-bearing leases of property;
2 (G) equipment trust certificates;
3 (H) commercial paper; and
4 (I) any obligation issued to refund any type of
5 bond.

6 (3) "Director" means a board member.

7 (4) "District" means a rural rail transportation
8 district created under this chapter or under Chapter 623, Acts of
9 the 67th Legislature, Regular Session, 1981 (Article 6550c,
10 Vernon's Texas Civil Statutes), as that chapter existed before
11 April 1, 2011.

12 (5) "Maintenance facility" includes a workshop, a
13 service, storage, security, or personnel facility, temporary or
14 transient lodging for district employees, and equipment for any
15 type of facility.

16 (6) "Maintenance and operating expenses" means all
17 expenses of operating and maintaining a district and its rail
18 facilities, including:

19 (A) all compensation, labor, materials, repairs,
20 and extensions necessary, required, or convenient in the board's
21 discretion to render efficient service or to maintain and operate
22 the district; and

23 (B) taxes or other amounts paid, payable, or to
24 be paid to the United States under Section 148(f), Internal Revenue
25 Code of 1986, or any similar law.

26 (7) "Rail facilities" means:

27 (A) property, or an interest in that property,

1 that the board determines is necessary or convenient to provide a
2 rural rail transportation system; and

3 (B) property or an interest necessary or
4 convenient to acquire, provide, construct, enlarge, remodel,
5 renovate, improve, furnish, use, or equip the system, including:

6 (i) a right-of-way;

7 (ii) an earthwork or structure, including
8 clearing and grubbing of right-of-way, demolition of a structure,
9 relocation of utilities, a pipeline, or any other obstacle in a
10 right-of-way, stripping and stockpiling, removal of subsoil for
11 embankment or spoil, a borrow pit, dressing and seeding of a slope,
12 construction of a culvert, a road crossing, a bridge, restoration
13 of a roadway, drainage within a right-of-way or along a road
14 network, and restoration of a hydrologic system;

15 (iii) trackwork;

16 (iv) a train control, including signalling,
17 interlocking equipment, speed monitoring equipment, an emergency
18 braking system, a central traffic control facility, and a
19 communication system;

20 (v) a passenger or freight service
21 building, terminal, or station, a ticketing facility, a waiting
22 area, a platform, a concession, an elevator, an escalator, a
23 facility for handicapped access, an access road, a parking facility
24 for passengers, a baggage handling facility, a local maintenance
25 facility, and offices for district purposes and includes an
26 interest in real property necessary or convenient for an item
27 listed under this subparagraph;

(vi) rolling stock; and

(vii) a maintenance facility.

(8) "Revenue" means the income, receipts, and collections received by, to be received by, or pledged to the district from or by any source, except a restricted gift or a grant in aid of construction.

(9) "Right-of-way" means:

(A) a right of passage over property;

(B) a strip of land in length and width determined required, necessary, or convenient by the board over, on, or under which trackwork is or is to be constructed or acquired; or

(C) a right of precedential passing.

(10) "Rolling stock" means a locomotive, an engine, a rail car, a repair construction car, or another car designed to operate on trackwork.

(11) "Trackwork" means track, a track bed, track bed preparation, a tie, a rail fastener, a slab, a rail, an emergency crossover, a setout track, storage track, and a switch. (V.A.C.S. Art. 6550c, Secs. 2(1), (2), (4), (5), (8), (9), (11), (12), (13), (14), (15), (16), (17); New.)

Sec. 172.002. NATURE OF DISTRICT. (a) A district is a public body and a political subdivision of this state exercising public and essential governmental functions.

(b) A district, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit under Chapter 101, Civil Practice and Remedies

Code. (V.A.C.S. Art. 6550c, Sec. 5(a) (part).)

Sec. 172.003. FINDINGS. The legislature finds that:

(1) the state contains many rural areas that are heavily dependent on agriculture for economic survival;

(2) transportation of agricultural and industrial products is essential to the continued economic vitality of rural areas;

(3) the rail transportation systems in some rural areas are threatened by railroad bankruptcies and abandonment proceedings that would cause the cessation of rail services to the areas;

(4) it is in the interest of all citizens of the state that existing rail systems be maintained for the most efficient and economical movement of essential agricultural products from the areas of production to the local, national, and export markets;

(5) rural rail transportation districts are appropriate political subdivisions to provide for the continued operation of railroads, which are declared by Section 2, Article X, Texas Constitution, to be public highways;

(6) the creation, re-creation, financing, maintenance, and operation of rural rail transportation districts and facilities acquired by the districts under this chapter will help develop, maintain, and diversify the economy of the state, eliminate unemployment or underemployment, foster the growth of enterprises based on agriculture, and serve to develop and expand transportation and commerce within the state under the authority granted by Section 52-a, Article III, Texas Constitution; and

(7) financing by rural rail transportation districts for the purposes provided by this chapter is a lawful and valid public purpose. (V.A.C.S. Art. 6550c, Sec. 1.)

[Sections 172.004-172.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 172.051. APPLICABILITY. A county is eligible to create a district as provided by this chapter only if a rail line is located in the county that:

(1) is being or has been abandoned through a bankruptcy court or Surface Transportation Board proceeding; or

(2) carries three million gross tons per mile per year or less. (V.A.C.S. Art. 6550c, Secs. 2(6) (part), 3(b), 3A(a) (part).)

Sec. 172.052. CREATION OF DISTRICT BY MORE THAN ONE COUNTY.

(a) The commissioners courts of two or more counties that are a contiguous area may by concurrent order:

(1) create a district; or

(2) provide for the re-creation of a district by the addition of one or more counties.

(b) The district consists of the territory of each county whose commissioners court adopts the concurrent order.

(c) Each concurrent order must:

(1) contain identical provisions for creation or re-creation;

(2) be adopted at the time of the creation or re-creation;

(3) declare the boundaries of the district as the

1 boundaries of the counties included;

2 (4) designate the district's name; and

3 (5) designate the number of directors, which may not
4 be less than four, and the manner of the directors' appointment by a
5 commissioners court.

6 (d) The commissioners court of each county included in a
7 district by order may provide for the district's dissolution if
8 each commissioners court determines that the dissolution will not
9 impair an obligation of any contract of the district. The
10 dissolution order is effective only on the creation or re-creation
11 of another district in which each county included in the dissolving
12 district is included. (V.A.C.S. Art. 6550c, Secs. 2(3), (6)
13 (part), 3(a), (c), (d).)

14 Sec. 172.053. CREATION OF DISTRICT BY ONE COUNTY. (a) The
15 commissioners court of a county may by order create a district in
16 that county to develop, finance, maintain, and operate a new rail
17 system under this chapter and for other purposes of this chapter.

18 (b) The boundaries of a district created under this section
19 are the boundaries of the county in which the district is created.

20 (c) At the time the district is created, the commissioners
21 court shall:

22 (1) designate the district's name; and

23 (2) appoint at least four residents of the county to
24 serve as directors.

25 (d) The commissioners court of the county by order may
26 provide for the district's dissolution if the commissioners court
27 determines that the dissolution will not impair an obligation of

1 any contract of the district. The dissolution order is effective
2 only on the creation of another district in which the county is
3 included. (V.A.C.S. Art. 6550c, Secs. 3A(a) (part), (b), (c),
4 (f).)

5 Sec. 172.054. NOTICE OF CREATION. (a) The board of each
6 newly created district shall provide notice to the Texas
7 Transportation Institute of the district's creation.

8 (b) On being notified by the board, the Texas Transportation
9 Institute shall make available to the board a guide to the services
10 and information that the institute provides. (V.A.C.S. Art. 6550c,
11 Sec. 3(f).)

12 Sec. 172.055. AUTOMATIC ASSUMPTION OF CONTRACTUAL
13 OBLIGATIONS AFTER CREATION BY CERTAIN DISTRICTS. A district
14 created or re-created under Section 172.052 automatically assumes
15 any obligation of a contract executed by the district or a
16 predecessor district that is in force on the date of the creation or
17 re-creation unless the contract expressly expires on the date of
18 dissolution or re-creation of the district that executed the
19 contract. (V.A.C.S. Art. 6550c, Sec. 3(e).)

20 [Sections 172.056-172.100 reserved for expansion]

21 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

22 Sec. 172.101. CONTROL OF DISTRICT. (a) The board is
23 responsible for the management, operation, and control of the
24 district.

25 (b) The right to control and regulate district affairs is
26 vested exclusively in the board except as specifically otherwise
27 provided by this chapter. (V.A.C.S. Art. 6550c, Secs. 4(a), (d))

1 (part).)

2 Sec. 172.102. TERMS. (a) A director serves a two-year
3 term.

4 (b) An initial director serves a term ending on the second
5 anniversary of the date:

6 (1) the latest concurrent order creating or
7 re-creating the district under Section 172.052 was adopted; or

8 (2) an order creating the district under Section
9 172.053 was adopted. (V.A.C.S. Art. 6550c, Secs. 3A(d), 4(b)
10 (part).)

11 Sec. 172.103. QUALIFICATIONS FOR OFFICE. (a) To be
12 eligible for appointment as a director, a person must be a resident
13 of the county governed by the commissioners court that appoints the
14 person.

15 (b) An elected officer of this state or a political
16 subdivision of this state who is not prohibited by the Texas
17 Constitution from serving on the board is eligible to serve on the
18 board. (V.A.C.S. Art. 6550c, Secs. 3A(c) (part), (e), 4(b) (part),
19 (g).)

20 Sec. 172.104. VACANCY. The commissioners court that
21 appointed a director who vacates the position shall appoint a
22 director for the unexpired term. (V.A.C.S. Art. 6550c, Secs. 3A(e),
23 4(b) (part).)

24 Sec. 172.105. REMOVAL. (a) The commissioners court that
25 appointed a director may remove the director from office for
26 neglect of duty or malfeasance in office after:

27 (1) at least 10 days' written notice to the director;

1 and

2 (2) a hearing before the commissioners court.

3 (b) At the hearing on the question of removal of a director,
4 the director is entitled to be heard in person or through counsel.
5 (V.A.C.S. Art. 6550c, Secs. 3A(e), 4(b) (part).)

6 Sec. 172.106. OFFICERS. The board shall select a
7 president, vice president, treasurer, and secretary. The secretary
8 is not required to be a director. (V.A.C.S. Art. 6550c, Secs. 3A(e),
9 4(c) (part).)

10 Sec. 172.107. MEETINGS; NOTICE. (a) The board shall hold
11 at least one regular meeting each month to conduct district
12 business.

13 (b) The president may call a special board meeting.

14 (c) Chapter 551, Government Code, applies to board
15 meetings, except that notice of a board meeting shall be posted at
16 the administrative office of the district and at the courthouse in
17 the county in which that office is located. (V.A.C.S. Art. 6550c,
18 Secs. 3A(e), 4(c) (part), (f).)

19 Sec. 172.108. RULES FOR PROCEEDINGS. The board shall adopt
20 rules for its proceedings. (V.A.C.S. Art. 6550c, Sec. 4(d) (part).)

21 Sec. 172.109. EMPLOYEES. The board may employ and
22 compensate persons to carry out the powers and duties of the
23 district. (V.A.C.S. Art. 6550c, Sec. 4(d) (part).)

24 Sec. 172.110. PECUNIARY INTEREST IN CERTAIN CONTRACTS
25 PROHIBITED. A district employee may not have a direct or indirect
26 pecuniary interest in any contract or agreement to which the
27 district is a party. (V.A.C.S. Art. 6550c, Sec. 4(e).)

[Sections 172.111-172.150 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 172.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL FUNCTIONS. (a) A district has all powers necessary or convenient to carry out the purposes of this chapter.

(b) A district may generally perform all acts necessary for the full exercise of the district's powers. (V.A.C.S. Art. 6550c, Secs. 5(a) (part), (k) (part).)

Sec. 172.152. RULES. To protect the state's health, safety, and general welfare, a district may adopt rules to govern the operation of the district, its employees, the rail facilities, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, or telephone or utility service. (V.A.C.S. Art. 6550c, Sec. 5(h).)

Sec. 172.153. AGREEMENTS GENERALLY. A district may make contracts, leases, and agreements with the United States, this state and its agencies and political subdivisions, public or private corporations, and any other person. (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

Sec. 172.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:

(1) enter into agreements with a public utility, private utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or property inside or outside the district; and

(2) establish:

1 (A) through routes;
2 (B) joint fares; and
3 (C) divisions of tariffs, subject to approval of
4 a tariff-regulating body that has jurisdiction. (V.A.C.S. Art.
5 6550c, Sec. 5(g).)

6 Sec. 172.155. JOINT OWNERSHIP AGREEMENTS. A district may
7 enter into a joint ownership agreement with any person. (V.A.C.S.
8 Art. 6550c, Sec. 5(i).)

