

AN ACT

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

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

ARTICLE 1. GENERAL MATTERS

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

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

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

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

(3) eliminating repealed, duplicative, expired, and  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

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

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

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

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

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

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS

Sec. 81.002. APPLICABILITY

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS. In this title:

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

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

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

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

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

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

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

4 SUBTITLE C. RAILROADS GENERALLY

5 CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

6 SUBCHAPTER A. GENERAL PROVISIONS

7 Sec. 111.001. DEFINITION OF PERSON

8 Sec. 111.002. POWER AND AUTHORITY

9 Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY

10 Sec. 111.004. REFERENCE TO RAILROAD COMMISSION

11 [Sections 111.005-111.050 reserved for expansion]

12 SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

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

14 Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT

15 Sec. 111.053. REFUSAL TO ANSWER BY RAILROAD COMPANY

16 OFFICER OR EMPLOYEE; CRIMINAL PENALTY

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

18 PENALTY

19 Sec. 111.055. WITNESSES

20 Sec. 111.056. DEPOSITIONS

21 Sec. 111.057. PENALTY NOT OTHERWISE PROVIDED

22 Sec. 111.058. SUITS FOR PENALTY

23 [Sections 111.059-111.100 reserved for expansion]

24 SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

25 Sec. 111.101. IMPLEMENTATION OF FEDERAL SAFETY LAWS;

26 FEES

27 Sec. 111.102. HAZARDOUS MATERIALS INSPECTIONS

SUBTITLE C. RAILROADS GENERALLY

CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

(1) has power and authority over:

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

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

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

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

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

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

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

[Sections 111.005-111.050 reserved for expansion]

SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

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

(a) A member of the commission or a person authorized in writing by a member of the commission under the hand and seal of the department may at any time:

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

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

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

(c) An officer, agent, or employee of a railroad company who possesses or controls any book or paper of the company commits an offense if, after proper demand, the officer, agent, or employee fails or refuses to exhibit, to any member of the commission or any 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

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

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

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITION OF PERSON

Sec. 112.002. GENERAL RIGHTS OF RAILROADS

Sec. 112.003. DAMAGES

[Sections 112.004-112.050 reserved for expansion]

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

Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY

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

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

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

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

Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS

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

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

(b) A railroad company may:

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

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

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

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

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

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

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

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

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

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

(2) failure of the railroad to perform an act the railroad is required to perform under this subtitle or Subtitle D.

(V.A.C.S. Art. 6475.)

[Sections 112.004-112.050 reserved for expansion]

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

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

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

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

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

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

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

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

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

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

shops;

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

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

(6) a change or relocation;

(7) a roadbed;

(8) the shortening of a line;

(9) the reduction of grades;

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

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

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

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

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

(2) operates in a single county that:

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

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

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

(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.

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

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

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

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

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

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

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

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

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]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. STREET AND SUBURBAN RAILWAYS

Sec. 131.902. FREIGHT INTERURBAN RAILWAYS

Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN  
RAILWAYS

Sec. 131.904. MOTOR BUS LINES

SUBTITLE D. MISCELLANEOUS RAILROADS

CHAPTER 131. MISCELLANEOUS RAILWAYS

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

[Sections 131.002-131.010 reserved for expansion]

SUBCHAPTER B. ELECTRIC RAILWAYS

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The corporation may:

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

(2) for the purposes of Subdivision (1), enter on the 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;

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

(3) "Director" means a board member.

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

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

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

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

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

(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 precedential 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. AWARDING 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

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

CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 173.002. DEFINITIONS

Sec. 173.003. LOCATION OF MUNICIPALITY IN COUNTY

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Sec. 173.005. SUNSET PROVISION

[Sections 173.006-173.050 reserved for expansion]

SUBCHAPTER B. CREATION

Sec. 173.051. CREATION OF DISTRICT

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SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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4 SUBCHAPTER D. GENERAL POWERS AND DUTIES  
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11 Sec. 173.156. EXCLUSIVE DEVELOPMENT AGREEMENTS  
12 Sec. 173.157. INTERLOCAL AGREEMENTS WITH COMMISSION  
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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  
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- 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
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- 13   Sec. 173.254.   DEPOSITORY
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- 15                               PROVISIONS
- 16   Sec. 173.256.   FINANCING OF CERTAIN TRANSPORTATION
- 17                               INFRASTRUCTURE
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- 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]

SUBCHAPTER H. SALES AND USE TAXES

Sec. 173.351. TAX AUTHORIZED

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CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

Sec. 173.002. DEFINITIONS. In this chapter:

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

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

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

(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

municipalities:

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

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

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

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

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

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

[Sections 173.053-173.100 reserved for expansion]

#### SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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

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

1           (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. AWARDDING 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).)

[Sections 173.161-173.200 reserved for expansion]

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

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

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

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

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

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

property.

(b) A district may not use or alter:

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

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

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

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

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

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

Sec. 173.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

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]

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 174.251. FISCAL YEAR

Sec. 174.252. ANNUAL BUDGET

Sec. 174.253. GRANTS AND LOANS

Sec. 174.254. DEPOSITORY

Sec. 174.255. PURCHASE OF ADDITIONAL INSURED

PROVISIONS

Sec. 174.256. TAX EXEMPTION

[Sections 174.257-174.300 reserved for expansion]

SUBCHAPTER G. BONDS

Sec. 174.301. REVENUE BONDS

Sec. 174.302. SECURITY FOR PAYMENT OF BONDS

Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND

SECURITY FOR DEPOSITS OF PUBLIC FUNDS

Sec. 174.304. LIMIT ON POWER

[Sections 174.305-174.350 reserved for expansion]

SUBCHAPTER H. TAXES

Sec. 174.351. TAX AUTHORIZED

Sec. 174.352. IMPOSITION OF TAX

Sec. 174.353. TAX RATE

Sec. 174.354. EFFECTIVE DATE OF TAX

CHAPTER 174. COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

Sec. 174.002. DEFINITIONS. In this chapter:

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

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

(3) "Director" means a board member.

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

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

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

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

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

[Sections 174.005-174.050 reserved for expansion]

SUBCHAPTER B. CREATION

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

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

[Sections 174.052-174.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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

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

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

(2) one director appointed by each county commissioner.

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

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

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

Sec. 174.104. MEETINGS. The presiding officer shall call

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

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

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

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

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

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

19 [Sections 174.110-174.150 reserved for expansion]

20 SUBCHAPTER D. GENERAL POWERS AND DUTIES

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

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

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

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

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

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

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

18           (2) establish:

19                   (A) through routes; and

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

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

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

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

4 Sec. 174.157. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.

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

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

13 (c) This section does not apply to:

- 14 (1) personal or professional services;  
15 (2) the acquisition of an existing rail transportation  
16 system; or  
17 (3) a contract with a common carrier to construct  
18 lines or to operate commuter rail service on lines wholly or partly  
19 owned by the carrier. (V.A.C.S. Art. 6550c-3, Sec. 6.)

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

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

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

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

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

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

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

10           (1) is a public necessity; and

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

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

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

19           (1) sue and be sued;

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

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

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

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

2 [Sections 174.160-174.200 reserved for expansion]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 174.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) a violation of this title is committed;

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

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

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

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

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

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

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

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

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

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

SECTION 3.02. Subchapter B, Chapter 81, Natural Resources

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

3 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

4 Sec. 81.01001. SUNSET PROVISION

5 Sec. 81.01002. CHAIRMAN

6 Sec. 81.01003. QUALIFICATIONS FOR OFFICE

7 Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE,

8 STANDARDS OF CONDUCT, AND CONFLICT OF

9 INTEREST

10 Sec. 81.01005. NAME AND SEAL

11 Sec. 81.01006. PROCEDURAL RULES

12 Sec. 81.01007. SUPPLIES

13 Sec. 81.01008. SESSIONS

14 Sec. 81.01009. RECORDS RESEARCH FEE

15 Sec. 81.01010. FEE FOR COPIES

16 Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION

17 Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS

18 Sec. 81.01013. CONFLICT OF INTEREST

19 Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY

20 Sec. 81.01015. EMPLOYEE INCENTIVE PROGRAM

21 Sec. 81.01016. SEPARATION OF RESPONSIBILITIES

22 Sec. 81.0165. SALARY OF SECRETARY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 promoting their common interest.

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

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

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

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

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

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

27 (b) The policy statement must include:

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

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

10          (c) The policy statement must:

11           (1) be updated annually;

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

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

16          Sec. 81.01015. EMPLOYEE INCENTIVE PROGRAM. The commission  
17 shall provide to commission employees information and training on  
18 the benefits and methods of participation in the state employee  
19 incentive program. (V.A.C.S. Art. 6447m.)

20          Sec. 81.01016. SEPARATION OF RESPONSIBILITIES. The  
21 commission shall develop and implement policies that clearly  
22 separate the policy-making responsibilities of the commissioners  
23 and the management responsibilities of the staff of the commission.  
24 (V.A.C.S. Art. 6447k.)

25          Sec. 81.0165. SALARY OF SECRETARY. The salary of the  
26 secretary of the commission shall be the amount appropriated for  
27 that purpose by the legislature. (V.A.C.S. Art. 6447a.)

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

SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

Sec. 81.0591. COMPLAINTS

Sec. 81.0592. CONSUMER INTEREST INFORMATION

Sec. 81.062. PUBLIC PARTICIPATION

Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF

LICENSE, PERMIT, OR CERTIFICATE

Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED

EMPLOYEE IN CASES BEFORE COMMISSION

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

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the commission;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) an explanation of the reason the file was closed, if the commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a

1 copy of the commission's policies and procedures relating to  
2 complaint investigation and resolution.

3 (c) The commission, at least quarterly until final  
4 disposition of the complaint, shall notify the person filing the  
5 complaint and each person who is a subject of the complaint of the  
6 status of the investigation unless the notice would jeopardize an  
7 undercover investigation. (V.A.C.S. Art. 6447h.)

8 Sec. 81.0592. CONSUMER INTEREST INFORMATION. (a) The  
9 commission shall prepare information of consumer interest  
10 describing the regulatory functions of the commission and the  
11 procedures by which consumer complaints are filed with and resolved  
12 by the commission.

13 (b) The commission shall make the information available to  
14 the public and appropriate state agencies. (V.A.C.S. Art. 6447g.)

15 Sec. 81.062. PUBLIC PARTICIPATION. The commission shall  
16 develop and implement policies that provide the public with a  
17 reasonable opportunity to appear before the commission and to speak  
18 on any issue under the jurisdiction of the commission. (V.A.C.S.  
19 Art. 6447l.)

20 Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF  
21 LICENSE, PERMIT, OR CERTIFICATE. (a) If the commission proposes  
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

liabilities;

(2) the district is not a party to any lawsuits or adequate provision has been made for the satisfaction of any judgment or order that may be entered against the district in a lawsuit to which the district is a party; and

(3) the district has commitments from other governmental entities to assume jurisdiction of all district rail facilities.

SECTION 4.09. Subsection (d), Section 370.186, Transportation Code, is amended to read as follows:

(d) An authority may not construct, maintain, or operate a passenger rail facility within the boundaries of an intermunicipal commuter rail district created under former Article 6550c-1, Vernon's Texas Civil Statutes, as those boundaries existed on September 1, 2005, unless the district and the authority enter into a written agreement specifying the terms and conditions under which the project will be undertaken.

SECTION 4.10. Subsection (d), Section 452.056, Transportation Code, is amended to read as follows:

(d) A private operator who contracts with an authority under this chapter is not a public entity for purposes of any law of this state except that an independent contractor of the authority that, on or after June 14, 1989, performs a function of the authority or an entity described by Section 452.0561 [~~under Title 112, Revised Statutes,~~] that is created to provide transportation services is liable for damages only to the extent that the authority or entity 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

59, Article XVI, Texas Constitution; and

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

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

ARTICLE 5. REPEALER

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

(1) Title 112, Revised Statutes;

(2) Article 3922, Revised Statutes;

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

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

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

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

(7) Section 8, Chapter 65 (S.B. 389), Acts of the 67th 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.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 1540 passed the Senate on April 23, 2009, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 1540 passed the House on May 11, 2009, by the following vote: Yeas 147, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor