

By: Carona

S.B. No. 1540

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(3) eliminating repealed, duplicative, expired, and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.

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

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

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

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

10 SUBTITLE A. GENERAL PROVISIONS

11 CHAPTER 81. GENERAL PROVISIONS

12 Sec. 81.001. DEFINITIONS

13 Sec. 81.002. APPLICABILITY

14 SUBTITLE A. GENERAL PROVISIONS

15 CHAPTER 81. GENERAL PROVISIONS

16 Sec. 81.001. DEFINITIONS. In this title:

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

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

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

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

25 (2) any other legal entity operating a railroad,
26 including an entity organized under the Texas Business Corporation
27 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

1 SUBTITLE C. RAILROADS GENERALLY

2 CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

3 SUBCHAPTER A. GENERAL PROVISIONS

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

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

7 (2) the definition of "person" assigned by Section
8 311.005, Government Code, does not apply. (New.)

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

11 (1) has power and authority over:

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

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

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

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

24 Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY. On October
25 1, 2005, all powers and duties of the Railroad Commission of Texas
26 that related primarily to railroads and the regulation of railroads
27 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.

10 (a) A member of the commission or a person authorized in writing by
11 a 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.

5 (a) The department shall as often as necessary provide each
6 railroad 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

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

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

8 CHAPTER 112. POWERS AND DUTIES OF RAILROADS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 112.001. DEFINITION OF PERSON

11 Sec. 112.002. GENERAL RIGHTS OF RAILROADS

12 Sec. 112.003. DAMAGES

13 [Sections 112.004-112.050 reserved for expansion]

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

16 Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY

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

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

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

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

25 Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN
26 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

1 CHAPTER 112. POWERS AND DUTIES OF RAILROADS

2 SUBCHAPTER A. GENERAL PROVISIONS

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

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

6 (2) the definition of "person" assigned by Section
7 311.005, Government Code, does not apply. (New.)

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

10 (b) A railroad company may:

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

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

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

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

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

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

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

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

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

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

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

11 [Sections 112.004-112.050 reserved for expansion]

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

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

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

22 (c) Except for the purposes of performing a lineal survey, a
23 railroad company may not enter on private real property for the
24 purpose of condemning the property or any material on the property
25 for any purpose until the company agrees with and pays the owner of
26 the property all damages that may be caused to the owner's property
27 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.

8 (a) A right-of-way that a railway company in this state acquires
9 by 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
18 railroad company in this state shall place and keep the portion of
19 the company's roadbed and right-of-way over or across which a
20 public county road runs in proper condition for the use of the
21 traveling 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.

18 (a) Subject to Subsection (b), a railroad company is liable to the
19 owner 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
2 a railroad in this state is liable for damages to a person who,
3 while 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.

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

3 (1) limit the duty or liability of a railroad operator
4 or impair the rights of an employee under the Revised Statutes of
5 1925; or

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

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

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

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

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

24 (1) employed in the same grade of employment;

25 (2) doing the same character of work or service; and

26 (3) working together at the same time and place and at
27 the same piece of work for a common purpose.

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

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

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

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

18 [Chapters 113-130 reserved for expansion]

19 SUBTITLE D. MISCELLANEOUS RAILROADS

20 CHAPTER 131. MISCELLANEOUS RAILWAYS

21 SUBCHAPTER A. GENERAL PROVISIONS

22 Sec. 131.001. DEFINITION OF PERSON

23 [Sections 131.002-131.010 reserved for expansion]

24 SUBCHAPTER B. ELECTRIC RAILWAYS

25 Sec. 131.011. DEFINITION

26 Sec. 131.012. EMINENT DOMAIN

27 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]

1 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

2 Sec. 131.901. STREET AND SUBURBAN RAILWAYS

3 Sec. 131.902. FREIGHT INTERURBAN RAILWAYS

4 Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN
5 RAILWAYS

6 Sec. 131.904. MOTOR BUS LINES

7 SUBTITLE D. MISCELLANEOUS RAILROADS

8 CHAPTER 131. MISCELLANEOUS RAILWAYS

9 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

15 [Sections 131.002-131.010 reserved for expansion]

16 SUBCHAPTER B. ELECTRIC RAILWAYS

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

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

27 (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

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

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

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

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

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

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

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

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

11 (a) The owner or operator of a street railway shall transport a
12 child younger than 13 years of age for half the fare regularly
13 collected 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
26 and suburban railways engaged in the transportation of freight in
27 and near a municipality are subject to the control of the

1 department.

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

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

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

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

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

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

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

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

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

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

1 (2) no other route is possible or practicable.
2 (V.A.C.S. Art. 6546.)

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

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

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

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

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

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

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

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

26 (B) public roads and highways that are located
27 outside the corporate limits of that municipality but within five

1 miles of the corporate limits, under regulations prescribed by the
2 commissioners court of the county.

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

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

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

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

17 CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 172.001. DEFINITIONS

20 Sec. 172.002. NATURE OF DISTRICT

21 Sec. 172.003. FINDINGS

22 [Sections 172.004-172.050 reserved for expansion]

23 SUBCHAPTER B. CREATION

24 Sec. 172.051. APPLICABILITY

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

26 COUNTY

27 Sec. 172.053. CREATION OF DISTRICT BY ONE COUNTY

- 1 Sec. 172.054. NOTICE OF CREATION
- 2 Sec. 172.055. AUTOMATIC ASSUMPTION OF CONTRACTUAL
- 3 OBLIGATIONS AFTER CREATION BY CERTAIN
- 4 DISTRICTS
- 5 [Sections 172.056-172.100 reserved for expansion]
- 6 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES
- 7 Sec. 172.101. CONTROL OF DISTRICT
- 8 Sec. 172.102. TERMS
- 9 Sec. 172.103. QUALIFICATIONS FOR OFFICE
- 10 Sec. 172.104. VACANCY
- 11 Sec. 172.105. REMOVAL
- 12 Sec. 172.106. OFFICERS
- 13 Sec. 172.107. MEETINGS; NOTICE
- 14 Sec. 172.108. RULES FOR PROCEEDINGS
- 15 Sec. 172.109. EMPLOYEES
- 16 Sec. 172.110. PECUNIARY INTEREST IN CERTAIN CONTRACTS
- 17 PROHIBITED
- 18 [Sections 172.111-172.150 reserved for expansion]
- 19 SUBCHAPTER D. GENERAL POWERS AND DUTIES
- 20 Sec. 172.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL
- 21 FUNCTIONS
- 22 Sec. 172.152. RULES
- 23 Sec. 172.153. AGREEMENTS GENERALLY
- 24 Sec. 172.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT
- 25 USE
- 26 Sec. 172.155. JOINT OWNERSHIP AGREEMENTS

- 1 Sec. 172.156. AWARDING CONSTRUCTION OR PURCHASE
- 2 CONTRACTS
- 3 Sec. 172.157. EMINENT DOMAIN
- 4 Sec. 172.158. DISPOSITION OF SURPLUS PROPERTY
- 5 Sec. 172.159. SUITS
- 6 Sec. 172.160. PERPETUAL SUCCESSION
- 7 [Sections 172.161-172.200 reserved for expansion]
- 8 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
- 9 CONSTRUCTION, AND OPERATION OF RAIL FACILITIES
- 10 Sec. 172.201. GENERAL AUTHORITY OVER RAIL FACILITIES
- 11 Sec. 172.202. USE AND ALTERATION OF PROPERTY OF
- 12 ANOTHER POLITICAL SUBDIVISION
- 13 Sec. 172.203. RULES GOVERNING SYSTEM; ROUTINGS
- 14 Sec. 172.204. ACQUISITION OF PROPERTY
- 15 Sec. 172.205. POWERS RELATING TO DISTRICT PROPERTY
- 16 Sec. 172.206. ACQUISITION OF ROLLING STOCK AND OTHER
- 17 PROPERTY
- 18 Sec. 172.207. COMPENSATION FOR USE OF SYSTEM FACILITIES
- 19 Sec. 172.208. OPERATION OR USE CONTRACTS
- 20 Sec. 172.209. RAIL TRANSPORTATION SERVICES AGREEMENTS
- 21 WITH OTHER POLITICAL SUBDIVISIONS
- 22 Sec. 172.210. ABANDONMENT OF RAIL LINE
- 23 [Sections 172.211-172.250 reserved for expansion]
- 24 SUBCHAPTER F. FINANCIAL PROVISIONS
- 25 Sec. 172.251. FISCAL YEAR
- 26 Sec. 172.252. ANNUAL BUDGET
- 27 Sec. 172.253. GRANTS AND LOANS

- 1 Sec. 172.254. DEPOSITORY
- 2 Sec. 172.255. APPLICABILITY OF PUBLIC PROPERTY
- 3 FINANCING LAW; PROHIBITION ON AD VALOREM TAX
- 4 Sec. 172.256. NONNEGOTIABLE PURCHASE MONEY NOTES; BOND
- 5 ANTICIPATION NOTES
- 6 Sec. 172.257. TAX EXEMPTION

7 [Sections 172.258-172.300 reserved for expansion]

8 SUBCHAPTER G. BONDS

- 9 Sec. 172.301. REVENUE BONDS
- 10 Sec. 172.302. SECURITY FOR PAYMENT OF BONDS
- 11 Sec. 172.303. BONDS AS AUTHORIZED INVESTMENTS
- 12 AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS
- 13 Sec. 172.304. APPLICABILITY OF PUBLIC IMPROVEMENT
- 14 FINANCING LAW
- 15 Sec. 172.305. LIMIT ON POWER
- 16 Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY
- 17 ATTORNEY GENERAL

18 CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

19 SUBCHAPTER A. GENERAL PROVISIONS

20 Sec. 172.001. DEFINITIONS. In this chapter:

- 21 (1) "Board" means a district's board of directors.
- 22 (2) "Bonds" means:
 - 23 (A) bonds;
 - 24 (B) notes, including bond anticipation notes,
 - 25 revenue anticipation notes, and grant anticipation notes;
 - 26 (C) warrants;
 - 27 (D) certificates of obligation;

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

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

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

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

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

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

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

27 (7) "Rail facilities" means:

1 (A) property, or an interest in that property,
2 that the board determines is necessary or convenient to provide a
3 rural rail transportation system; and

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

7 (i) a right-of-way;

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

16 (iii) trackwork;

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

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

1 listed under this subparagraph;

2 (vi) rolling stock; and

3 (vii) a maintenance facility.

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

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

9 (A) a right of passage over property;

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

14 (C) a right of preceidental passing.

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

18 (11) "Trackwork" means track, a track bed, track bed
19 preparation, a tie, a rail fastener, a slab, a rail, an emergency
20 crossover, a setout track, storage track, and a switch. (V.A.C.S.
21 Art. 6550c, Secs. 2(1), (2), (4), (5), (8), (9), (11), (12), (13),
22 (14), (15), (16), (17); New.)

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

26 (b) A district, in the exercise of powers under this
27 chapter, is performing only governmental functions and is a

1 governmental unit under Chapter 101, Civil Practice and Remedies
2 Code. (V.A.C.S. Art. 6550c, Sec. 5(a) (part).)

3 Sec. 172.003. FINDINGS. The legislature finds that:

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

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

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

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

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

21 (6) the creation, re-creation, financing,
22 maintenance, and operation of rural rail transportation districts
23 and facilities acquired by the districts under this chapter will
24 help develop, maintain, and diversify the economy of the state,
25 eliminate unemployment or underemployment, foster the growth of
26 enterprises based on agriculture, and serve to develop and expand
27 transportation and commerce within the state under the authority

1 granted by Section 52-a, Article III, Texas Constitution; and

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

5 [Sections 172.004-172.050 reserved for expansion]

6 SUBCHAPTER B. CREATION

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

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

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

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

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

18 (1) create a district; or

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

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

23 (c) Each concurrent order must:

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

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

1 (3) declare the boundaries of the district as the
2 boundaries of the counties included;

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

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

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

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

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

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

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

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

26 (d) The commissioners court of the county by order may
27 provide for the district's dissolution if the commissioners court

1 determines that the dissolution will not impair an obligation of
2 any contract of the district. The dissolution order is effective
3 only on the creation of another district in which the county is
4 included. (V.A.C.S. Art. 6550c, Secs. 3A(a) (part), (b), (c),
5 (f).)

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

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

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

21 [Sections 172.056-172.100 reserved for expansion]

22 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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

26 (b) The right to control and regulate district affairs is
27 vested exclusively in the board except as specifically otherwise

1 provided by this chapter. (V.A.C.S. Art. 6550c, Secs. 4(a), (d)
2 (part).)

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

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

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

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

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

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

21 Sec. 172.104. VACANCY. The commissioners court that
22 appointed a director who vacates the position shall appoint a
23 director for the unexpired term. (V.A.C.S. Art. 6550c, Secs.
24 3A(e), 4(b) (part).)

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

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

3 (2) a hearing before the commissioners court.

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

7 Sec. 172.106. OFFICERS. The board shall select a
8 president, vice president, treasurer, and secretary. The secretary
9 is not required to be a director. (V.A.C.S. Art. 6550c, Secs.
10 3A(e), 4(c) (part).)

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

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

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

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

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

26 Sec. 172.110. PECUNIARY INTEREST IN CERTAIN CONTRACTS
27 PROHIBITED. A district employee may not have a direct or indirect

1 pecuniary interest in any contract or agreement to which the
2 district is a party. (V.A.C.S. Art. 6550c, Sec. 4(e).)

3 [Sections 172.111-172.150 reserved for expansion]

4 SUBCHAPTER D. GENERAL POWERS AND DUTIES

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

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

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

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

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

25 (1) enter into agreements with a public utility,
26 private utility, communication system, common carrier, or
27 transportation system for the joint use of its facilities,

1 installations, or property inside or outside the district; and

2 (2) establish:

3 (A) through routes;

4 (B) joint fares; and

5 (C) divisions of tariffs, subject to approval of
6 a tariff-regulating body that has jurisdiction. (V.A.C.S. Art.
7 6550c, Sec. 5(g).)

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

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

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

20 (c) This section does not apply to:

21 (1) personal or professional services; or

22 (2) the acquisition of an existing rail transportation
23 system. (V.A.C.S. Art. 6550c, Sec. 7.)

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

26 (1) land in fee simple; or

27 (2) any interest less than fee simple in, on, under, or

1 above land, including an easement, right-of-way, or right of use of
2 airspace or subsurface space.

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

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

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

11 (1) is a public necessity; and

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

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

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

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

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

2 (1) sue and be sued;

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

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

7 (b) An action at law or in equity against the district must
8 be brought in the county in which the principal office of the
9 district is located, except that a suit in eminent domain must be
10 brought in the county in which the land is located. (V.A.C.S. Art.
11 6550c, Sec. 5(c).)

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

14 [Sections 172.161-172.200 reserved for expansion]

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

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

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

27 (1) use streets, alleys, roads, highways, and other

1 public ways of the political subdivision; and

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

8 Sec. 172.203. RULES GOVERNING SYSTEM; ROUTINGS. A district
9 by resolution may adopt rules governing the use, operation, and
10 maintenance of the system and shall determine all routings and
11 change them when the board considers it advisable. (V.A.C.S. Art.
12 6550c, Sec. 5(m).)

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

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

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

27 Sec. 172.205. POWERS RELATING TO DISTRICT PROPERTY. A

1 district may acquire by grant, purchase, gift, devise, lease, or
2 otherwise and may hold, use, sell, lease, or dispose of property,
3 including a license, a patent, a right, or an interest, necessary,
4 convenient, or useful for the full exercise of its powers under this
5 chapter. (V.A.C.S. Art. 6550c, Sec. 5(d).)

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

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

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

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

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

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

27 Sec. 172.208. OPERATION OR USE CONTRACTS. (a) A district

1 may:

2 (1) lease all or part of the rail facilities to any
3 operator; or

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

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

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

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

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

21 Sec. 172.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
22 OTHER POLITICAL SUBDIVISIONS. A district may contract with a
23 county or other political subdivision of this state for the
24 district to provide rail transportation services to an area outside
25 the district on terms to which the parties agree. (V.A.C.S. Art.
26 6550c, Sec. 5(o).)

27 Sec. 172.210. ABANDONMENT OF RAIL LINE. (a) A district

1 may not abandon a district rail line for which state money has been
2 loaned or granted unless the abandonment is approved by the
3 commission as being consistent with the policies of this chapter.

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

7 [Sections 172.211-172.250 reserved for expansion]

8 SUBCHAPTER F. FINANCIAL PROVISIONS

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

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

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

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

26 Sec. 172.253. GRANTS AND LOANS. A district may accept a
27 grant or loan from the United States, this state and its agencies

1 and political subdivisions, public or private corporations, and any
2 other person. (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

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

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

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

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

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

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

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

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

1 Art. 6550c, Sec. 6A(b).)

2 Sec. 172.257. TAX EXEMPTION. District property and revenue
3 and the interest on bonds issued by the district are exempt from any
4 tax imposed by this state or a political subdivision of this state.
5 (V.A.C.S. Art. 6550c, Sec. 8.)

6 [Sections 172.258-172.300 reserved for expansion]

7 SUBCHAPTER G. BONDS

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

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

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

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

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

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

27 (1) a bank;

- 1 (2) a trust company;
- 2 (3) a savings and loan association; and
- 3 (4) an insurance company.

4 (b) The bonds are:

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

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

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

13 (1) a district is an issuer; and

14 (2) the acquisition, improvement, or repair of rail
15 facilities by a district is an eligible project. (V.A.C.S. Art.
16 6550c, Sec. 5(a) (part).)

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

25 Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY ATTORNEY
26 GENERAL. District notes authorized to be issued to an agency of the
27 federal or state government, and related records, are not required

1 to be submitted to the attorney general for examination under
2 Chapter 1202, Government Code. (V.A.C.S. Art. 6550c, Sec. 6(b)
3 (part).)

4 CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

5 SUBCHAPTER A. GENERAL PROVISIONS

6 Sec. 173.001. DEFINITION OF PERSON

7 Sec. 173.002. DEFINITIONS

8 Sec. 173.003. LOCATION OF MUNICIPALITY IN COUNTY

9 Sec. 173.004. NATURE OF DISTRICT

10 Sec. 173.005. SUNSET PROVISION

11 [Sections 173.006-173.050 reserved for expansion]

12 SUBCHAPTER B. CREATION

13 Sec. 173.051. CREATION OF DISTRICT

14 Sec. 173.052. ADDITION OF POLITICAL SUBDIVISION TO

15 DISTRICT

16 [Sections 173.053-173.100 reserved for expansion]

17 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

18 Sec. 173.101. CONTROL OF DISTRICT

19 Sec. 173.102. COMPOSITION OF BOARD; TERMS

20 Sec. 173.103. VACANCY

21 Sec. 173.104. PRESIDING OFFICER

22 Sec. 173.105. MEETINGS

23 Sec. 173.106. BOARD MEETINGS BY TELEPHONE OR

24 VIDEOCONFERENCE

25 Sec. 173.107. RULES FOR PROCEEDINGS

26 Sec. 173.108. COMPENSATION; REIMBURSEMENT

27 Sec. 173.109. EMPLOYEES

- 1 Sec. 173.110. EXECUTIVE COMMITTEE
- 2 Sec. 173.111. RETIREMENT BENEFITS
- 3 [Sections 173.112-173.150 reserved for expansion]
- 4 SUBCHAPTER D. GENERAL POWERS AND DUTIES
- 5 Sec. 173.151. GENERAL POWERS OF DISTRICT
- 6 Sec. 173.152. RULES
- 7 Sec. 173.153. AGREEMENTS GENERALLY
- 8 Sec. 173.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT
- 9 USE
- 10 Sec. 173.155. JOINT OWNERSHIP AGREEMENTS
- 11 Sec. 173.156. EXCLUSIVE DEVELOPMENT AGREEMENTS
- 12 Sec. 173.157. INTERLOCAL AGREEMENTS WITH COMMISSION
- 13 Sec. 173.158. AWARDED CONSTRUCTION OR PURCHASE
- 14 CONTRACTS
- 15 Sec. 173.159. EMINENT DOMAIN
- 16 Sec. 173.160. SUITS
- 17 [Sections 173.161-173.200 reserved for expansion]
- 18 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
- 19 CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES
- 20 Sec. 173.201. GENERAL AUTHORITY OVER COMMUTER RAIL
- 21 FACILITIES
- 22 Sec. 173.202. POWERS RELATING TO DISTRICT PROPERTY
- 23 Sec. 173.203. USE AND ALTERATION OF PROPERTY OF
- 24 ANOTHER POLITICAL SUBDIVISION
- 25 Sec. 173.204. RULES GOVERNING SYSTEM AND ROUTINGS
- 26 Sec. 173.205. ACQUISITION OF PROPERTY

- 1 Sec. 173.206. ACQUISITION OF ROLLING STOCK AND OTHER
2 PROPERTY
- 3 Sec. 173.207. COMPENSATION FOR USE OF SYSTEM
4 FACILITIES
- 5 Sec. 173.208. OPERATION OR USE CONTRACTS
- 6 Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS
7 WITH OTHER POLITICAL SUBDIVISIONS
- 8 [Sections 173.210-173.250 reserved for expansion]
- 9 SUBCHAPTER F. FINANCIAL PROVISIONS
- 10 Sec. 173.251. FISCAL YEAR
- 11 Sec. 173.252. ANNUAL BUDGET
- 12 Sec. 173.253. GRANTS AND LOANS
- 13 Sec. 173.254. DEPOSITORY
- 14 Sec. 173.255. PURCHASE OF ADDITIONAL INSURED
15 PROVISIONS
- 16 Sec. 173.256. FINANCING OF CERTAIN TRANSPORTATION
17 INFRASTRUCTURE
- 18 Sec. 173.257. TAX EXEMPTION
- 19 [Sections 173.258-173.300 reserved for expansion]
- 20 SUBCHAPTER G. BONDS
- 21 Sec. 173.301. REVENUE BONDS
- 22 Sec. 173.302. SECURITY FOR PAYMENT OF BONDS
- 23 Sec. 173.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY FOR
24 DEPOSITS OF PUBLIC FUNDS
- 25 Sec. 173.304. LIMIT ON POWER
- 26 [Sections 173.305-173.350 reserved for expansion]

1 SUBCHAPTER H. SALES AND USE TAXES

2 Sec. 173.351. TAX AUTHORIZED

3 Sec. 173.352. TAX RATE

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

5 Sec. 173.354. APPLICABILITY OF TAX CODE

6 Sec. 173.355. NOTICE TO COMPTROLLER

7 Sec. 173.356. NOTICE TO LOCAL GOVERNMENTS

8 Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY

9 SUBJECT TO TAX

10 Sec. 173.358. DUTY OF COMPTROLLER

11 Sec. 173.359. EFFECTIVE DATE OF TAX

12 CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

13 SUBCHAPTER A. GENERAL PROVISIONS

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

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

17 (2) the definition of "person" assigned by Section
18 311.005, Government Code, does not apply. (New.)

19 Sec. 173.002. DEFINITIONS. In this chapter:

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

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

25 (3) "Creating municipality" means a municipality
26 described by Section 173.051(a).

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

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

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

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

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

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

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

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

24 [Sections 173.006-173.050 reserved for expansion]

25 SUBCHAPTER B. CREATION

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

1 municipalities:

2 (1) each of which has a population of more than
3 450,000; and

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

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

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

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

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

20 [Sections 173.053-173.100 reserved for expansion]

21 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

22 Sec. 173.101. CONTROL OF DISTRICT. A district is governed
23 by a board of directors. The board is responsible for the
24 management, operation, and control of the district. (V.A.C.S. Art.
25 6550c-1, Sec. 3(a).)

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

- 1 (1) two public directors appointed by the commission;
- 2 (2) one elected member of the governing body of each
3 political subdivision that has become a part of the district under
4 Subchapter B;
- 5 (3) one elected director appointed by the regional
6 planning organization of which a creating municipality is a part;
- 7 (4) one director appointed by each creating
8 municipality to represent the business community of the
9 municipality;
- 10 (5) one director appointed by each authority created
11 under Chapter 451 that serves a creating municipality;
- 12 (6) one director appointed by each county in which a
13 creating municipality is located to represent transportation
14 providers that provide service to rural areas in the county; and
- 15 (7) one director appointed by all other directors to
16 represent all municipalities in the district that do not otherwise
17 have representation on the board who is an elected official of one
18 of those municipalities.

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

26 Sec. 173.103. VACANCY. A vacancy on the board shall be
27 filled in the same manner as the original appointment or election.

1 (V.A.C.S. Art. 6550c-1, Sec. 3(c) (part).)

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

4 (b) The presiding officer may select another director to
5 preside in the absence of the presiding officer. (V.A.C.S. Art.
6 6550c-1, Sec. 3(d).)

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

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

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

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

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

25 (e) Each part of a telephone conference call meeting that is
26 required to be open to the public must be audible to the public at
27 each meeting location specified in the notice of the meeting and

1 shall be tape recorded. The district shall make the tape recording
2 available to the public.

3 (f) Each part of a videoconference meeting that is required
4 to be open to the public must:

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

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

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

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

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

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

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

27 Sec. 173.111. RETIREMENT BENEFITS. A district is eligible

1 to participate in the Texas County and District Retirement System.
2 (V.A.C.S. Art. 6550c-1, Sec. 4(q).)

3 [Sections 173.112-173.150 reserved for expansion]

4 SUBCHAPTER D. GENERAL POWERS AND DUTIES

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

8 (b) A district may generally perform all acts necessary for
9 the full exercise of the district's powers. (V.A.C.S. Art.
10 6550c-1, Secs. 4(a) (part), (k) (part).)

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

18 Sec. 173.153. AGREEMENTS GENERALLY. A district may make
19 contracts, leases, and agreements with the United States, this
20 state and its agencies and political subdivisions, public or
21 private corporations, and any other person. (V.A.C.S. Art.
22 6550c-1, Sec. 4(k) (part).)

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

25 (1) make agreements with a public utility, private
26 utility, communication system, common carrier, state agency, or
27 transportation system for the joint use of facilities,

1 installations, or property inside or outside the district; and

2 (2) establish:

3 (A) through routes;

4 (B) joint fares; and

5 (C) divisions of tariffs, subject to approval of
6 a tariff-regulating body that has jurisdiction. (V.A.C.S. Art.
7 6550c-1, Sec. 4(g).)

8 Sec. 173.155. JOINT OWNERSHIP AGREEMENTS. A district may
9 make a joint ownership agreement with any person. (V.A.C.S. Art.
10 6550c-1, Sec. 4(i).)

11 Sec. 173.156. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) A
12 board may enter into an exclusive development agreement with a
13 private entity.

14 (b) The exclusive development agreement:

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

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

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

21 Sec. 173.157. INTERLOCAL AGREEMENTS WITH COMMISSION. The
22 commission may enter into an interlocal agreement with a district
23 under which the district may exercise a power or duty of the
24 commission for the development and efficient operation of
25 intermodal corridors in the district. (V.A.C.S. Art. 6550c-1, Sec.
26 4(k) (part).)

27 Sec. 173.158. AWARDED CONSTRUCTION OR PURCHASE CONTRACTS.

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

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

9 (c) This section does not apply to:

10 (1) personal or professional services;

11 (2) the acquisition of an existing rail transportation
12 system;

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

16 (4) an agreement with a private entity under Section
17 173.156. (V.A.C.S. Art. 6550c-1, Sec. 6.)

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

20 (1) land in fee simple; or

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

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

26 (1) land under the jurisdiction of the department or a
27 metropolitan transit authority; or

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

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

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 commuter rail facilities
12 and is in 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. Art.
16 6550c-1, Sec. 4(f).)

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

18 (1) sue and be sued;

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

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

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

1 [Sections 173.161-173.200 reserved for expansion]

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

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

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

15 Sec. 173.203. USE AND ALTERATION OF PROPERTY OF ANOTHER
16 POLITICAL SUBDIVISION. (a) For a purpose described by Section
17 173.201, as necessary or useful in the construction,
18 reconstruction, repair, maintenance, and operation of the system,
19 and with the consent of a municipality, county, or other political
20 subdivision, a district may:

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

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

1 property.

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

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

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

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

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

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

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

27 Sec. 173.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

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

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

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

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

13 (3) fulfill the terms of agreements made with the
14 holders of bonds or with any person on their behalf. (V.A.C.S. Art.
15 6550c-1, Sec. 4(j).)

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

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

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

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

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

27 Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH

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

6 [Sections 173.210-173.250 reserved for expansion]

7 SUBCHAPTER F. FINANCIAL PROVISIONS

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

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

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

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

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

25 Sec. 173.253. GRANTS AND LOANS. A district may accept
26 grants and loans from the United States, this state and its agencies
27 and political subdivisions, public or private corporations, and

1 other persons. (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)

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

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

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

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

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

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

22 (c) The agreement must include:

23 (1) the duration of the agreement;

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

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

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

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

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

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

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

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

22 [Sections 173.258-173.300 reserved for expansion]

23 SUBCHAPTER G. BONDS

24 Sec. 173.301. REVENUE BONDS. A district may issue revenue
25 bonds and notes in amounts that the board considers necessary or
26 appropriate for the acquisition, purchase, construction,
27 reconstruction, repair, equipping, improvement, or extension of

1 its commuter rail facilities. (V.A.C.S. Art. 6550c-1, Sec. 5(a)
2 (part).)

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

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

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

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

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

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

21 (b) The bonds and notes are:

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

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

1 Sec. 173.304. LIMIT ON POWER. (a) A revenue bond
2 indenture may limit the exercise of a power granted by Section
3 173.004, 173.005, 173.111, 173.151, 173.152, 173.153, 173.154,
4 173.155, 173.157, 173.159, 173.160, 173.201, 173.202, 173.203,
5 173.204, 173.205, 173.206, 173.207, 173.208, 173.209, 173.251,
6 173.252, 173.253, 173.254, or 173.255.

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

10 [Sections 173.305-173.350 reserved for expansion]

11 SUBCHAPTER H. SALES AND USE TAXES

12 Sec. 173.351. TAX AUTHORIZED. A sales and use tax is
13 imposed on items sold on district property. (V.A.C.S. Art.
14 6550c-1, Sec. 9(a) (part).)

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

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

24 Sec. 173.354. APPLICABILITY OF TAX CODE. Chapter 321, Tax
25 Code, governs the computation, administration, governance, and use
26 of the tax except as inconsistent with this chapter. (V.A.C.S. Art.
27 6550c-1, Sec. 9(b) (part).)

1 Sec. 173.355. NOTICE TO COMPTROLLER. (a) The district
2 shall notify the comptroller in writing by United States registered
3 or certified mail of the district's creation and of its intent to
4 impose the sales and use tax under this chapter.

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

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

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

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

15 (c) Not later than the 30th day after the date the
16 comptroller receives the notice, map, and other information, the
17 comptroller shall inform the district whether the comptroller is
18 prepared to administer the tax. (V.A.C.S. Art. 6550c-1, Secs.
19 9(c), (d).)

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

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

25 (2) provide each jurisdiction with an adequate map
26 showing the property boundaries of the district. (V.A.C.S. Art.
27 6550c-1, Sec. 9(e).)

1 Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT
2 TO TAX. (a) Not later than the 30th day after the date a district
3 acquires additional territory, the district shall notify the
4 comptroller and each affected local governmental jurisdiction of
5 the acquisition.

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

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

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

10 (c) Not later than the 30th day after the date the
11 comptroller receives the notice under this section, the comptroller
12 shall inform the district whether the comptroller is prepared to
13 administer the tax in the additional territory. (V.A.C.S. Art.
14 6550c-1, Sec. 9(f).)

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

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

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

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

1 CHAPTER 174. COMMUTER RAIL DISTRICTS
2 SUBCHAPTER A. GENERAL PROVISIONS
3 Sec. 174.001. DEFINITION OF PERSON
4 Sec. 174.002. DEFINITIONS
5 Sec. 174.003. NATURE OF DISTRICT
6 Sec. 174.004. REQUIREMENT FOR SERVICE TO
7 MUNICIPALITIES IN DISTRICT
8 [Sections 174.005-174.050 reserved for expansion]
9 SUBCHAPTER B. CREATION
10 Sec. 174.051. CREATION OF DISTRICT
11 [Sections 174.052-174.100 reserved for expansion]
12 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES
13 Sec. 174.101. CONTROL OF DISTRICT
14 Sec. 174.102. COMPOSITION OF BOARD; TERMS
15 Sec. 174.103. PRESIDING OFFICER
16 Sec. 174.104. MEETINGS
17 Sec. 174.105. RULES FOR PROCEEDINGS
18 Sec. 174.106. COMPENSATION; REIMBURSEMENT
19 Sec. 174.107. EMPLOYEES
20 Sec. 174.108. EXECUTIVE COMMITTEE
21 Sec. 174.109. RETIREMENT BENEFITS
22 [Sections 174.110-174.150 reserved for expansion]
23 SUBCHAPTER D. GENERAL POWERS AND DUTIES
24 Sec. 174.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL
25 FUNCTIONS
26 Sec. 174.152. RULES
27 Sec. 174.153. AGREEMENTS GENERALLY

- 1 Sec. 174.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT
- 2 USE
- 3 Sec. 174.155. JOINT OWNERSHIP AGREEMENTS
- 4 Sec. 174.156. INTERLOCAL AGREEMENTS WITH COMMISSION
- 5 Sec. 174.157. AWARDING CONSTRUCTION OR PURCHASE
- 6 CONTRACTS
- 7 Sec. 174.158. EMINENT DOMAIN
- 8 Sec. 174.159. SUITS
- 9 [Sections 174.160-174.200 reserved for expansion]
- 10 SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
- 11 CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES
- 12 Sec. 174.201. GENERAL AUTHORITY OVER COMMUTER RAIL
- 13 FACILITIES
- 14 Sec. 174.202. POWERS RELATING TO DISTRICT PROPERTY
- 15 Sec. 174.203. USE AND ALTERATION OF PROPERTY OF
- 16 ANOTHER POLITICAL SUBDIVISION
- 17 Sec. 174.204. RULES GOVERNING SYSTEM AND ROUTINGS
- 18 Sec. 174.205. ACQUISITION OF PROPERTY
- 19 Sec. 174.206. ACQUISITION OF ROLLING STOCK AND OTHER
- 20 PROPERTY
- 21 Sec. 174.207. COMPENSATION FOR USE OF SYSTEM
- 22 FACILITIES
- 23 Sec. 174.208. OPERATION OR USE CONTRACTS
- 24 Sec. 174.209. RAIL TRANSPORTATION SERVICES AGREEMENTS
- 25 WITH OTHER POLITICAL SUBDIVISIONS
- 26 [Sections 174.210-174.250 reserved for expansion]

1 SUBCHAPTER F. FINANCIAL PROVISIONS

2 Sec. 174.251. FISCAL YEAR

3 Sec. 174.252. ANNUAL BUDGET

4 Sec. 174.253. GRANTS AND LOANS

5 Sec. 174.254. DEPOSITORY

6 Sec. 174.255. PURCHASE OF ADDITIONAL INSURED

7 PROVISIONS

8 Sec. 174.256. TAX EXEMPTION

9 [Sections 174.257-174.300 reserved for expansion]

10 SUBCHAPTER G. BONDS

11 Sec. 174.301. REVENUE BONDS

12 Sec. 174.302. SECURITY FOR PAYMENT OF BONDS

13 Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND

14 SECURITY FOR DEPOSITS OF PUBLIC FUNDS

15 Sec. 174.304. LIMIT ON POWER

16 [Sections 174.305-174.350 reserved for expansion]

17 SUBCHAPTER H. TAXES

18 Sec. 174.351. TAX AUTHORIZED

19 Sec. 174.352. IMPOSITION OF TAX

20 Sec. 174.353. TAX RATE

21 Sec. 174.354. EFFECTIVE DATE OF TAX

22 CHAPTER 174. COMMUTER RAIL DISTRICTS

23 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

1 311.005, Government Code, does not apply. (New.)

2 Sec. 174.002. DEFINITIONS. In this chapter:

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

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

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

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

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

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

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

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

27 [Sections 174.005-174.050 reserved for expansion]

1 SUBCHAPTER B. CREATION

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

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

8 [Sections 174.052-174.100 reserved for expansion]

9 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

10 Sec. 174.101. CONTROL OF DISTRICT. A district is governed
11 by a board of directors. The board is responsible for the
12 management, operation, and control of the district. (V.A.C.S. Art.
13 6550c-3, Sec. 3(a).)

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

- 16 (1) one director appointed by the county judge; and
17 (2) one director appointed by each county
18 commissioner.

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

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

24 (b) The presiding officer may select another director to
25 preside in the absence of the presiding officer. (V.A.C.S. Art.
26 6550c-3, Sec. 3(c).)

27 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).)

1 Sec. 174.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

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

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

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

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

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

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

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

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

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

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

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
2 secure 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
27 indenture may limit the exercise of the power granted by Section

1 174.003, 174.109, 174.151, 174.152, 174.153, 174.154, 174.155,
2 174.156, 174.158, 174.159, 174.201, 174.202, 174.203, 174.204,
3 174.205, 174.206, 174.207, 174.208, 174.209, 174.251, 174.252,
4 174.253, 174.254, or 174.255.

5 (b) A limit applies while any of the revenue bonds issued
6 under the indenture are outstanding and unpaid. (V.A.C.S. Art.
7 6550c-3, Sec. 4(j) (part).)

8 [Sections 174.305-174.350 reserved for expansion]

9 SUBCHAPTER H. TAXES

10 Sec. 174.351. TAX AUTHORIZED. A district may impose any
11 kind of tax except an ad valorem property tax. (V.A.C.S. Art.
12 6550c-3, Sec. 8(a).)

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

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

21 (c) The notice of the election must contain a statement of
22 the base or rate of the proposed tax. (V.A.C.S. Art. 6550c-3, Secs.
23 8(b), (c), (d).)

24 Sec. 174.353. TAX RATE. (a) The board, subject to Section
25 174.352(a), may impose for a district a sales and use tax at the
26 rate of:

27 (1) one-quarter of one percent;

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

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

10 Sec. 174.354. EFFECTIVE DATE OF TAX. A district's sales and
11 use tax takes effect on the first day of the second calendar quarter
12 beginning after the election approving the tax. (V.A.C.S. Art.
13 6550c-3, Sec. 8(g).)

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

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

- 19 (1) Subtitle C or D of Title 5 or Chapter 172, 173, or
20 174; or
- 21 (2) former Title 112, Revised Statutes.

22 (b) A transportation entity created for the purpose of
23 providing public transportation is a governmental unit under
24 Chapter 101, Civil Practice and Remedies Code, and the operations
25 of the entity are essential governmental functions and not
26 proprietary functions for any purpose, including the application of
27 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.)

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

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

6 (1) a violation of this title is committed;

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

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

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

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

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

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

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

21 Sec. 81.002. DEFINITION OF PERSON FOR CERTAIN PROVISIONS.

22 In this chapter:

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

25 (2) the definition of "person" assigned by Section
26 311.005, Government Code, does not apply. (New.)

27 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.)

1 SECTION 3.03. Subchapter C, Chapter 81, Natural Resources
2 Code, is amended by adding Sections 81.0591, 81.0592, 81.062,
3 81.063, and 81.064 to read as follows:

4 SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

5 Sec. 81.0591. COMPLAINTS

6 Sec. 81.0592. CONSUMER INTEREST INFORMATION

7 Sec. 81.062. PUBLIC PARTICIPATION

8 Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF

9 LICENSE, PERMIT, OR CERTIFICATE

10 Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED

11 EMPLOYEE IN CASES BEFORE COMMISSION

12 Sec. 81.0591. COMPLAINTS. (a) The commission shall
13 maintain a file on each written complaint filed with the
14 commission. The file must include:

15 (1) the name of the person who filed the complaint;

16 (2) the date the complaint is received by the
17 commission;

18 (3) the subject matter of the complaint;

19 (4) the name of each person contacted in relation to
20 the complaint;

21 (5) a summary of the results of the review or
22 investigation of the complaint; and

23 (6) an explanation of the reason the file was closed,
24 if the commission closed the file without taking action other than
25 to investigate the complaint.

26 (b) The commission shall provide to the person filing the
27 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
22 to 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. Subsection (c), Section 91.004,
25 Transportation Code, is 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. Subdivisions (2), (4), and (5), Section
12 171.001, 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.

2 (a) The district may exercise the powers of an intermunicipal
3 commuter rail district created under Chapter 173 or former Article
4 6550c-1, Revised Statutes, only if the concurrent order or
5 ordinance creating the district specifies that the district may
6 exercise those powers. The order or ordinance may not grant the
7 district 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. Subsection (d), Section 370.186,
10 Transportation Code, is 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. Subsection (d), Section 452.056,
19 Transportation Code, is 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

1 the function and only for a cause of action that accrues on or after
2 that date.

3 SECTION 4.11. Subsection (b), Section 25.07, Tax Code, as
4 amended by Chapters 609, 885, and 1169, Acts of the 80th
5 Legislature, Regular Session, 2007, is reenacted and amended to
6 read as follows:

7 (b) Except as provided by Sections 11.11(b) and (c), a
8 leasehold or other possessory interest in exempt property may not
9 be listed if:

10 (1) the property is permanent university fund land;

11 (2) the property is county public school fund
12 agricultural land;

13 (3) the property is a part of a public transportation
14 facility owned by a municipality or county and:

15 (A) is an airport passenger terminal building or
16 a building used primarily for maintenance of aircraft or other
17 aircraft services, for aircraft equipment storage, or for air
18 cargo;

19 (B) is an airport fueling system facility;

20 (C) is in a foreign-trade zone:

21 (i) that has been granted to a joint airport
22 board under Subchapter C, Chapter 681, Business & Commerce Code;

23 (ii) the area of which in the portion of the
24 zone located in the airport operated by the joint airport board does
25 not exceed 2,500 acres; and

26 (iii) that is established and operating
27 pursuant to federal law; or

1 (D)(i) is in a foreign trade zone established
2 pursuant to federal law after June 1, 1991, that [~~which~~] operates
3 pursuant to federal law;

4 (ii) is contiguous to or has access via a
5 taxiway to an airport located in two counties, one of which has a
6 population of 500,000 or more according to the federal decennial
7 census most recently preceding the establishment of the foreign
8 trade zone; and

9 (iii) is owned, directly or through a
10 corporation organized under the Development Corporation Act
11 (Subtitle C1, Title 12, Local Government Code), by the same
12 municipality that [~~which~~] owns the airport;

13 (4) the interest is in a part of:

14 (A) a park, market, fairground, or similar public
15 facility that is owned by a municipality; or

16 (B) a convention center, visitor center, sports
17 facility with permanent seating, concert hall, arena, or stadium
18 that is owned by a municipality as such leasehold or possessory
19 interest serves a governmental, municipal, or public purpose or
20 function when the facility is open to the public, regardless of
21 whether a fee is charged for admission;

22 (5) the interest involves only the right to use the
23 property for grazing or other agricultural purposes; [~~or~~]

24 (6) the property is:

25 (A) owned by a municipality, a public port, or a
26 navigation district created or operating under Section 59, Article
27 XVI, Texas Constitution, or under a statute enacted under Section

1 59, Article XVI, Texas Constitution; and

2 (B) used as an aid or facility incidental to or
3 useful in the operation or development of a port or waterway or in
4 aid of navigation-related commerce; or

5 (7) [~~(8)~~] the property is part of a rail facility
6 owned by a rural rail transportation district [~~created or~~]
7 operating under Chapter 172, Transportation Code [~~623, Acts of the~~
8 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
9 ~~Texas Civil Statutes)~~].

10 ARTICLE 5. REPEALER

11 SECTION 5.01. (a) The following provisions are repealed:

12 (1) Title 112, Revised Statutes;

13 (2) Article 3922, Revised Statutes;

14 (3) Chapter 480 (H.B. 1656), Acts of the 73rd
15 Legislature, Regular Session, 1993 (Article 6370c, Vernon's Texas
16 Civil Statutes);

17 (4) Section 1, Chapter 140 (H.B. 525), Acts of the 40th
18 Legislature, Regular Session, 1927 (Article 6447a, Vernon's Texas
19 Civil Statutes);

20 (5) Section 1, Chapter 43 (H.B. 105), Acts of the 41st
21 Legislature, 5th Called Session, 1930 (Article 6472a, Vernon's
22 Texas Civil Statutes);

23 (6) Section 1, Chapter 262 (S.B. 125), Acts of the 41st
24 Legislature, Regular Session, 1929 (Article 6519a, Vernon's Texas
25 Civil Statutes);

26 (7) Section 8, Chapter 65 (S.B. 389), Acts of the 67th
27 Legislature, Regular Session, 1981 (Article 6519c, Vernon's Texas

1 Civil Statutes); and

2 (8) Chapter 623 (H.B. 1822), Acts of the 67th
3 Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas
4 Civil Statutes).

5 (b) The repeal of Title 112, Revised Statutes, by this Act
6 does not affect the validity of statutes that were not added to
7 Title 112, Revised Statutes, by the legislature, but were
8 unofficially printed in that title by any publisher of the Texas
9 statutes, except as those articles are specifically repealed in
10 Subsection (a) of this section.

11 ARTICLE 6. LEGISLATIVE INTENT; EFFECTIVE DATE

12 SECTION 6.01. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE.

13 This Act is enacted under Section 43, Article III, Texas
14 Constitution. No substantive change in law is intended by this Act.

15 SECTION 6.02. EFFECTIVE DATE. This Act takes effect April
16 1, 2011.