9 Sec. 172.156. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.
10 (a) A contract in the amount of more than \$15,000 for the
11 construction of improvements or the purchase of material,
12 machinery, equipment, supplies, or any other property except real
13 property may be awarded only through competitive bidding after
14 notice is published in a newspaper of general circulation in the
15 district at least 15 days before the date set for receiving bids.

16 (b) A board may adopt rules governing the taking of bids and
17 the awarding of contracts.

18 (c) This section does not apply to:

19 (1) personal or professional services; or
20 (2) the acquisition of an existing rail transportation
21 system. (V.A.C.S. Art. 6550c, Sec. 7.)

22 Sec. 172.157. EMINENT DOMAIN. (a) A district may exercise
23 the power of eminent domain to acquire:

24 (1) land in fee simple; or
25 (2) any interest less than fee simple in, on, under, or
26 above land, including an easement, right-of-way, or right of use of
27 airspace or subsurface space.

1 (b) A district may not exercise the power of eminent domain
2 in a manner that would unduly interfere with interstate commerce.

3 (c) An eminent domain proceeding brought by a district is
4 governed by Chapter 21, Property Code, except to the extent
5 inconsistent with this chapter.

6 (d) An eminent domain proceeding is begun by the board's
7 adoption of a resolution declaring that the district's acquisition
8 of the property or interest described in the resolution:

9 (1) is a public necessity; and

10 (2) is necessary and proper for the construction,
11 extension, improvement, or development of rail facilities and is in
12 the public interest.

13 (e) The resolution is conclusive evidence of the public
14 necessity of the proposed acquisition and that the real property or
15 interest in property is necessary for public use. (V.A.C.S.
16 Art. 6550c, Sec. 5(f).)

17 Sec. 172.158. DISPOSITION OF SURPLUS PROPERTY. (a) A
18 district may sell, lease, convey, or otherwise dispose of any
19 right, interest, or property not needed for or, in the case of a
20 lease, not inconsistent with the efficient operation and
21 maintenance of the system.

22 (b) A district may, on adoption of an order by the board,
23 sell, lease, or otherwise dispose of surplus property not needed
24 for district requirements or to carry out district powers under
25 this chapter. (V.A.C.S. Art. 6550c, Sec. 5(1).)

26 Sec. 172.159. SUITS. (a) A district may:

27 (1) sue and be sued;

1 (2) institute and prosecute suits without giving
2 security for costs; and

3 (3) appeal from a judgment without giving a
4 supersedeas or cost bond.

5 (b) An action at law or in equity against the district must
6 be brought in the county in which the principal office of the
7 district is located, except that a suit in eminent domain must be
8 brought in the county in which the land is located. (V.A.C.S. Art.
9 6550c, Sec. 5(c).)

10 Sec. 172.160. PERPETUAL SUCCESSION. A district has
11 perpetual succession. (V.A.C.S. Art. 6550c, Sec. 5(b).)

12 [Sections 172.161-172.200 reserved for expansion]

13 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
14 CONSTRUCTION, AND OPERATION OF RAIL FACILITIES

15 Sec. 172.201. GENERAL AUTHORITY OVER RAIL FACILITIES. A
16 district may plan, acquire, construct, complete, develop, own,
17 operate, and maintain rail facilities inside or outside the
18 district. (V.A.C.S. Art. 6550c, Sec. 5(e) (part).)

19 Sec. 172.202. USE AND ALTERATION OF PROPERTY OF ANOTHER
20 POLITICAL SUBDIVISION. For a purpose described by Section 172.201,
21 as necessary or useful in the construction, reconstruction, repair,
22 maintenance, and operation of rail facilities, and subject to a
23 grant previously secured or with the consent of a municipality,
24 county, or other political subdivision, a district may:

25 (1) use streets, alleys, roads, highways, and other
26 public ways of the political subdivision; and

27 (2) relocate, raise, reroute, change the grade of, or

1 alter, at the district's expense, the construction of a publicly
2 owned or privately owned street, alley, highway, road, railroad,
3 electric line or facility, telegraph or telephone property or
4 facility, pipeline or facility, conduit or facility, and other
5 property. (V.A.C.S. Art. 6550c, Sec. 5(e) (part).)

6 Sec. 172.203. RULES GOVERNING SYSTEM; ROUTINGS. A district
7 by resolution may adopt rules governing the use, operation, and
8 maintenance of the system and shall determine all routings and
9 change them when the board considers it advisable. (V.A.C.S. Art.
10 6550c, Sec. 5(m).)

11 Sec. 172.204. ACQUISITION OF PROPERTY. (a) A district may
12 purchase, whenever the district considers the purchase expedient,
13 land, property rights, right-of-way, franchises, easements, and
14 other interests in land the district considers necessary to
15 acquire, construct, or operate a rail facility on terms and at a
16 price to which the district and the owner agree.

17 (b) The district may take title to the land or interest in
18 the district's name.

19 (c) The governing body of a municipality, a county, any
20 other political subdivision, or a public agency may convey without
21 advertisement the title or the rights and easements to property
22 needed by the district for its purposes in connection with the
23 acquisition, construction, or operation of rail facilities.
24 (V.A.C.S. Art. 6550c, Sec. 5(e) (part).)

25 Sec. 172.205. POWERS RELATING TO DISTRICT PROPERTY. A
26 district may acquire by grant, purchase, gift, devise, lease, or
27 otherwise and may hold, use, sell, lease, or dispose of property,

1 including a license, a patent, a right, or an interest, necessary,
2 convenient, or useful for the full exercise of its powers under this
3 chapter. (V.A.C.S. Art. 6550c, Sec. 5(d).)

4 Sec. 172.206. ACQUISITION OF ROLLING STOCK AND OTHER
5 PROPERTY. A district may acquire rolling stock or other property,
6 under a conditional sales contract, lease, equipment trust
7 certificate, or other form of contract or trust agreement.
8 (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

9 Sec. 172.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.
10 (a) A district shall establish and maintain reasonable and
11 nondiscriminatory rents or other compensation for the use of the
12 facilities of the system acquired, constructed, operated,
13 regulated, or maintained by the district.

14 (b) Together with grants received by the district, the rents
15 or other compensation must be sufficient to produce revenue
16 adequate to:

17 (1) pay all expenses necessary for the operation and
18 maintenance of the district's property and facilities;

19 (2) pay the principal of and interest on all bonds
20 issued by the district payable wholly or partly from the revenue, as
21 they become due and payable; and

22 (3) fulfill the terms of agreements made with the
23 holders of bonds or with any person on their behalf. (V.A.C.S.
24 Art. 6550c, Sec. 5(j).)

25 Sec. 172.208. OPERATION OR USE CONTRACTS. (a) A district
26 may:

27 (1) lease all or part of the rail facilities to any

1 operator; or

2 (2) contract for the use or operation of all or part of
3 the rail facilities by any operator.

4 (b) To the maximum extent practicable, the district shall
5 encourage the participation of private enterprise in the operation
6 of rail facilities.

7 (c) The term of an operating contract under this section may
8 not exceed 20 years. In this subsection, "operating contract"
9 means a professional services contract executed by a district and
10 another person under which the person agrees to provide all or part
11 of the:

12 (1) rolling stock required for operation as a common
13 carrier over all or a part of the rail facilities of the district;
14 and

15 (2) personnel required for the operation of the
16 rolling stock owned or leased by the district or for the operation
17 of the rail facilities of the district. (V.A.C.S. Art. 6550c,
18 Secs. 2(7), 5(n).)

19 Sec. 172.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
20 OTHER POLITICAL SUBDIVISIONS. A district may contract with a
21 county or other political subdivision of this state for the
22 district to provide rail transportation services to an area outside
23 the district on terms to which the parties agree. (V.A.C.S. Art.
24 6550c, Sec. 5(o).)

25 Sec. 172.210. ABANDONMENT OF RAIL LINE. (a) A district may
26 not abandon a district rail line for which state money has been
27 loaned or granted unless the abandonment is approved by the

1 commission as being consistent with the policies of this chapter.

2 (b) The commission by rule shall adopt procedures for
3 applying for and obtaining approval for abandonment under this
4 section. (V.A.C.S. Art. 6550c, Sec. 5(r).)

5 [Sections 172.211-172.250 reserved for expansion]

6 SUBCHAPTER F. FINANCIAL PROVISIONS

7 Sec. 172.251. FISCAL YEAR. (a) Unless the board changes
8 the fiscal year, the district's fiscal year ends on September 30.

9 (b) The board may not change the fiscal year more than once
10 in a three-year period. (V.A.C.S. Art. 6550c, Sec. 5(p) (part).)

11 Sec. 172.252. ANNUAL BUDGET. (a) Before beginning the
12 operation of rail facilities, the board shall adopt an annual
13 operating budget specifying the district's anticipated revenue and
14 expenses for the remainder of the fiscal year. The district shall
15 adopt an operating budget for each succeeding fiscal year.

16 (b) The board must hold a public hearing before adopting
17 each budget except the initial budget. Notice of the hearing must
18 be published at least seven days before the date of the hearing in a
19 newspaper of general circulation in the district.

20 (c) A budget may be amended at any time if notice of the
21 proposed amendment is given in the notice of meeting.

22 (d) An expenditure that is not budgeted may not be made.
23 (V.A.C.S. Art. 6550c, Sec. 5(p) (part).)

24 Sec. 172.253. GRANTS AND LOANS. A district may accept a
25 grant or loan from the United States, this state and its agencies
26 and political subdivisions, public or private corporations, and any
27 other person. (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

1 Sec. 172.254. DEPOSITORY. (a) The board by resolution
2 shall name one or more banks for the deposit of district funds.

3 (b) District funds are public funds and may be invested in
4 securities permitted by Chapter 2256, Government Code.

5 (c) To the extent district funds are not insured by the
6 Federal Deposit Insurance Corporation or its successor, the funds
7 shall be collateralized in the manner provided for county funds.
8 (V.A.C.S. Art. 6550c, Sec. 5(q).)

9 Sec. 172.255. APPLICABILITY OF PUBLIC PROPERTY FINANCING
10 LAW; PROHIBITION ON AD VALOREM TAX. A district may use the
11 procedures provided by Chapter 271, Local Government Code, to
12 finance the district's rail facilities, except to the extent of a
13 conflict with this chapter, and except that the district may not
14 impose an ad valorem tax. (V.A.C.S. Art. 6550c, Sec. 6A(a).)

15 Sec. 172.256. NONNEGOTIABLE PURCHASE MONEY NOTES; BOND
16 ANTICIPATION NOTES. (a) A district may:

17 (1) issue nonnegotiable purchase money notes, payable
18 in installments and secured by the property being acquired or
19 constructed, to acquire or construct rail facilities; or

20 (2) secure the obligation of the notes by a pledge or
21 by issuing bonds, including bond anticipation notes.

22 (b) A district may covenant with the purchaser of bond
23 anticipation notes that the proceeds of one or more particular
24 series of bonds will be used for the ultimate payment of the
25 purchase money notes or bond anticipation notes. (V.A.C.S.
26 Art. 6550c, Sec. 6A(b).)

27 Sec. 172.257. TAX EXEMPTION. District property and revenue

1 and the interest on bonds issued by the district are exempt from any
2 tax imposed by this state or a political subdivision of this state.
3 (V.A.C.S. Art. 6550c, Sec. 8.)

4 [Sections 172.258-172.300 reserved for expansion]

5 SUBCHAPTER G. BONDS

6 Sec. 172.301. REVENUE BONDS. A district, by board
7 resolution, may issue revenue bonds in amounts that the board
8 considers necessary or appropriate for the acquisition, purchase,
9 construction, reconstruction, repair, equipping, improvement, or
10 extension of its rail facilities. (V.A.C.S. Art. 6550c, Secs. 6(a)
11 (part), (e).)

12 Sec. 172.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure
13 payment of district bonds, the district may:

14 (1) encumber and pledge all or part of the revenue of
15 its rail facilities; and

16 (2) encumber all or part of the property of the rail
17 facilities and everything pertaining to them acquired or to be
18 acquired.

19 (b) Unless prohibited by the resolution or indenture
20 relating to outstanding bonds, a district may encumber separately
21 any item of property. (V.A.C.S. Art. 6550c, Sec. 6(c) (part).)

22 Sec. 172.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY
23 FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds are legal and
24 authorized investments for:

- 25 (1) a bank;
26 (2) a trust company;
27 (3) a savings and loan association; and

1 (4) an insurance company.

2 (b) The bonds are:

3 (1) eligible to secure the deposit of public funds of
4 this state or a municipality, a county, a school district, or any
5 other political corporation or subdivision of this state; and

6 (2) lawful and sufficient security for the deposit to
7 the extent of the principal amount or market value of the bonds,
8 whichever is less. (V.A.C.S. Art. 6550c, Sec. 6(d).)

9 Sec. 172.304. APPLICABILITY OF PUBLIC IMPROVEMENT
10 FINANCING LAW. For purposes of Chapter 1371, Government Code:

11 (1) a district is an issuer; and

12 (2) the acquisition, improvement, or repair of rail
13 facilities by a district is an eligible project. (V.A.C.S. Art.
14 6550c, Sec. 5(a) (part).)

15 Sec. 172.305. LIMIT ON POWER. A revenue bond indenture may
16 limit the exercise of the power granted by Section 172.002,
17 172.151, 172.152, 172.153, 172.154, 172.155, 172.157, 172.158,
18 172.159, 172.160, 172.201, 172.202, 172.203, 172.204, 172.205,
19 172.206, 172.207, 172.208, 172.209, 172.210, 172.251, 172.252,
20 172.253, 172.254, or 172.304. The limitation applies while any of
21 the revenue bonds issued under the indenture are outstanding and
22 unpaid. (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

23 Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY ATTORNEY
24 GENERAL. District notes authorized to be issued to an agency of the
25 federal or state government, and related records, are not required
26 to be submitted to the attorney general for examination under
27 Chapter 1202, Government Code. (V.A.C.S. Art. 6550c, Sec. 6(b))

1 (part).)

2 CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 173.001. DEFINITION OF PERSON

5 Sec. 173.002. DEFINITIONS

6 Sec. 173.003. LOCATION OF MUNICIPALITY IN COUNTY

7 Sec. 173.004. NATURE OF DISTRICT

8 Sec. 173.005. SUNSET PROVISION

9 [Sections 173.006-173.050 reserved for expansion]

10 SUBCHAPTER B. CREATION

11 Sec. 173.051. CREATION OF DISTRICT

12 Sec. 173.052. ADDITION OF POLITICAL SUBDIVISION TO

13 DISTRICT

14 [Sections 173.053-173.100 reserved for expansion]

15 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

16 Sec. 173.101. CONTROL OF DISTRICT

17 Sec. 173.102. COMPOSITION OF BOARD; TERMS

18 Sec. 173.103. VACANCY

19 Sec. 173.104. PRESIDING OFFICER

20 Sec. 173.105. MEETINGS

21 Sec. 173.106. BOARD MEETINGS BY TELEPHONE OR

22 VIDEOCONFERENCE

23 Sec. 173.107. RULES FOR PROCEEDINGS

24 Sec. 173.108. COMPENSATION; REIMBURSEMENT

25 Sec. 173.109. EMPLOYEES

26 Sec. 173.110. EXECUTIVE COMMITTEE

27 Sec. 173.111. RETIREMENT BENEFITS

[Sections 173.112-173.150 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 173.151. GENERAL POWERS OF DISTRICT

Sec. 173.152. RULES

Sec. 173.153. AGREEMENTS GENERALLY

Sec. 173.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT

USE

Sec. 173.155. JOINT OWNERSHIP AGREEMENTS

Sec. 173.156. EXCLUSIVE DEVELOPMENT AGREEMENTS

Sec. 173.157. INTERLOCAL AGREEMENTS WITH COMMISSION

Sec. 173.158. AWARDED CONSTRUCTION OR PURCHASE

CONTRACTS

Sec. 173.159. EMINENT DOMAIN

Sec. 173.160. SUITS

[Sections 173.161-173.200 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,

CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES

Sec. 173.201. GENERAL AUTHORITY OVER COMMUTER RAIL

FACILITIES

Sec. 173.202. POWERS RELATING TO DISTRICT PROPERTY

Sec. 173.203. USE AND ALTERATION OF PROPERTY OF

ANOTHER POLITICAL SUBDIVISION

Sec. 173.204. RULES GOVERNING SYSTEM AND ROUTINGS

Sec. 173.205. ACQUISITION OF PROPERTY

Sec. 173.206. ACQUISITION OF ROLLING STOCK AND OTHER

PROPERTY

1 Sec. 173.207. COMPENSATION FOR USE OF SYSTEM
2 FACILITIES
3 Sec. 173.208. OPERATION OR USE CONTRACTS
4 Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS
5 WITH OTHER POLITICAL SUBDIVISIONS
6 [Sections 173.210-173.250 reserved for expansion]
7 SUBCHAPTER F. FINANCIAL PROVISIONS
8 Sec. 173.251. FISCAL YEAR
9 Sec. 173.252. ANNUAL BUDGET
10 Sec. 173.253. GRANTS AND LOANS
11 Sec. 173.254. DEPOSITORY
12 Sec. 173.255. PURCHASE OF ADDITIONAL INSURED
13 PROVISIONS
14 Sec. 173.256. FINANCING OF CERTAIN TRANSPORTATION
15 INFRASTRUCTURE
16 Sec. 173.257. TAX EXEMPTION
17 [Sections 173.258-173.300 reserved for expansion]
18 SUBCHAPTER G. BONDS
19 Sec. 173.301. REVENUE BONDS
20 Sec. 173.302. SECURITY FOR PAYMENT OF BONDS
21 Sec. 173.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY FOR
22 DEPOSITS OF PUBLIC FUNDS
23 Sec. 173.304. LIMIT ON POWER
24 [Sections 173.305-173.350 reserved for expansion]
25 SUBCHAPTER H. SALES AND USE TAXES
26 Sec. 173.351. TAX AUTHORIZED
27 Sec. 173.352. TAX RATE

1 Sec. 173.353. PREEMPTION OF OTHER SALES AND USE TAXES

2 Sec. 173.354. APPLICABILITY OF TAX CODE

3 Sec. 173.355. NOTICE TO COMPTROLLER

4 Sec. 173.356. NOTICE TO LOCAL GOVERNMENTS

5 Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY

6 SUBJECT TO TAX

7 Sec. 173.358. DUTY OF COMPTROLLER

8 Sec. 173.359. EFFECTIVE DATE OF TAX

9 CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 173.001. DEFINITION OF PERSON. In this chapter:

12 (1) "person" includes a corporation, as provided by
13 Section 312.011, Government Code; and

14 (2) the definition of "person" assigned by Section
15 311.005, Government Code, does not apply. (New.)

16 Sec. 173.002. DEFINITIONS. In this chapter:

17 (1) "Board" means a district's board of directors.

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

22 (3) "Creating municipality" means a municipality
23 described by Section 173.051(a).

24 (4) "Director" means a board member.

25 (5) "District" means an intermunicipal commuter rail
26 district created under this chapter or under Article 6550c-1,
27 Revised Statutes, as that article existed before April 1, 2011.

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

(7) "System" means all of the commuter rail and intermodal facilities leased or owned by or operated on behalf of a district. (V.A.C.S. Art. 6550c-1, Secs. 1(2), (3), (5), (6), (7); New.)

Sec. 173.003. LOCATION OF MUNICIPALITY IN COUNTY. For purposes of this chapter, a municipality is located in a county only if 90 percent or more of the population of the municipality resides in that county. (V.A.C.S. Art. 6550c-1, Sec. 2(d).)

Sec. 173.004. NATURE OF DISTRICT. (a) A district is a public body and a political subdivision of this state exercising public and essential governmental functions.

(b) A district, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit under Chapter 101, Civil Practice and Remedies Code. (V.A.C.S. Art. 6550c-1, Sec. 4(a) (part).)

Sec. 173.005. SUNSET PROVISION. A district is subject every 12th year to review under Chapter 325, Government Code (Texas Sunset Act). (V.A.C.S. Art. 6550c-1, Sec. 4(b).)

[Sections 173.006-173.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 173.051. CREATION OF DISTRICT. (a) A district may be created to provide commuter rail service between two municipalities:

(1) each of which has a population of more than 450,000; and

(2) that are located not farther than 100 miles apart as determined by the department.

(b) The creating municipalities and the counties in which the creating municipalities are located may create a district on passage of a resolution favoring creation by the governing body of each municipality or county. (V.A.C.S. Art. 6550c-1, Secs. 2(a), (b).)

Sec. 173.052. ADDITION OF POLITICAL SUBDIVISION TO DISTRICT. The following political subdivisions may become a part of a district with the approval of the governing body of the political subdivision:

(1) a county located adjacent to the county in which a creating municipality is located; and

(2) a municipality with a population of more than 18,000 located in a county described by Subdivision (1). (V.A.C.S. Art. 6550c-1, Sec. 2(c).)

[Sections 173.053-173.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Sec. 173.101. CONTROL OF DISTRICT. A district is governed by a board of directors. The board is responsible for the management, operation, and control of the district. (V.A.C.S. Art. 6550c-1, Sec. 3(a).)

Sec. 173.102. COMPOSITION OF BOARD; TERMS. (a) The board is composed of:

- (1) two public directors appointed by the commission;
- (2) one elected member of the governing body of each political subdivision that has become a part of the district under

1 Subchapter B;

2 (3) one elected director appointed by the regional
3 planning organization of which a creating municipality is a part;

4 (4) one director appointed by each creating
5 municipality to represent the business community of the
6 municipality;

7 (5) one director appointed by each authority created
8 under Chapter 451 that serves a creating municipality;

9 (6) one director appointed by each county in which a
10 creating municipality is located to represent transportation
11 providers that provide service to rural areas in the county; and

12 (7) one director appointed by all other directors to
13 represent all municipalities in the district that do not otherwise
14 have representation on the board who is an elected official of one
15 of those municipalities.

16 (b) Each director serves a staggered two-year term, with as
17 near as possible to half of the directors' terms expiring February 1
18 of each year. If one or more directors are added to the board, the
19 directors other than the new directors shall determine the lengths
20 of the new directors' terms so that one-half, or as near one-half as
21 possible, of the directors serve terms expiring each year.
22 (V.A.C.S. Art. 6550c-1, Secs. 3(b), (c) (part).)

23 Sec. 173.103. VACANCY. A vacancy on the board shall be
24 filled in the same manner as the original appointment or election.
25 (V.A.C.S. Art. 6550c-1, Sec. 3(c) (part).)

26 Sec. 173.104. PRESIDING OFFICER. (a) The directors shall
27 elect one member as presiding officer.

1 (b) The presiding officer may select another director to
2 preside in the absence of the presiding officer. (V.A.C.S. Art.
3 6550c-1, Sec. 3(d).)

4 Sec. 173.105. MEETINGS. The presiding officer shall call
5 at least one meeting of the board each year and may hold other
6 meetings as the presiding officer determines are appropriate.
7 (V.A.C.S. Art. 6550c-1, Sec. 3(e).)

8 Sec. 173.106. BOARD MEETINGS BY TELEPHONE OR
9 VIDEOCONFERENCE. (a) Chapter 551, Government Code, does not
10 prohibit the board from holding an open or closed meeting by
11 telephone conference call or videoconference.

12 (b) A meeting held by telephone conference call or
13 videoconference need not have a quorum present at any one location.

14 (c) A telephone conference call or videoconference meeting
15 is subject to the notice requirements applicable to other meetings.

16 (d) The notice of a telephone conference call or
17 videoconference meeting must specify each location of the meeting
18 where a director will participate and the physical location where
19 the presiding officer of the board will preside. Each of those
20 locations must be open to the public during the open portion of the
21 meeting.

22 (e) Each part of a telephone conference call meeting that is
23 required to be open to the public must be audible to the public at
24 each meeting location specified in the notice of the meeting and
25 shall be tape recorded. The district shall make the tape recording
26 available to the public.

27 (f) Each part of a videoconference meeting that is required

1 to be open to the public must:

2 (1) be visible and audible to the public at each
3 meeting location specified in the notice of the meeting; and

4 (2) have two-way audio and video communications with
5 each participant in the meeting during the entire meeting.

6 (g) Without regard to whether a director is participating in
7 a meeting from a remote location by videoconference call, the board
8 may allow a member of the public to testify at a meeting from a
9 remote location by videoconference call. The board shall designate
10 the location for public participation in the notice of the meeting.
11 (V.A.C.S. Art. 6550c-1, Sec. 3A.)

12 Sec. 173.107. RULES FOR PROCEEDINGS. The board shall adopt
13 rules for its proceedings. (V.A.C.S. Art. 6550c-1, Sec. 3(g)
14 (part).)

15 Sec. 173.108. COMPENSATION; REIMBURSEMENT. A director is
16 not entitled to compensation for serving as a director but is
17 entitled to reimbursement for reasonable expenses incurred while
18 serving as a director. (V.A.C.S. Art. 6550c-1, Sec. 3(f).)

19 Sec. 173.109. EMPLOYEES. The board may employ and
20 compensate persons to carry out the powers and duties of the
21 district. (V.A.C.S. Art. 6550c-1, Sec. 3(g) (part).)

22 Sec. 173.110. EXECUTIVE COMMITTEE. The board shall appoint
23 an executive committee. (V.A.C.S. Art. 6550c-1, Sec. 3(g) (part).)

