

**Commuter Rail District  
Q and A  
HB 2510**

**Q: What taxing authority does the Commuter Rail District possess?**

**A: As stated in the Transportation Code, Chapter 174, the Commuter Rail District does not have ad valorem property tax authority, the basis of any taxing district.**

**However, the Commuter Rail District may impose a sales and use tax, but Hidalgo County is already at the cap.**

**Regardless of what tax is being discussed, the imposition of any tax requires the approval of the tax by the majority of the voters in an election held for that purpose.**

**Q: Can the Commuter Rail District issue bonds?**

**A: Yes, the Commuter Rail District may issue revenue bonds and notes in amounts as the Commuter Rail Board considers necessary or appropriate, but bond underwriters (The company who services the bonds) would have to do a financial analysis to show how much revenue would be generated by ridership.**

**Plus, the bonds have to be submitted to the Attorney General's Office for review.**

**Q: Does the Hidalgo County Commissioners Court have to approve the issuance of the bonds?**

**A: No.**

**However, all Commuter Rail District Board Members are appointed by the Hidalgo County Commissioners Court. The County Judge appoints one and each County Commissioner appoints one, for a total of five.**

**Q: Does the Commuter Rail District have the right of eminent domain?**

**A: Yes, subject to the laws of Texas. Texas already has some of the most stringent eminent domain laws in the country. The laws were made even more stringent during the 80th Legislative Session due to the Kelso vs. City of New London Supreme Court ruling in 2005.**

**See attached Eminent Domain Talking Points dated 09-17-13 for the specifics.**

**Q: What is meant by the Commuter Rail District Board is also a "positioning board"?**

**A: One thing we learned from the American Recovery and Reinvestment Act of 2009, if a project isn't "shovel ready", or minimal to no work has been performed on a project, the federal or state government will not fund your project.**

**To have access to funds, it is important for a Board to be in position to have projects "shovel ready". Doing so will allow a Board to react quickly when government funds become available.**

**See attached Positioning Board Talking Points Dated 09-17-13.**

## **Eminent Domain**

### Talking Points

09-17-13

The State of Texas has traditionally been a strong protector of property owner's rights. This is demonstrated by Texas laws that protect one's homestead, i.e. Texas being one of the last state allowing home equity loans.

Since the 2005 Supreme Court ruling in *Kelo v. City of New London*, the case that brought the taking of property for public use to the forefront of public debate, the Texas legislature enacted more stringent laws protecting landowner's rights.

The State of Texas enacted the Landowner's Bill of Rights during the 80th Legislative session. These rights include, but are not limited to

- You are entitled to receive adequate compensation for your property. This includes compensation for the loss of value of your remaining property.
- Your property can only be used for public use.
- Your property can only be taken by an entity authorized by law.
- You are required to receive proper notice concerning the taking of your property.
- You are required to receive a written appraisal by a certified appraiser detailing the adequate compensation you are owed for your property.

- A good faith offer must be made prior to any legal action.
- You can hire your own appraiser and professionals to assist with any proceedings.
- You can hire an attorney to negotiate for you.
- Before your property is condemned, you are entitled to a hearing before a court appointed panel that includes three special commissioners.
- If you are unsatisfied with the results by the special commissioners, you have the right to a trial by a judge or jury.
- If you are unsatisfied with the trial's court judgment, you can appeal that decision.
- If the condemning entity stops the proceedings, you are entitled to all reasonable and necessary fees.
- If your property was condemned and the condemning governmental entity decides it no longer needs the land or does not act within 10 years, you are entitled to purchase the property back at the price you were paid.
- If the special commissioners or court rules the condemning entity did not offer "just compensation", the condemning entity pays all costs of the proceedings.
- Property cannot be condemned for private benefit.
- Property cannot be taken for economic development purposes.

**Hidalgo County Commuter Rail District  
Positioning Board  
Tuesday, September 17, 2013**

The Hidalgo County Commuter Rail District was established to oversee the possibility and feasibility of having commuter rail aka light rail in Hidalgo County. Additionally, other Border Counties can establish commuter rail districts.

One important aspect of the Commuter Rail Board is that it is also a "positioning board". This means that if Federal or State Funds do become available for rail systems, Hidalgo County will be in the position to apply for and tap into the available funds.

As we learned in the past with the American Recovery Act, funds were made available to government entities that had "shovel ready" projects. In other words, if the governmental entity already had plans in place for a particular water project, they were given funding priority. Many entities lost out on funding because they were not in the position to accept funds. Out of the \$8 billion set aside for rail, there were 214 applications from 34 states requesting funding for small rail projects. It is critical that we are in the position to apply for government funds when they become available.

Another aspect of the Commuter Rail District is to combine it into a Regional Transit Authority (RTA). During this past session, I filed a bill to create a RTA for Hidalgo, Cameron and Willacy Counties. Even though we ran out of time when the bill made it to the Senate, it did bring up the importance of discussing transportation issues on a more regional basis. Plus, from a government perspective, coordinated regional projects are looked upon more favorably as opposed to cities from the same region competing against each other.

Again, a RTA can also be a "positioning board". The nature of transportation projects require planning many years into the future, and such boards can provide us with the necessary vision.