

H.B. No. 2510

AN ACT

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

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

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

Art. 6550c-3. COMMUTER RAIL DISTRICTS

Sec. 1. DEFINITIONS. In this article:

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

(2) "Commuter rail facility" means any property necessary for the transportation of passengers and baggage between

points in a district. The term includes rolling stock, locomotives, stations, parking areas, and rail lines. H.B. No. 2510

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

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

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

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

(7) "System" means all of the commuter rail and intermodal facilities leased or owned by or operated on behalf of a district.

Sec. 2. CREATION OF COMMUTER RAIL DISTRICT. (a) A commuter rail 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. H.B. No. 2510

Sec. 3. BOARD. (a) A district is governed by a board of directors. The board is responsible for the management, operation, and control of the district.

(b) The board is composed of five members. The county judge appoints one member and each county commissioner appoints one member. Each member serves a term of four years. The board may provide for the staggering of the terms of its members.

(c) The members of the board shall elect one member as presiding officer. The presiding officer may select another member to preside in the absence of the presiding officer.

(d) The presiding officer shall call at least one meeting of the board each year and may call other meetings as the presiding officer determines are appropriate.

(e) A member of the board is not entitled to compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred while serving as a member.

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(f) The board shall adopt rules for its proceedings and appoint an executive committee. The board may employ and compensate persons to carry out the powers and duties of the district.

Sec. 4. POWERS AND DUTIES OF DISTRICT. (a) A district created under this article is a public body and a political subdivision of the state exercising public and essential governmental functions and has all the powers necessary or convenient to carry out the purposes of this article. A district, in the exercise of powers under this article, is performing only governmental functions and is a governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code.

(b) A district may sue and be sued in all courts, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving a supersedeas or cost bond. An action at law or in equity against the district must be brought in the county in which a principal office of the district

is located, except that in an eminent domain proceeding involving
an interest in land, suit must be brought in the county in which
the land is located.

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(c) A district may acquire by grant, purchase, gift, devise,
lease, or otherwise and may hold, use, sell, lease, or dispose of
real and personal property, licenses, patents, rights, and
interests necessary, convenient, or useful for the full exercise of
its powers.

(d) A district may acquire, construct, develop, own, operate,
and maintain intermodal and commuter rail facilities to connect
political subdivisions in the district. For this purpose and with
the consent of a municipality, county, or other political
subdivision, the district may use streets, alleys, roads, highways,
and other public ways of the municipality, county, or other
political subdivision and may relocate, raise, reroute, change the
grade of, or alter, at the expense of the district, the
construction of any street, alley, highway, road, railroad,

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electric lines and facilities, telegraph and telephone properties
and facilities, pipelines and facilities, conduits and facilities,
and other properties, whether publicly or privately owned, as
necessary or useful in the construction, reconstruction, repair,
maintenance, and operation of the system. A district may not use
or alter a road or highway that is part of the state highway system
without the permission of the commission or a railroad without
permission of the railroad. A district may acquire by purchase any
interest in real property for the acquisition, construction, or
operation of a commuter rail facility on terms and at a price as
agreed to between the district and the owner. The governing body
of a municipality, county, other political subdivision, or public
agency may convey title or rights and easements to any property
needed by the district to effect its purposes in connection with
the acquisition, construction, or operation of the system.

(e) A district has the right of eminent domain to acquire
real property in fee simple or an interest in real property less

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than fee simple in, on, under, or above land, including an
easement, right-of-way, or right of use of airspace or subsurface
space. The power of eminent domain under this section does not
apply to land under the jurisdiction of the department or a rail
line owned by a common carrier or municipality. The district
shall, to the extent possible, use existing rail or intermodal
transportation corridors for the alignment of its system. A
proceeding for the exercise of the power of eminent domain is begun
by the adoption by the board of a resolution declaring the public
necessity for the acquisition by the district of the property or
interest described in the resolution and that the acquisition is
necessary and proper for the construction, extension, improvement,
or development of commuter rail facilities and is in the public
interest. The resolution of the district is conclusive evidence of
the public necessity of the proposed acquisition and that the real
or personal property or interest in property is necessary for
public use.

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(f) A district may make agreements with a public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties inside or outside the district, and establish through routes and joint fares.

(g) A district may adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, including rules relating to health, safety, alcohol or beverage service, food service, and telephone and utility services, to protect the health, safety, and general welfare of residents of the district and people who use the district's services.

(h) A district may enter into a joint ownership agreement with any person.

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

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that is reasonable and nondiscriminatory and, together with grants received by the district, is sufficient to produce revenues adequate:

(1) to pay all expenses necessary for the operation and maintenance of the properties and facilities of the district;

(2) to pay the interest on and principal of bonds issued by the district and payable in whole or in part from the revenues, as they become due and payable; and

(3) to fulfill the terms of an agreement made with the holders of bonds or with any person in their behalf.