24 Sec. 173.111. RETIREMENT BENEFITS. A district is eligible
25 to participate in the Texas County and District Retirement System.
26 (V.A.C.S. Art. 6550c-1, Sec. 4(q).)

27 [Sections 173.112-173.150 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 173.151. GENERAL POWERS OF DISTRICT. (a) A district has all the powers necessary or convenient to carry out the purposes of this chapter.

(b) A district may generally perform all acts necessary for the full exercise of the district's powers. (V.A.C.S. Art. 6550c-1, Secs. 4(a) (part), (k) (part).)

Sec. 173.152. RULES. To protect district residents' health, safety, and general welfare, a district may adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, or telephone or utility service. (V.A.C.S. Art. 6550c-1, Sec. 4(h).)

Sec. 173.153. AGREEMENTS GENERALLY. A district may make contracts, leases, and agreements with the United States, this state and its agencies and political subdivisions, public or private corporations, and any other person. (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)

Sec. 173.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:

(1) make agreements with a public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or property inside or outside the district; and

(2) establish:

(A) through routes;

1 (B) joint fares; and

2 (C) divisions of tariffs, subject to approval of
3 a tariff-regulating body that has jurisdiction. (V.A.C.S. Art.
4 6550c-1, Sec. 4(g).)

5 Sec. 173.155. JOINT OWNERSHIP AGREEMENTS. A district may
6 make a joint ownership agreement with any person. (V.A.C.S. Art.
7 6550c-1, Sec. 4(i).)

8 Sec. 173.156. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) A
9 board may enter into an exclusive development agreement with a
10 private entity.

11 (b) The exclusive development agreement:

12 (1) at a minimum must provide for the design and
13 construction of a commuter rail facility or system; and

14 (2) may provide for the financing, acquisition,
15 maintenance, or operation of a commuter rail facility or system.

16 (c) The board may adopt rules governing an agreement under
17 this section. (V.A.C.S. Art. 6550c-1, Sec. 6A.)

18 Sec. 173.157. INTERLOCAL AGREEMENTS WITH COMMISSION. The
19 commission may enter into an interlocal agreement with a district
20 under which the district may exercise a power or duty of the
21 commission for the development and efficient operation of
22 intermodal corridors in the district. (V.A.C.S. Art. 6550c-1, Sec.
23 4(k) (part).)

24 Sec. 173.158. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.
25 (a) A contract in the amount of more than \$15,000 for the
26 construction of improvements or the purchase of material,
27 machinery, equipment, supplies, or any other property except real

1 property may be awarded only through competitive bidding after
2 notice is published in a newspaper of general circulation in the
3 district at least 15 days before the date set for receiving bids.

4 (b) A board may adopt rules governing the taking of bids and
5 the awarding of contracts.

6 (c) This section does not apply to:

7 (1) personal or professional services;

8 (2) the acquisition of an existing rail transportation
9 system;

10 (3) a contract with a common carrier to construct
11 lines and to operate commuter rail service on lines wholly or partly
12 owned by the carrier; or

13 (4) an agreement with a private entity under Section
14 173.156. (V.A.C.S. Art. 6550c-1, Sec. 6.)

15 Sec. 173.159. EMINENT DOMAIN. (a) A district may exercise
16 the power of eminent domain to acquire:

17 (1) land in fee simple; or

18 (2) any interest less than fee simple in, on, under, or
19 above land, including an easement, right-of-way, or right of use of
20 airspace or subsurface space.

21 (b) The power of eminent domain under this section does not
22 apply to:

23 (1) land under the jurisdiction of the department or a
24 metropolitan transit authority; or

25 (2) a rail line owned by a common carrier or
26 municipality.

27 (c) To the extent possible, the district shall use existing

1 rail or intermodal transportation corridors for the alignment of
2 its system.

3 (d) An eminent domain proceeding is begun by the board's
4 adoption of a resolution declaring that the district's acquisition
5 of the property or interest described in the resolution:

6 (1) is a public necessity; and

7 (2) is necessary and proper for the construction,
8 extension, improvement, or development of commuter rail facilities
9 and is in the public interest.

10 (e) The resolution is conclusive evidence of the public
11 necessity of the proposed acquisition and that the real property or
12 interest in property is necessary for public use. (V.A.C.S. Art.
13 6550c-1, Sec. 4(f).)

14 Sec. 173.160. SUITS. (a) A district may:

15 (1) sue and be sued;

16 (2) institute and prosecute suits without giving
17 security for costs; and

18 (3) appeal from a judgment without giving a
19 supersedeas or cost bond.

20 (b) An action at law or in equity against the district must
21 be brought in the county in which a principal office of the district
22 is located, except that a suit in eminent domain must be brought in
23 the county in which the land is located. (V.A.C.S. Art. 6550c-1,
24 Sec. 4(c).)

25 [Sections 173.161-173.200 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES

Sec. 173.201. GENERAL AUTHORITY OVER COMMUTER RAIL
FACILITIES. A district may acquire, construct, develop, own,
operate, and maintain intermodal and commuter rail facilities
inside, or connect political subdivisions in, the district.
(V.A.C.S. Art. 6550c-1, Sec. 4(e) (part).)

Sec. 173.202. POWERS RELATING TO DISTRICT PROPERTY. A
district may acquire by grant, purchase, gift, devise, lease, or
otherwise and may hold, use, sell, lease, or dispose of property,
including a license, a patent, a right, or an interest, necessary,
convenient, or useful for the full exercise of its powers under this
chapter. (V.A.C.S. Art. 6550c-1, Sec. 4(d).)

Sec. 173.203. USE AND ALTERATION OF PROPERTY OF ANOTHER
POLITICAL SUBDIVISION. (a) For a purpose described by Section
173.201, as necessary or useful in the construction,
reconstruction, repair, maintenance, and operation of the system,
and with the consent of a municipality, county, or other political
subdivision, a district may:

(1) use streets, alleys, roads, highways, and other
public ways of the political subdivision; and

(2) relocate, raise, reroute, change the grade of, or
alter, at the district's expense, the construction of a publicly
owned or privately owned street, alley, highway, road, railroad,
electric line or facility, telegraph or telephone property or
facility, pipeline or facility, conduit or facility, and other
property.

(b) A district may not use or alter:

(1) a road or highway in the state highway system without the permission of the commission; or

(2) a railroad without permission of the railroad. (V.A.C.S. Art. 6550c-1, Sec. 4(e) (part).)

Sec. 173.204. RULES GOVERNING SYSTEM AND ROUTINGS. A district by resolution may adopt rules governing the use, operation, and maintenance of the system and shall determine all routings and change them when the board considers it advisable. (V.A.C.S. Art. 6550c-1, Sec. 4(1).)

Sec. 173.205. ACQUISITION OF PROPERTY. (a) A district may purchase any interest in real property to acquire, construct, or operate a commuter rail facility on terms and at a price to which the district and the owner agree.

(b) The governing body of a municipality, a county, any other political subdivision, or a public agency may convey the title or the rights and easements to property needed by the district for its purposes in connection with the acquisition, construction, or operation of the system. (V.A.C.S. Art. 6550c-1, Sec. 4(e) (part).)

Sec. 173.206. ACQUISITION OF ROLLING STOCK AND OTHER PROPERTY. A district may acquire rolling stock or other property under a conditional sales contract, lease, equipment trust certificate, or other form of contract or trust agreement. (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)

Sec. 173.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

(a) A district shall establish and maintain reasonable and

1 nondiscriminatory rates or other compensation for the use of the
2 facilities of the system acquired, constructed, operated,
3 regulated, or maintained by the district.

4 (b) Together with grants received by the district, the rates
5 or other compensation must be sufficient to produce revenue
6 adequate to:

7 (1) pay all expenses necessary for the operation and
8 maintenance of the district's property and facilities;

9 (2) pay the principal of and interest on all bonds
10 issued by the district under this chapter payable wholly or partly
11 from the revenue, as they become due and payable; and

12 (3) fulfill the terms of agreements made with the
13 holders of bonds or with any person on their behalf. (V.A.C.S. Art.
14 6550c-1, Sec. 4(j).)

15 Sec. 173.208. OPERATION OR USE CONTRACTS. (a) A district
16 may:

17 (1) lease all or part of the commuter rail facilities
18 to any operator; or

19 (2) contract for the use or operation of all or part of
20 the commuter rail facilities by any operator.

21 (b) To the maximum extent practicable, the district shall
22 encourage the participation of private enterprise in the operation
23 of commuter rail facilities.

24 (c) The term of an operating contract under this section may
25 not exceed 20 years. (V.A.C.S. Art. 6550c-1, Sec. 4(m).)

26 Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
27 OTHER POLITICAL SUBDIVISIONS. A district may contract with a county

1 or other political subdivision of this state for the district to
2 provide commuter rail transportation services to an area outside
3 the district on terms to which the parties agree. (V.A.C.S. Art.
4 6550c-1, Sec. 4(n).)

5 [Sections 173.210-173.250 reserved for expansion]

6 SUBCHAPTER F. FINANCIAL PROVISIONS

7 Sec. 173.251. FISCAL YEAR. Unless the board changes the
8 fiscal year, the district's fiscal year ends on September 30.
9 (V.A.C.S. Art. 6550c-1, Sec. 4(p) (part).)

10 Sec. 173.252. ANNUAL BUDGET. (a) Before beginning the
11 operation of commuter rail facilities, the board shall adopt an
12 annual operating budget specifying the district's anticipated
13 revenue and expenses for the remainder of the fiscal year. The
14 district shall adopt an operating budget for each succeeding fiscal
15 year.

16 (b) The board must hold a public hearing before adopting
17 each budget except the initial budget. Notice of the hearing must
18 be published at least seven days before the date of the hearing in a
19 newspaper of general circulation in the district.

20 (c) A budget may be amended at any time if notice of the
21 proposed amendment is given in the notice of meeting.

22 (d) An expenditure that is not budgeted may not be made.
23 (V.A.C.S. Art. 6550c-1, Sec. 4(p) (part).)

24 Sec. 173.253. GRANTS AND LOANS. A district may accept
25 grants and loans from the United States, this state and its agencies
26 and political subdivisions, public or private corporations, and
27 other persons. (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)

1 Sec. 173.254. DEPOSITORY. (a) The board by resolution
2 shall name one or more banks for the deposit of district funds.

3 (b) District funds are public funds and may be invested in
4 securities permitted by Chapter 2256, Government Code.

5 (c) To the extent district funds are not insured by the
6 Federal Deposit Insurance Corporation or its successor, the funds
7 shall be collateralized in the manner provided for county funds.
8 (V.A.C.S. Art. 6550c-1, Sec. 4(r).)

9 Sec. 173.255. PURCHASE OF ADDITIONAL INSURED PROVISIONS. A
10 district may purchase an additional insured provision to any
11 liability insurance contract. (V.A.C.S. Art. 6550c-1, Sec. 4(o).)

12 Sec. 173.256. FINANCING OF CERTAIN TRANSPORTATION
13 INFRASTRUCTURE. (a) This section applies only to a local
14 government, other than a school district, that is a member of a
15 district and that is authorized to impose ad valorem taxes on real
16 property.

17 (b) A district may enter into an interlocal contract with a
18 local government member for the financing of transportation
19 infrastructure that is constructed or that is to be constructed in
20 the territory of the local government by the district.

21 (c) The agreement must include:

22 (1) the duration of the agreement;

23 (2) a description of each transportation
24 infrastructure project or proposed project;

25 (3) a map showing the location of each project; and

26 (4) an estimate of the cost of each project.

27 (d) The agreement may establish one or more transportation

1 infrastructure zones. The district and the local government may
2 agree that, at one or more specified times, the local government
3 will pay to the district an amount that is calculated on the basis
4 of increased ad valorem tax collections in a zone that are
5 attributable to increased values of property located in the zone
6 resulting from an infrastructure project. The amount may not
7 exceed an amount that is equal to 30 percent of the increase in ad
8 valorem tax collections for the specified period.

9 (e) Money received by the district under this section may be
10 used:

11 (1) to provide a local match for the acquisition of
12 right-of-way in the territory of the local government; or

13 (2) for design, construction, operation, or
14 maintenance of transportation facilities in the territory of the
15 local government. (V.A.C.S. Art. 6550c-1, Sec. 8.)

16 Sec. 173.257. TAX EXEMPTION. District property, material
17 purchases, revenue, and income and the interest on bonds and notes
18 issued by the district are exempt from any tax imposed by this state
19 or a political subdivision of this state. (V.A.C.S. Art. 6550c-1,
20 Sec. 7.)

21 [Sections 173.258-173.300 reserved for expansion]

22 SUBCHAPTER G. BONDS

23 Sec. 173.301. REVENUE BONDS. A district may issue revenue
24 bonds and notes in amounts that the board considers necessary or
25 appropriate for the acquisition, purchase, construction,
26 reconstruction, repair, equipping, improvement, or extension of
27 its commuter rail facilities. (V.A.C.S. Art. 6550c-1, Sec. 5(a))

1 (part).)

2 Sec. 173.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure
3 payment of district bonds or notes, the district may:

4 (1) encumber and pledge all or part of the revenue of
5 its commuter rail facilities; and

6 (2) encumber all or part of the property of the
7 commuter rail facilities and everything pertaining to them acquired
8 or to be acquired.

9 (b) Unless prohibited by the resolution or indenture
10 relating to outstanding bonds or notes, a district may encumber
11 separately any item of property. (V.A.C.S. Art. 6550c-1, Sec. 5(c)
12 (part).)

13 Sec. 173.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY
14 FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are
15 legal and authorized investments for:

- 16 (1) a bank;
17 (2) a trust company;
18 (3) a savings and loan association; and
19 (4) an insurance company.

20 (b) The bonds and notes are:

21 (1) eligible to secure the deposit of public funds of
22 this state or a municipality, a county, a school district, or any
23 other political corporation or subdivision of this state; and

24 (2) lawful and sufficient security for the deposit to
25 the extent of the principal amount or market value of the bonds or
26 notes, whichever is less. (V.A.C.S. Art. 6550c-1, Sec. 5(d).)

27 Sec. 173.304. LIMIT ON POWER. (a) A revenue bond indenture

1 may limit the exercise of a power granted by Section 173.004,
2 173.005, 173.111, 173.151, 173.152, 173.153, 173.154, 173.155,
3 173.157, 173.159, 173.160, 173.201, 173.202, 173.203, 173.204,
4 173.205, 173.206, 173.207, 173.208, 173.209, 173.251, 173.252,
5 173.253, 173.254, or 173.255.

6 (b) The limitation applies while any of the revenue bonds
7 issued under the indenture are outstanding and unpaid. (V.A.C.S.
8 Art. 6550c-1, Sec. 4(k) (part).)

9 [Sections 173.305-173.350 reserved for expansion]

10 SUBCHAPTER H. SALES AND USE TAXES

11 Sec. 173.351. TAX AUTHORIZED. A sales and use tax is
12 imposed on items sold on district property. (V.A.C.S. Art.
13 6550c-1, Sec. 9(a) (part).)

14 Sec. 173.352. TAX RATE. The sales and use tax shall be
15 imposed at the rate of the highest combination of local sales and
16 use taxes imposed at the time of the district's creation in any
17 local governmental jurisdiction that is part of the district.
18 (V.A.C.S. Art. 6550c-1, Sec. 9(a) (part).)

19 Sec. 173.353. PREEMPTION OF OTHER SALES AND USE TAXES. The
20 tax imposed under this subchapter preempts all other local sales
21 and use taxes that would otherwise be imposed on district property.
22 (V.A.C.S. Art. 6550c-1, Sec. 9(a) (part).)

23 Sec. 173.354. APPLICABILITY OF TAX CODE. Chapter 321, Tax
24 Code, governs the computation, administration, governance, and use
25 of the tax except as inconsistent with this chapter. (V.A.C.S. Art.
26 6550c-1, Sec. 9(b) (part).)

27 Sec. 173.355. NOTICE TO COMPTROLLER. (a) The district

1 shall notify the comptroller in writing by United States registered
2 or certified mail of the district's creation and of its intent to
3 impose the sales and use tax under this chapter.

4 (b) The district shall provide to the comptroller all
5 information required to implement the tax, including:

6 (1) an adequate map showing the property boundaries of
7 the district;

8 (2) a certified copy of the resolution of the board
9 adopting the tax; and

10 (3) certified copies of the resolutions of the
11 governing bodies of the creating municipalities and of the
12 commissioners courts of the counties in which the municipalities
13 are located.

14 (c) Not later than the 30th day after the date the
15 comptroller receives the notice, map, and other information, the
16 comptroller shall inform the district whether the comptroller is
17 prepared to administer the tax. (V.A.C.S. Art. 6550c-1, Secs.
18 9(c), (d).)

19 Sec. 173.356. NOTICE TO LOCAL GOVERNMENTS. At the same time
20 the district notifies the comptroller under Section 173.355, the
21 district shall:

22 (1) notify each affected local governmental
23 jurisdiction of the district's creation; and

24 (2) provide each jurisdiction with an adequate map
25 showing the property boundaries of the district. (V.A.C.S. Art.
26 6550c-1, Sec. 9(e).)

27 Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT

1 TO TAX. (a) Not later than the 30th day after the date a district
2 acquires additional territory, the district shall notify the
3 comptroller and each affected local governmental jurisdiction of
4 the acquisition.

5 (b) The district must include with each notification:

6 (1) an adequate map showing the new property
7 boundaries of the district; and

8 (2) the date the additional territory was acquired.

9 (c) Not later than the 30th day after the date the
10 comptroller receives the notice under this section, the comptroller
11 shall inform the district whether the comptroller is prepared to
12 administer the tax in the additional territory. (V.A.C.S. Art.
13 6550c-1, Sec. 9(f).)

14 Sec. 173.358. DUTY OF COMPTROLLER. The comptroller shall:

15 (1) administer, collect, and enforce a tax imposed
16 under this chapter; and

17 (2) remit to a district the tax collected on the
18 district's property. (V.A.C.S. Art. 6550c-1, Secs. 9(a) (part),
19 (b) (part).)

20 Sec. 173.359. EFFECTIVE DATE OF TAX. A tax imposed under
21 this chapter or the repeal of a tax imposed under this chapter takes
22 effect on the first day of the first calendar quarter that begins
23 after the expiration of the first complete calendar quarter that
24 occurs after the date the comptroller receives a notice of the
25 action as required by this subchapter. (V.A.C.S. Art. 6550c-1,
26 Sec. 9(g).)

CHAPTER 174. COMMUTER RAIL DISTRICTS

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Sec. 174.001. DEFINITION OF PERSON

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Sec. 174.004. REQUIREMENT FOR SERVICE TO

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[Sections 174.005-174.050 reserved for expansion]

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Sec. 174.051. CREATION OF DISTRICT

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SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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10 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
11 CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES
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[Sections 174.257-174.300 reserved for expansion]

SUBCHAPTER G. BONDS

Sec. 174.301. REVENUE BONDS

Sec. 174.302. SECURITY FOR PAYMENT OF BONDS

Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND

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[Sections 174.305-174.350 reserved for expansion]

SUBCHAPTER H. TAXES

Sec. 174.351. TAX AUTHORIZED

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Sec. 174.353. TAX RATE

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CHAPTER 174. COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by
Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section

311.005, Government Code, does not apply. (New.)

Sec. 174.002. DEFINITIONS. In this chapter:

(1) "Board" means a district's board of directors.

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

(3) "Director" means a board member.

(4) "District" means a commuter rail district created under this chapter or under Article 6550c-3, Revised Statutes, as that article existed before April 1, 2011.

(5) "System" means all of the commuter rail and intermodal facilities leased or owned by or operated on behalf of a district. (V.A.C.S. Art. 6550c-3, Secs. 1(2), (5), (7); New.)

Sec. 174.003. NATURE OF DISTRICT. (a) A district is a public body and a political subdivision of this state exercising public and essential governmental functions.

(b) A district, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit under Chapter 101, Civil Practice and Remedies Code. (V.A.C.S. Art. 6550c-3, Sec. 4(a) (part).)

Sec. 174.004. REQUIREMENT FOR SERVICE TO MUNICIPALITIES IN DISTRICT. A municipality located in a district that wishes to be served by commuter rail facilities of the district must pay for construction of a commuter rail station. (V.A.C.S. Art. 6550c-3, Sec. 9.)

[Sections 174.005-174.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 174.051. CREATION OF DISTRICT. (a) A district may be created to provide commuter rail service to counties along the Texas-Mexico border.

(b) The commissioners court of a county may create a commuter rail district on adoption of an order favoring the creation. (V.A.C.S. Art. 6550c-3, Sec. 2.)

[Sections 174.052-174.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Sec. 174.101. CONTROL OF DISTRICT. A district is governed by a board of directors. The board is responsible for the management, operation, and control of the district. (V.A.C.S. Art. 6550c-3, Sec. 3(a).)

Sec. 174.102. COMPOSITION OF BOARD; TERMS. (a) The board is composed of five directors appointed as follows:

(1) one director appointed by the county judge; and

(2) one director appointed by each county commissioner.

(b) Each director serves a four-year term. The board may provide for the staggering of the terms of its directors. (V.A.C.S. Art. 6550c-3, Sec. 3(b).)

Sec. 174.103. PRESIDING OFFICER. (a) The directors shall elect one director as presiding officer.

(b) The presiding officer may select another director to preside in the absence of the presiding officer. (V.A.C.S. Art. 6550c-3, Sec. 3(c).)

Sec. 174.104. MEETINGS. The presiding officer shall call

1 at least one meeting of the board each year and may call other
2 meetings as the presiding officer determines are appropriate.
3 (V.A.C.S. Art. 6550c-3, Sec. 3(d).)

4 Sec. 174.105. RULES FOR PROCEEDINGS. The board shall adopt
5 rules for its proceedings. (V.A.C.S. Art. 6550c-3, Sec. 3(f)
6 (part).)

7 Sec. 174.106. COMPENSATION; REIMBURSEMENT. A director is
8 not entitled to compensation for serving as a director but is
9 entitled to reimbursement for reasonable expenses incurred while
10 serving as a director. (V.A.C.S. Art. 6550c-3, Sec. 3(e).)

11 Sec. 174.107. EMPLOYEES. The board may employ and
12 compensate persons to carry out the powers and duties of the
13 district. (V.A.C.S. Art. 6550c-3, Sec. 3(f) (part).)

14 Sec. 174.108. EXECUTIVE COMMITTEE. The board shall appoint
15 an executive committee. (V.A.C.S. Art. 6550c-3, Sec. 3(f) (part).)

16 Sec. 174.109. RETIREMENT BENEFITS. A district is eligible
17 to participate in the Texas County and District Retirement System.
18 (V.A.C.S. Art. 6550c-3, Sec. 4(p).)

19 [Sections 174.110-174.150 reserved for expansion]

20 SUBCHAPTER D. GENERAL POWERS AND DUTIES

21 Sec. 174.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL
22 FUNCTIONS. (a) A district has all the powers necessary or
23 convenient to carry out the purposes of this chapter.

24 (b) A district may perform any act necessary for the full
25 exercise of the district's powers. (V.A.C.S. Art. 6550c-3, Secs.
26 4(a) (part), (j) (part).)

27 Sec. 174.152. RULES. To protect the health, safety, and

1 general welfare of district residents and people who use district
2 services, a district may adopt rules to govern the operation of the
3 district, its employees, the system, service provided by the
4 district, and any other necessary matter concerning its purposes,
5 including rules regarding health, safety, alcohol or beverage
6 service, food service, or telephone or utility service. (V.A.C.S.
7 Art. 6550c-3, Sec. 4(g).)

8 Sec. 174.153. AGREEMENTS GENERALLY. A district may make
9 contracts, leases, and agreements with the United States, this
10 state and its agencies and political subdivisions, and other
11 persons and entities. (V.A.C.S. Art. 6550c-3, Sec. 4(j) (part).)

12 Sec. 174.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE.
13 A district may:

14 (1) make agreements with a public utility, private
15 utility, communication system, common carrier, state agency, or
16 transportation system for the joint use of facilities,
17 installations, or property inside or outside the district; and

18 (2) establish:

19 (A) through routes; and

20 (B) joint fares. (V.A.C.S. Art. 6550c-3, Sec.
21 4(f).)

22 Sec. 174.155. JOINT OWNERSHIP AGREEMENTS. A district may
23 enter into a joint ownership agreement with any person. (V.A.C.S.
24 Art. 6550c-3, Sec. 4(h).)

25 Sec. 174.156. INTERLOCAL AGREEMENTS WITH COMMISSION. The
26 commission may enter into an interlocal agreement with the district
27 under which the district may exercise a power or duty of the

1 commission for the development and efficient operation of an
2 intermodal corridor in the district. (V.A.C.S. Art. 6550c-3, Sec.
3 4(j) (part).)

4 Sec. 174.157. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.

5 (a) A contract in the amount of more than \$15,000 for the
6 construction of improvements or the purchase of material,
7 machinery, equipment, supplies, or any other property except real
8 property may be awarded only through competitive bidding after
9 notice is published in a newspaper of general circulation in the
10 district at least 15 days before the date set for receiving bids.

11 (b) The board may adopt rules governing the taking of bids
12 and the awarding of contracts.

13 (c) This section does not apply to:

14 (1) personal or professional services;
15 (2) the acquisition of an existing rail transportation
16 system; or

17 (3) a contract with a common carrier to construct
18 lines or to operate commuter rail service on lines wholly or partly
19 owned by the carrier. (V.A.C.S. Art. 6550c-3, Sec. 6.)

20 Sec. 174.158. EMINENT DOMAIN. (a) A district may exercise
21 the power of eminent domain to acquire:

22 (1) real property in fee simple; or
23 (2) an interest in real property less than fee simple
24 in, on, under, or above land, including an easement, right-of-way,
25 or right of use of airspace or subsurface space.

26 (b) The power of eminent domain under this section does not
27 apply to:

1 (1) land under the jurisdiction of the department; or

2 (2) a rail line owned by a common carrier or
3 municipality.

4 (c) To the extent possible, the district shall use existing
5 rail or intermodal transportation corridors for the alignment of
6 its system.

7 (d) An eminent domain proceeding is begun by the board's
8 adoption of a resolution declaring that the district's acquisition
9 of the property or interest described in the resolution:

10 (1) is a public necessity; and

11 (2) is necessary and proper for the construction,
12 extension, improvement, or development of commuter rail facilities
13 and is in the public interest.

14 (e) The resolution is conclusive evidence of the public
15 necessity of the proposed acquisition and that the real property or
16 interest in property is necessary for public use. (V.A.C.S. Art.
17 6550c-3, Sec. 4(e).)

18 Sec. 174.159. SUITS. (a) A district may:

19 (1) sue and be sued;

20 (2) institute and prosecute suits without giving
21 security for costs; and

22 (3) appeal from a judgment without giving a
23 supersedeas or cost bond.

24 (b) An action at law or in equity against the district must
25 be brought in the county in which a principal office of the district
26 is located, except that a suit in eminent domain involving an
27 interest in land must be brought in the county in which the land is

1 located. (V.A.C.S. Art. 6550c-3, Sec. 4(b).)

2 [Sections 174.160-174.200 reserved for expansion]

3 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
4 CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES

5 Sec. 174.201. GENERAL AUTHORITY OVER COMMUTER RAIL
6 FACILITIES. A district may acquire, construct, develop, own,
7 operate, and maintain intermodal and commuter rail facilities to
8 connect political subdivisions in the district. (V.A.C.S. Art.
9 6550c-3, Sec. 4(d) (part).)

10 Sec. 174.202. POWERS RELATING TO DISTRICT PROPERTY. A
11 district may acquire by grant, purchase, gift, devise, lease, or
12 otherwise and may hold, use, sell, lease, or dispose of property,
13 including a license, a patent, a right, or an interest, necessary,
14 convenient, or useful for the full exercise of its powers.
15 (V.A.C.S. Art. 6550c-3, Sec. 4(c).)

16 Sec. 174.203. USE AND ALTERATION OF PROPERTY OF ANOTHER
17 POLITICAL SUBDIVISION. (a) For a purpose described by Section
18 174.201, as necessary or useful in the construction,
19 reconstruction, repair, maintenance, and operation of the system,
20 and with the consent of a municipality, county, or other political
21 subdivision, a district may:

22 (1) use streets, alleys, roads, highways, and other
23 public ways of the political subdivision; and

24 (2) relocate, raise, reroute, change the grade of, or
25 alter, at the district's expense, the construction of a publicly
26 owned or privately owned street, alley, highway, road, railroad,
27 electric line or facility, telegraph or telephone property or

1 facility, pipeline or facility, conduit or facility, and other
2 property.

3 (b) A district may not use or alter:

4 (1) a road or highway in the state highway system
5 without the permission of the commission; or

6 (2) a railroad without permission of the railroad.
7 (V.A.C.S. Art. 6550c-3, Sec. 4(d) (part).)

8 Sec. 174.204. RULES GOVERNING SYSTEM AND ROUTINGS. A
9 district by resolution may adopt rules governing the use,
10 operation, and maintenance of the system and may determine or
11 change a routing as the board considers advisable. (V.A.C.S. Art.
12 6550c-3, Sec. 4(k).)

13 Sec. 174.205. ACQUISITION OF PROPERTY. (a) A district may
14 purchase any interest in real property to acquire, construct, or
15 operate a commuter rail facility on terms and at a price to which
16 the district and the owner agree.

17 (b) The governing body of a municipality, a county, any
18 other political subdivision, or a public agency may convey the
19 title or the rights and easements to property needed by the district
20 for its purposes in connection with the acquisition, construction,
21 or operation of the system. (V.A.C.S. Art. 6550c-3, Sec. 4(d)
22 (part).)

23 Sec. 174.206. ACQUISITION OF ROLLING STOCK AND OTHER
24 PROPERTY. A district may acquire rolling stock or other property
25 under a conditional sales contract, lease, equipment trust
26 certificate, or other form of contract or trust agreement.
27 (V.A.C.S. Art. 6550c-3, Sec. 4(j) (part).)

Sec. 174.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

(a) A district shall establish and maintain reasonable and nondiscriminatory rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district.

(b) Together with grants received by the district, the rates or other compensation must be sufficient to produce revenue adequate to:

(1) pay all expenses necessary for the operation and maintenance of the district's property and facilities;

(2) pay the principal of and interest on bonds issued by the district payable wholly or partly from the revenue, as they become due and payable; and

(3) fulfill the terms of agreements made with the holders of bonds or with any person on their behalf. (V.A.C.S. Art. 6550c-3, Sec. 4(i).)

Sec. 174.208. OPERATION OR USE CONTRACTS. (a) A district may:

(1) lease all or part of the commuter rail facilities to an operator; or

(2) contract for the use or operation of all or part of the commuter rail facilities by an operator.

(b) To the maximum extent practicable, the district shall encourage the participation of private enterprise in the operation of commuter rail facilities.

(c) The term of an operating contract under this section may not exceed 20 years. (V.A.C.S. Art. 6550c-3, Sec. 4(1).)

1 Sec. 174.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
2 OTHER POLITICAL SUBDIVISIONS. A district may contract with a
3 county or other political subdivision of this state for the
4 district to provide commuter rail transportation services to an
5 area outside the district on terms to which the parties agree.
6 (V.A.C.S. Art. 6550c-3, Sec. 4(m).)

7 [Sections 174.210-174.250 reserved for expansion]

8 SUBCHAPTER F. FINANCIAL PROVISIONS

9 Sec. 174.251. FISCAL YEAR. Unless the board changes the
10 fiscal year, the district's fiscal year ends on September 30.
11 (V.A.C.S. Art. 6550c-3, Sec. 4(o) (part).)

12 Sec. 174.252. ANNUAL BUDGET. (a) Before beginning the
13 operation of commuter rail facilities, the board shall adopt an
14 annual operating budget specifying the district's anticipated
15 revenue and expenses for the remainder of the fiscal year. The
16 district shall adopt an operating budget for each succeeding fiscal
17 year.

18 (b) The board must hold a public hearing before adopting
19 each budget except the initial budget. Notice of the hearing must
20 be published at least seven days before the date of the hearing in a
21 newspaper of general circulation in the district.

22 (c) A budget may be amended at any time if notice of the
23 proposed amendment is given in the notice of the meeting at which
24 the amendment will be considered.

25 (d) An expenditure that is not budgeted may not be made.
26 (V.A.C.S. Art. 6550c-3, Sec. 4(o) (part).)

27 Sec. 174.253. GRANTS AND LOANS. A district may accept

1 grants and loans from the United States, this state and its agencies
2 and political subdivisions, and other persons and entities.
3 (V.A.C.S. Art. 6550c-3, Sec. 4(j) (part).)

4 Sec. 174.254. DEPOSITORY. (a) The board by resolution
5 shall name one or more banks for the deposit of district funds.

6 (b) District funds are public funds and may be invested in
7 securities permitted by Chapter 2256, Government Code.

8 (c) To the extent district funds are not insured by the
9 Federal Deposit Insurance Corporation or its successor, the funds
10 shall be collateralized in the manner provided for county funds.
11 (V.A.C.S. Art. 6550c-3, Sec. 4(q).)

12 Sec. 174.255. PURCHASE OF ADDITIONAL INSURED PROVISIONS. A
13 district may purchase an additional insured provision to any
14 liability insurance contract. (V.A.C.S. Art. 6550c-3, Sec. 4(n).)

15 Sec. 174.256. TAX EXEMPTION. District property, material
16 purchases, revenue, and income and the interest on a bond or note
17 issued by a district are exempt from any tax imposed by this state
18 or a political subdivision of this state. (V.A.C.S. Art. 6550c-3,
19 Sec. 7.)

20 [Sections 174.257-174.300 reserved for expansion]

21 SUBCHAPTER G. BONDS

22 Sec. 174.301. REVENUE BONDS. A district may issue revenue
23 bonds and notes in amounts that the board considers necessary or
24 appropriate for the acquisition, purchase, construction,
25 reconstruction, repair, equipping, improvement, or extension of
26 its commuter rail facilities. (V.A.C.S. Art. 6550c-3, Sec. 5(a)
27 (part).)

1 Sec. 174.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure
2 payment of district bonds or notes, the district may:

3 (1) encumber and pledge all or part of the revenue of
4 its commuter rail facilities; and

5 (2) encumber all or part of the property of the
6 commuter rail facilities and everything pertaining to them that is
7 acquired or to be acquired.

8 (b) Unless prohibited by the resolution or indenture
9 relating to outstanding bonds or notes, a district may encumber
10 separately any item of property. (V.A.C.S. Art. 6550c-3, Sec. 5(c)
11 (part).)

12 Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY
13 FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are
14 legal and authorized investments for:

- 15 (1) a bank;
16 (2) a trust company;
17 (3) a savings and loan association; and
18 (4) an insurance company.

19 (b) The bonds and notes are:

20 (1) eligible to secure the deposit of public funds of
21 this state or a municipality, a county, a school district, or any
22 other political corporation or subdivision of this state; and

23 (2) lawful and sufficient security for the deposit to
24 the extent of the principal amount or market value of the bonds or
25 notes, whichever is less. (V.A.C.S. Art. 6550c-3, Sec. 5(d).)

26 Sec. 174.304. LIMIT ON POWER. (a) A revenue bond indenture
27 may limit the exercise of the power granted by Section 174.003,

174.109, 174.151, 174.152, 174.153, 174.154, 174.155, 174.156,
174.158, 174.159, 174.201, 174.202, 174.203, 174.204, 174.205,
174.206, 174.207, 174.208, 174.209, 174.251, 174.252, 174.253,
174.254, or 174.255.

(b) A limit applies while any of the revenue bonds issued
under the indenture are outstanding and unpaid. (V.A.C.S. Art.
6550c-3, Sec. 4(j) (part).)

[Sections 174.305-174.350 reserved for expansion]

SUBCHAPTER H. TAXES

Sec. 174.351. TAX AUTHORIZED. A district may impose any
kind of tax except an ad valorem property tax. (V.A.C.S. Art.
6550c-3, Sec. 8(a).)

Sec. 174.352. IMPOSITION OF TAX. (a) A district may not
impose a tax or increase the rate of an existing tax unless a
proposition proposing the imposition or rate increase is approved
by a majority of the votes received at an election held for that
purpose.

(b) Each new tax or rate increase must be expressed in a
separate proposition consisting of a brief statement of the nature
of the proposed tax.

(c) The notice of the election must contain a statement of
the base or rate of the proposed tax. (V.A.C.S. Art. 6550c-3, Secs.
8(b), (c), (d).)

Sec. 174.353. TAX RATE. (a) The board, subject to Section
174.352(a), may impose for a district a sales and use tax at the
rate of:

(1) one-quarter of one percent;

- (2) one-half of one percent;
- (3) three-quarters of one percent; or
- (4) one percent.

(b) A district may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions of this state having territory in the district exceeds two percent in any location in the district. (V.A.C.S. Art. 6550c-3, Secs. 8(e), (f).)

Sec. 174.354. EFFECTIVE DATE OF TAX. A district's sales and use tax takes effect on the first day of the second calendar quarter beginning after the election approving the tax. (V.A.C.S. Art. 6550c-3, Sec. 8(g).)

SECTION 2.05. Subchapter B, Chapter 452, Transportation Code, is amended by adding Section 452.0561 to read as follows:

Sec. 452.0561. LIABILITY OF TRANSPORTATION ENTITY PROVIDING PUBLIC TRANSPORTATION. (a) This section applies only to a transportation entity created under:

- (1) Subtitle C or D of Title 5 or Chapter 172, 173, or 174; or
- (2) former Title 112, Revised Statutes.

(b) A transportation entity created for the purpose of providing public transportation is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the entity are essential governmental functions and not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

1 (c) An independent contractor of a transportation entity
2 performing a function of the entity or an authority is liable for
3 damages only to the extent that the entity or authority would be
4 liable if the entity or authority itself were performing the
5 function. (V.A.C.S. Art. 6550d.)

6 SECTION 2.06. Chapter 471, Transportation Code, is amended
7 by adding Section 471.009 to read as follows:

8 Sec. 471.009. ENHANCED PAVEMENT MARKING VISIBILITY AT
9 CERTAIN GRADE CROSSINGS. (a) In this section:

10 (1) "Grade crossing" and "reflecting material" have
11 the meanings assigned by Section 471.004.

12 (2) "Pavement markings" means markings applied or
13 attached to the surface of a roadway to regulate, warn, or guide
14 traffic.

15 (3) "Stop bar" means the marking that is applied or
16 attached to the surface of a roadway on either side of a grade
17 crossing and that indicates that a vehicle must stop at the grade
18 crossing.

19 (b) A county or municipality shall use standards developed
20 by the department in applying pavement markings or a stop bar at a
21 grade crossing if the cost of the markings or stop bar is paid
22 either entirely or partly from state or federal funds. In
23 developing its standards, the department shall follow the standards
24 in the Manual on Uniform Traffic Control Devices issued by the
25 United States Department of Transportation Federal Highway
26 Administration and, where appropriate, require the use of
27 reflecting materials. (V.A.C.S. Art. 6370c.)

SECTION 2.07. Title 66, Revised Statutes, is amended by adding Article 4015g to read as follows:

Art. 4015g. SUITS FOR PENALTY. (a) A suit brought under this title for recovery of penalties may be brought in any county in which:

(1) a violation of this title is committed;

(2) the company or receiver has an agent or representative; or

(3) the principal office of the company is located, or in which a receiver resides.

(b) Of money collected from a penalty in this title:

(1) half, less the commission and expenses allowed by law, shall be deposited in the state treasury; and

(2) the remainder shall be paid into the jury fund of the county in which the suit may be maintained. (V.A.C.S. Art. 6477 (part).)

ARTICLE 3. TRANSFER OF PROVISIONS FROM TITLE 112, REVISED
STATUTES, TO NATURAL RESOURCES CODE

SECTION 3.01. Subchapter A, Chapter 81, Natural Resources Code, is amended by adding Section 81.002 to read as follows:

Sec. 81.002. DEFINITION OF PERSON FOR CERTAIN PROVISIONS. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply. (New.)

SECTION 3.02. Subchapter B, Chapter 81, Natural Resources

1 Code, is amended by adding Sections 81.01001 through 81.01016 and
2 81.0165 to read as follows:

3 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

4 Sec. 81.01001. SUNSET PROVISION

5 Sec. 81.01002. CHAIRMAN

6 Sec. 81.01003. QUALIFICATIONS FOR OFFICE

7 Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE,

8 STANDARDS OF CONDUCT, AND CONFLICT OF

9 INTEREST

10 Sec. 81.01005. NAME AND SEAL

11 Sec. 81.01006. PROCEDURAL RULES

12 Sec. 81.01007. SUPPLIES

13 Sec. 81.01008. SESSIONS

14 Sec. 81.01009. RECORDS RESEARCH FEE

15 Sec. 81.01010. FEE FOR COPIES

16 Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION

17 Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS

18 Sec. 81.01013. CONFLICT OF INTEREST

19 Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY

20 Sec. 81.01015. EMPLOYEE INCENTIVE PROGRAM

21 Sec. 81.01016. SEPARATION OF RESPONSIBILITIES

22 Sec. 81.0165. SALARY OF SECRETARY

23 Sec. 81.01001. SUNSET PROVISION. The Railroad Commission
24 of Texas is subject to Chapter 325, Government Code (Texas Sunset
25 Act). Unless continued in existence as provided by that chapter,
26 the commission is abolished September 1, 2013. (V.A.C.S. Art.
27 6445a.)

1 Sec. 81.01002. CHAIRMAN. The commissioners shall elect one
2 commissioner as the chairman. (V.A.C.S. Art. 6447 (part).)

3 Sec. 81.01003. QUALIFICATIONS FOR OFFICE. A commissioner
4 must be:

5 (1) a qualified voter under the constitution and laws;
6 and

7 (2) at least 25 years of age. (V.A.C.S. Art. 6447
8 (part).)

9 Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF
10 CONDUCT, AND CONFLICT OF INTEREST. A commissioner is subject to the
11 provisions of Chapter 572, Government Code, that apply to elected
12 officers, including the requirements governing personal financial
13 statements, standards of conduct, and conflicts of interest.
14 (V.A.C.S. Art. 6447 (part).)

15 Sec. 81.01005. NAME AND SEAL. (a) The commissioners are
16 known collectively as the "Railroad Commission of Texas."

17 (b) The seal of the commission contains a star of five
18 points with the words "Railroad Commission of Texas" engraved on
19 it. (V.A.C.S. Art. 6447 (part).)

20 Sec. 81.01006. PROCEDURAL RULES. The commissioners may
21 adopt all rules necessary for the commission's government and
22 proceedings. (V.A.C.S. Art. 6447 (part).)

23 Sec. 81.01007. SUPPLIES. The commissioners shall be
24 furnished necessary furniture, stationery, supplies, and expenses,
25 to be paid for on the order of the governor. (V.A.C.S. Art. 6447
26 (part).)

27 Sec. 81.01008. SESSIONS. The commission may hold sessions

1 at any place in this state when considered necessary. (V.A.C.S.
2 Art. 6447 (part).)

3 Sec. 81.01009. RECORDS RESEARCH FEE. The commission shall
4 charge a person who requests an examination or search of commission
5 records \$5 for each half hour or fraction of a half hour that a
6 commission employee spends in the examination or search unless the
7 person requesting the search represents this state or a county.
8 (V.A.C.S. Art. 6447j.)

9 Sec. 81.01010. FEE FOR COPIES. (a) The commission may
10 charge a fee for copies of papers provided by the commission to a
11 person other than a department of this state.

12 (b) The fee for a copy of a paper, document, or record in the
13 commission's office, including the certificate and seal to be
14 applied by the secretary, is 15 cents for each 100 words.

15 (c) This section does not authorize the commission to charge
16 a person a fee for a tariff sheet for the person's own use if the
17 tariff sheet is in effect.

18 (d) The fees charged and collected under this section shall
19 be accounted for by the secretary of the commission and paid into
20 the treasury as provided by Chapter 603, Government Code.
21 (V.A.C.S. Art. 3922.)

22 Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION.

23 (a) The commission may authorize payment, as prescribed by the
24 commission, of a regulatory fee, fine, penalty, or charge for goods
25 and services by means of an electronic payment method or a credit
26 card issued by a financial institution chartered by a state or the
27 United States or issued by a nationally recognized credit

1 organization approved by the commission. A payment by the
2 authorized method may be made in person, by telephone, or through
3 the Internet.

4 (b) The commission may require a person who makes a payment
5 to the commission by means of an electronic payment method or credit
6 card to pay a discount or service charge in an amount reasonable and
7 necessary to reimburse the commission for the costs involved in
8 processing the payment.

9 (c) The commission may adopt rules as necessary to implement
10 this section. (V.A.C.S. Art. 6447n.)

11 Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS. (a) In this
12 section, "contested case" has the meaning assigned by Section
13 2001.003, Government Code.

14 (b) The commission may apply for, request, solicit,
15 contract for, receive, accept, and administer gifts, grants, and
16 donations of money or other assistance from any source to carry out
17 any commission purpose or power.

18 (c) The commission may not, under Subsection (b), accept a
19 gift or donation of money or of property from a party in a contested
20 case during the period from the inception of the contested case
21 until the 30th day after the date a final order is signed in the
22 contested case. (V.A.C.S. Art. 6447i.)

23 Sec. 81.01013. CONFLICT OF INTEREST. (a) In this section,
24 "Texas trade association" means a cooperative and voluntarily
25 joined association of business or professional competitors in this
26 state designed to assist its members and its industry or profession
27 in dealing with mutual business or professional problems and in

1 promoting their common interest.

2 (b) A person may not be an employee of the commission
3 employed in a "bona fide executive, administrative, or professional
4 capacity," as that phrase is used for purposes of establishing an
5 exemption to the overtime provisions of the federal Fair Labor
6 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

7 (1) the person is an officer, employee, or paid
8 consultant of a Texas trade association in a business or industry
9 regulated by the commission; or

10 (2) the person's spouse is an officer, manager, or paid
11 consultant of a Texas trade association in a business or industry
12 regulated by the commission.

13 (c) A person who is required to register as a lobbyist under
14 Chapter 305, Government Code, may not act as the general counsel to
15 the commission.

16 (d) The commission shall provide to commissioners and to
17 agency employees, as often as necessary, information regarding the
18 requirements for office or employment under this chapter, including
19 information regarding a person's responsibilities under applicable
20 laws relating to standards of conduct for state officers or
21 employees. (V.A.C.S. Art. 6447c.)

22 Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY. (a) The
23 commission shall prepare and maintain a written policy statement
24 that implements a program of equal employment opportunity to ensure
25 that all personnel decisions are made without regard to race,
26 color, disability, sex, religion, age, or national origin.

27 (b) The policy statement must include:

1 (1) personnel policies, including policies relating
2 to recruitment, evaluation, selection, training, and promotion of
3 personnel, that show the intent of the commission to avoid the
4 unlawful employment practices described by Chapter 21, Labor Code;
5 and

6 (2) an analysis of the extent to which the composition
7 of the commission's personnel is in accordance with state and
8 federal law and a description of reasonable methods to achieve
9 compliance with state and federal law.

10 (c) The policy statement must:

11 (1) be updated annually;

12 (2) be reviewed by the Texas Workforce Commission
13 civil rights division for compliance with Subsection (b); and

14 (3) be filed with the governor's office. (V.A.C.S.
15 Art. 6447b.)

16 Sec. 81.01015. EMPLOYEE INCENTIVE PROGRAM. The commission
17 shall provide to commission employees information and training on
18 the benefits and methods of participation in the state employee
19 incentive program. (V.A.C.S. Art. 6447m.)

20 Sec. 81.01016. SEPARATION OF RESPONSIBILITIES. The
21 commission shall develop and implement policies that clearly
22 separate the policy-making responsibilities of the commissioners
23 and the management responsibilities of the staff of the commission.
24 (V.A.C.S. Art. 6447k.)

25 Sec. 81.0165. SALARY OF SECRETARY. The salary of the
26 secretary of the commission shall be the amount appropriated for
27 that purpose by the legislature. (V.A.C.S. Art. 6447a.)

SECTION 3.03. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Sections 81.0591, 81.0592, 81.062, 81.063, and 81.064 to read as follows:

SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

Sec. 81.0591. COMPLAINTS

Sec. 81.0592. CONSUMER INTEREST INFORMATION

Sec. 81.062. PUBLIC PARTICIPATION

Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF

LICENSE, PERMIT, OR CERTIFICATE

Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED

EMPLOYEE IN CASES BEFORE COMMISSION

Sec. 81.0591. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the commission;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a

1 copy of the commission's policies and procedures relating to
2 complaint investigation and resolution.

3 (c) The commission, at least quarterly until final
4 disposition of the complaint, shall notify the person filing the
5 complaint and each person who is a subject of the complaint of the
6 status of the investigation unless the notice would jeopardize an
7 undercover investigation. (V.A.C.S. Art. 6447h.)

8 Sec. 81.0592. CONSUMER INTEREST INFORMATION. (a) The
9 commission shall prepare information of consumer interest
10 describing the regulatory functions of the commission and the
11 procedures by which consumer complaints are filed with and resolved
12 by the commission.

13 (b) The commission shall make the information available to
14 the public and appropriate state agencies. (V.A.C.S. Art. 6447g.)

15 Sec. 81.062. PUBLIC PARTICIPATION. The commission shall
16 develop and implement policies that provide the public with a
17 reasonable opportunity to appear before the commission and to speak
18 on any issue under the jurisdiction of the commission. (V.A.C.S.
19 Art. 6447l.)

20 Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF
21 LICENSE, PERMIT, OR CERTIFICATE. (a) If the commission proposes to
22 suspend or revoke a person's license, permit, or certificate of
23 public convenience and necessity, the person is entitled to a
24 hearing before the commission.

25 (b) The commission may not:

26 (1) refuse to issue a license, permit, or certificate
27 to a person because of the person's race, religion, color, sex, or

1 national origin; or

2 (2) revoke or suspend the license, permit, or
3 certificate of a person because of the person's race, religion,
4 color, sex, or national origin. (V.A.C.S. Arts. 6447f(a), (c).)

5 Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED EMPLOYEE
6 IN CASES BEFORE COMMISSION. (a) In a case before the commission, a
7 commissioner, or an authorized commission employee, designated by
8 the commission for that purpose, in the same manner as if the entire
9 commission were present, may:

10 (1) hold a hearing;

11 (2) conduct an investigation;

12 (3) make a record of a hearing or investigation for the
13 use and benefit of the commission;

14 (4) administer an oath;

15 (5) certify to an official act; and

16 (6) compel the attendance of a witness and the
17 production of papers, books, accounts, and other pertinent
18 documents and testimony.

19 (b) The record of a hearing or investigation made under this
20 section that is certified to by the commissioner or employee has the
21 same effect as if made before the commission. The commission shall
22 determine a case in which the record is made under this section in
23 the same manner as if the record had been made before the
24 commission.

25 (c) The commission may punish for contempt a person who:

26 (1) refuses to comply with this section; or

27 (2) obstructs or attempts to obstruct a proceeding

1 under this section. (V.A.C.S. Art. 6519a (part).)

2 SECTION 3.04. Subchapter D, Chapter 81, Natural Resources
3 Code, is amended by adding Section 81.093 to read as follows:

4 Sec. 81.093. DEPOSITIONS. (a) In a matter pending for
5 hearing before the commission or a division of the commission, the
6 commission or an interested party may produce the testimony of a
7 witness by written or oral deposition instead of compelling the
8 personal attendance of the witness. For that purpose, the
9 commission may issue a commission or other process necessary to
10 take a deposition.

11 (b) The deposition shall be taken, to the extent applicable
12 and to the greatest extent possible, in accordance with the
13 provisions of the Texas Rules of Civil Procedure relating to
14 written and oral depositions. (V.A.C.S. Art. 6472a.)

15 ARTICLE 4. CONFORMING AMENDMENTS

16 SECTION 4.01. Section 101.0817, Government Code, is amended
17 to read as follows:

18 Sec. 101.0817. STATUTORY COUNTY COURT FEES AND COSTS UNDER
19 OTHER LAWS. The clerk of a statutory county court shall collect
20 a fee of \$10 under Section 112.059, Transportation Code [~~Article~~
21 ~~6327, Vernon's Texas Civil Statutes~~], for a county attorney in a
22 suit regarding a railroad company's failure to keep roadbed and
23 right-of-way in proper condition.

24 SECTION 4.02. Section 91.004(c), Transportation Code, is
25 amended to read as follows:

26 (c) Subsection (b) does not apply to money appropriated or
27 allocated:

1 (1) to a transit authority described by Chapter 451, a
2 transportation authority described by Chapter 452 or 460, or a
3 transit department described by Chapter 453; or

4 (2) for use by:

5 (A) a port authority or navigation district
6 created or operating under Section 52, Article III, or Section 59,
7 Article XVI, Texas Constitution; or

8 (B) a district created under Chapter 172 of this
9 code or Chapter 623, Acts of the 67th Legislature, Regular Session,
10 1981 (former Article 6550c, Vernon's Texas Civil Statutes).

11 SECTION 4.03. Sections 171.001(2), (4), and (5),
12 Transportation Code, are amended to read as follows:

13 (2) "Bonds" has the meaning assigned by Section
14 172.001 [~~Chapter 623, Acts of the 67th Legislature, Regular~~
15 ~~Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)~~].

16 (4) "Rail facilities" has the meaning assigned by
17 Section 172.001 [~~Chapter 623, Acts of the 67th Legislature, Regular~~
18 ~~Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)~~],
19 except that the term includes property and interests necessary or
20 convenient for the provision of a nonrural rail transportation
21 system.

22 (5) "Revenue" [~~"Revenues"~~] has the meaning assigned by
23 Section 172.001 [~~Chapter 623, Acts of the 67th Legislature, Regular~~
24 ~~Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)~~].

25 SECTION 4.04. Section 171.002, Transportation Code, is
26 amended to read as follows:

27 Sec. 171.002. APPLICABILITY OF RURAL RAIL TRANSPORTATION

1 DISTRICTS LAW. (a) Except as provided by this chapter, the
2 provisions of Chapter 172 other than Section 172.003 [~~Sections 2-9,~~
3 ~~Chapter 623, Acts of the 67th Legislature, Regular Session, 1981~~
4 ~~(Article 6550c, Vernon's Texas Civil Statutes),~~] apply to a
5 district as if the district were created under that chapter.

6 (b) For purposes of applying Chapter 172 [~~623, Acts of the~~
7 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
8 ~~Texas Civil Statutes),~~] to a district created under this chapter, a
9 reference to "rail facilities" in Chapter 172 [~~Chapter 623~~] means
10 "rail facilities" as defined by Section 171.001.

11 (c) For purposes of applying Chapter 172 [~~623, Acts of the~~
12 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
13 ~~Texas Civil Statutes),~~] to a district created under this chapter, a
14 reference in Chapter 172 [~~Chapter 623~~] to "eligible county" means a
15 county that created the district.

16 SECTION 4.05. Section 171.053, Transportation Code, is
17 amended to read as follows:

18 Sec. 171.053. INTERMUNICIPAL COMMUTER RAIL DISTRICT
19 POWERS. The governing bodies of the county or counties and of the
20 most populous municipality in the most populous county may provide
21 that the district may exercise the powers of an intermunicipal
22 commuter rail district created under Chapter 173 or former Article
23 6550c-1, Revised Statutes, by specifying in the concurrent order or
24 ordinance creating the district that those powers may be exercised
25 by the district.

26 SECTION 4.06. Section 171.154, Transportation Code, is
27 amended to read as follows:

1 Sec. 171.154. INTERMUNICIPAL COMMUTER RAIL POWERS. (a)
2 The district may exercise the powers of an intermunicipal commuter
3 rail district created under Chapter 173 or former Article 6550c-1,
4 Revised Statutes, only if the concurrent order or ordinance
5 creating the district specifies that the district may exercise
6 those powers. The order or ordinance may not grant the district
7 the power to impose a tax.

8 (b) In the event of a conflict between this chapter and a
9 power granted by Chapter 173 [~~Article 6550c-1, Revised Statutes~~],
10 this chapter controls. In the event of a conflict between Chapter
11 173 [~~Article 6550c-1~~] and Chapter 172 [~~Chapter 623, Acts of the 67th~~
12 ~~Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas~~
13 ~~Civil Statutes)~~], Chapter 172 [~~Article 6550c~~] controls over Chapter
14 173 [~~Article 6550c-1~~].

15 SECTION 4.07. Section 171.251, Transportation Code, is
16 amended to read as follows:

17 Sec. 171.251. PLEDGE OF REVENUE [~~REVENUES~~]. A district may
18 secure and pledge revenue [~~revenues~~] derived from any source to
19 secure the payment of district bonds.

20 SECTION 4.08. Section 171.302, Transportation Code, is
21 amended to read as follows:

22 Sec. 171.302. DISSOLUTION. In addition to the dissolution
23 procedures provided by Chapter 172 [~~Chapter 623, Acts of the 67th~~
24 ~~Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas~~
25 ~~Civil Statutes)~~], the board may dissolve a district if:

26 (1) all district liabilities have been paid or
27 adequate provision has been made for the payment of all

1 liabilities;

2 (2) the district is not a party to any lawsuits or
3 adequate provision has been made for the satisfaction of any
4 judgment or order that may be entered against the district in a
5 lawsuit to which the district is a party; and

6 (3) the district has commitments from other
7 governmental entities to assume jurisdiction of all district rail
8 facilities.

9 SECTION 4.09. Section 370.186(d), Transportation Code, is
10 amended to read as follows:

11 (d) An authority may not construct, maintain, or operate a
12 passenger rail facility within the boundaries of an intermunicipal
13 commuter rail district created under former Article 6550c-1,
14 Vernon's Texas Civil Statutes, as those boundaries existed on
15 September 1, 2005, unless the district and the authority enter into
16 a written agreement specifying the terms and conditions under which
17 the project will be undertaken.

18 SECTION 4.10. Section 452.056(d), Transportation Code, is
19 amended to read as follows:

20 (d) A private operator who contracts with an authority under
21 this chapter is not a public entity for purposes of any law of this
22 state except that an independent contractor of the authority that,
23 on or after June 14, 1989, performs a function of the authority or
24 an entity described by Section 452.0561 [~~under Title 112, Revised~~
25 ~~Statutes,~~] that is created to provide transportation services is
26 liable for damages only to the extent that the authority or entity
27 would be liable if the authority or entity itself were performing

the function and only for a cause of action that accrues on or after that date.

SECTION 4.11. Section 25.07(b), Tax Code, as amended by Chapters 609, 885, and 1169, Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(b) Except as provided by Sections 11.11(b) and (c), a leasehold or other possessory interest in exempt property may not be listed if:

(1) the property is permanent university fund land;

(2) the property is county public school fund agricultural land;

(3) the property is a part of a public transportation facility owned by a municipality or county and:

(A) is an airport passenger terminal building or a building used primarily for maintenance of aircraft or other aircraft services, for aircraft equipment storage, or for air cargo;

(B) is an airport fueling system facility;

(C) is in a foreign-trade zone:

(i) that has been granted to a joint airport board under Subchapter C, Chapter 681, Business & Commerce Code;

(ii) the area of which in the portion of the zone located in the airport operated by the joint airport board does not exceed 2,500 acres; and

(iii) that is established and operating pursuant to federal law; or

(D)(i) is in a foreign trade zone established

1 pursuant to federal law after June 1, 1991, that ~~[which]~~ operates
2 pursuant to federal law;

3 (ii) is contiguous to or has access via a
4 taxiway to an airport located in two counties, one of which has a
5 population of 500,000 or more according to the federal decennial
6 census most recently preceding the establishment of the foreign
7 trade zone; and

8 (iii) is owned, directly or through a
9 corporation organized under the Development Corporation Act
10 (Subtitle C1, Title 12, Local Government Code), by the same
11 municipality that ~~[which]~~ owns the airport;

12 (4) the interest is in a part of:

13 (A) a park, market, fairground, or similar public
14 facility that is owned by a municipality; or

15 (B) a convention center, visitor center, sports
16 facility with permanent seating, concert hall, arena, or stadium
17 that is owned by a municipality as such leasehold or possessory
18 interest serves a governmental, municipal, or public purpose or
19 function when the facility is open to the public, regardless of
20 whether a fee is charged for admission;

21 (5) the interest involves only the right to use the
22 property for grazing or other agricultural purposes; ~~[or]~~

23 (6) the property is:

24 (A) owned by a municipality, a public port, or a
25 navigation district created or operating under Section 59, Article
26 XVI, Texas Constitution, or under a statute enacted under Section
27 59, Article XVI, Texas Constitution; and

1 (B) used as an aid or facility incidental to or
2 useful in the operation or development of a port or waterway or in
3 aid of navigation-related commerce; or

4 (7) ~~[(8)]~~ the property is part of a rail facility
5 owned by a rural rail transportation district ~~[created or]~~
6 operating under Chapter 172, Transportation Code ~~[623, Acts of the~~
7 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
8 ~~Texas Civil Statutes)]~~.

9 ARTICLE 5. REPEALER

10 SECTION 5.01. (a) The following provisions are repealed:

11 (1) Title 112, Revised Statutes;

12 (2) Article 3922, Revised Statutes;

13 (3) Chapter 480 (H.B. 1656), Acts of the 73rd
14 Legislature, Regular Session, 1993 (Article 6370c, Vernon's Texas
15 Civil Statutes);

16 (4) Section 1, Chapter 140 (H.B. 525), Acts of the 40th
17 Legislature, Regular Session, 1927 (Article 6447a, Vernon's Texas
18 Civil Statutes);

19 (5) Section 1, Chapter 43 (H.B. 105), Acts of the 41st
20 Legislature, 5th Called Session, 1930 (Article 6472a, Vernon's
21 Texas Civil Statutes);

22 (6) Section 1, Chapter 262 (S.B. 125), Acts of the 41st
23 Legislature, Regular Session, 1929 (Article 6519a, Vernon's Texas
24 Civil Statutes);

25 (7) Section 8, Chapter 65 (S.B. 389), Acts of the 67th
26 Legislature, Regular Session, 1981 (Article 6519c, Vernon's Texas
27 Civil Statutes); and

1 (8) Chapter 623 (H.B. 1822), Acts of the 67th
2 Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas
3 Civil Statutes).

4 (b) The repeal of Title 112, Revised Statutes, by this Act
5 does not affect the validity of statutes that were not added to
6 Title 112, Revised Statutes, by the legislature, but were
7 unofficially printed in that title by any publisher of the Texas
8 statutes, except as those articles are specifically repealed in
9 Subsection (a) of this section.

10 ARTICLE 6. LEGISLATIVE INTENT; EFFECTIVE DATE

11 SECTION 6.01. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE.

12 This Act is enacted under Section 43, Article III, Texas
13 Constitution. No substantive change in law is intended by this Act.

14 SECTION 6.02. EFFECTIVE DATE. This Act takes effect April
15 1, 2011.