(j) A district may make contracts, leases, and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, this state, agencies and political subdivisions of this state, and other persons and entities and may perform any act necessary for the full exercise of the powers vested in it. The commission may enter an interlocal agreement with a district under which the district may exercise a

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power or duty of the commission for the development and efficient operation of an intermodal corridor in the district. A district may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. A revenue bond indenture may limit the exercise of the powers granted by this section, and a limit applies as long as the revenue bonds issued under the indenture are outstanding and unpaid.

(k) A district by resolution may adopt rules governing the use, operation, and maintenance of the system and may determine or change a routing as the board considers advisable.

(l) A district may lease all or part of the commuter rail facilities to, or contract for the use or operation of all or part of the commuter rail facilities by, an operator. A district shall encourage to the maximum extent practicable the participation of private enterprise in the operation of commuter rail facilities. The term of an operating contract under this subsection may not

exceed 20 years.

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(m) A district may contract with a county or other political subdivision of this state for the district to provide commuter rail transportation services to an area outside the boundaries of the district on such terms and conditions as the parties agree to.

(n) A district may purchase an additional insured provision to any liability insurance contract.

(o) Before beginning the operation of commuter rail facilities, the board shall adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year. Each year the board shall adopt an operating budget for the district. The fiscal year of the district ends September 30 unless changed by the board. The board shall hold a public hearing before adopting a budget other than the initial budget. Notice of each hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district. A budget may be amended at any time

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if notice of the proposed amendment is given in the notice of the meeting at which the amendment will be considered. An expenditure that is not budgeted may not be made.

(p) A district is eligible to participate in the Texas County and District Retirement System.

(q) The board of a district shall by resolution name one or more banks for the deposit of district funds. District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code. To the extent funds of the district are not insured by the Federal Deposit Insurance Corporation or its successor, they shall be collateralized in the manner provided for county funds.

Sec. 5. BONDS AND NOTES. (a) A district may issue revenue bonds and notes in amounts as the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of the district's commuter rail facilities. A bond or note is fully

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negotiable and may be made redeemable before maturity, at the option of the district and at the price and under the terms the board determines in the resolution authorizing the bond or note and may be sold at public or private sale, as the board determines.

(b) A district shall submit all bonds and notes and the record of proceedings relating to their issuance to the attorney general for examination before delivery. If the attorney general determines that they have been issued in accordance with the constitution and this article and that they will be binding obligations of the district issuing them, the attorney general shall approve them, and the comptroller shall register them. A bond or note issued under this article is incontestable after approval, registration, and sale and delivery of the bond or note to the purchaser.

(c) To secure the payment of the bond or note, the district may encumber and pledge all or any part of the revenues of its commuter rail facilities, may mortgage and encumber all or part of

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the property of the commuter rail facilities and everything
pertaining to them that is acquired or to be acquired, and may
prescribe the terms and provisions of the bond or note in any
manner not inconsistent with this article. If not prohibited by
the resolution or indenture relating to outstanding bonds or notes,
a district may encumber separately any item of real or personal
property.

(d) A bond or note is a legal and authorized investment for
banks, trust companies, savings and loan associations, and
insurance companies. The bond or note is eligible to secure the
deposit of public funds of this state or a municipality, county,
school district, or other political corporation or subdivision of
this state. The bond or note is lawful and sufficient security for
the deposits to the extent of the principal amount or market value
of the bond or note, whichever is less.

Sec. 6. COMPETITIVE BIDS. A contract in the amount of more
than \$15,000 for the construction of improvements or the purchase

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of material, machinery, equipment, supplies, or any other property
other than real property may be let only on competitive bids after
notice published, at least 15 days before the date set for
receiving bids, in a newspaper of general circulation in the
district. The board may adopt rules governing the taking of bids
and the awarding of contracts. This section does not apply to:

- (1) personal or professional services;
- (2) the acquisition of an existing rail transportation
system; or
- (3) a contract with a common carrier to construct lines
or to operate commuter rail service on lines owned in whole or in
part by the carrier.

Sec. 7. EXEMPTION FROM TAXES. The property, material
purchases, revenues, and income of a district and the interest on a
bond or note issued by a district are exempt from all taxes imposed
by this state or a political subdivision of this state.

Sec. 8. TAXATION. (a) A district may impose any kind of tax

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except an ad valorem property tax.

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

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

(d) The notice of the election must contain a statement of the base or rate of the proposed tax.

(e) The board, subject to Subsection (b) of this section, may impose for an authority a sales and use tax at the rate of:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; or

(4) one percent.

(f) A district may not adopt a sales and use tax rate.

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including a rate increase, that when combined with the rates of all
sales and use taxes imposed by other political subdivisions of the
state having territory in the district exceeds two percent in any
location in the district.

(g) The adoption of 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.

Sec. 9. CERTAIN MUNICIPALITIES. A municipality located
within the district that wishes to be served by district computer
mail facilities must pay for construction of a computer mail
station.

SECTION 2. This Act takes effect September 1, 2007.

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President of the Senate

Speaker of the House

I certify that H.B. No. 2510 was passed by the House on May 8, 2007, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2510 was passed by the Senate on May 25, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor