

## **BILL ANALYSIS**

Senate Research Center

H.B. 2510  
By: Martinez, "Mando" et al. (Hinojosa)  
Transportation & Homeland Security  
5/13/2007  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The border region of Texas, especially the Rio Grande Valley, is not only one of the fastest growing areas in Texas, but in the entire United States. As the populations grows, so may transportation needs. To address those needs and associated problems, alternative forms of transportation may need to be implemented, such as a commuter rail system.

H.B. 2510 authorizes the creation of a commuter rail district to provide commuter rail service to counties along the Texas-Mexico border and for the adoption of rules necessary for the operation of such a district.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to a commuter rail district in SECTION 1 (Article 6550c-3(4) and (6)) of this bill.

Rulemaking authority is expressly granted to the board of directors of a commuter rail district in SECTION 1 (Article 6550c-3(3), Revised Statutes) of this bill.

### **SECTION BY SECTION ANALYSIS**

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

#### Art. 6550c-3. COMMUTER RAIL DISTRICTS

Sec. 1. DEFINITIONS. Defines "commission," "commuter rail facility," "creating county," "department," "district," "district property," and "system."

Sec. 2. CREATION OF COMMUTER RAIL DISTRICT. (a) Authorizes the creation of a commuter rail district (district) to provide commuter rail service to counties along the Texas-Mexico border.

(b) Authorizes the commissioners court of a county to create a district on adoption of an order favoring such creation.

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

(b) Sets forth the composition of the board and the terms of members of the board.

(c) Requires board members to elect one member as presiding officer. Authorizes the presiding officer to select another member to preside in the presiding officer's absence.

(d) Requires the presiding officer to call at least one meeting of the board each year and authorizes the presiding officer to call other meetings as determined appropriate by the presiding officer.

(e) Entitles a board member to reimbursement for reasonable expenses incurred while serving as a member, but not to compensation.

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

Sec. 4. POWERS AND DUTIES OF DISTRICT. (a) Provides that a district 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. Provides that a district, in exercise of powers under this article, is performing only governmental functions and is a governmental unit within the meaning of Chapter 101 (Tort Claims), Civil Practice and Remedies Code.

(b) Authorizes a district to sue and be sued in all courts, to institute and prosecute suits without giving security for costs, and to appeal from a judgment without giving a supersedeas or cost bond. Requires an action at law or in equity against the district be brought in the county in which a principal office of the district is located, except that in an eminent domain proceeding involving interest in land, suit is required to be brought in the county in which the land is located.

(c) Sets forth certain items that are necessary, convenient, or useful to the full exercise of the district's powers that the district is authorized to acquire by certain means.

(d) Authorizes a district to acquire, construct, develop, own, operate and maintain intermodal and commuter rail facilities (facilities) to connect political subdivisions in the district. Sets forth actions that the district is authorized to take with certain properties of the municipality, county, or other political subdivision as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the district's commuter rail and intermodal facilities (system). Prohibits a district from using or altering a road or highway that is a part of the state highway system without the permission of the Texas Transportation Commission (commission) or a railroad without permission of the railroad. Authorizes a district to 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 property owner. Authorizes the governing body of a municipality, county, other political subdivision, or public agency to 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) Provides that a district has the right of eminent domain to acquire real property in fee simple or an interest in real property less than fee simple in certain relation to that land. Provides that the power of eminent domain under this section does not apply to land under the jurisdiction of the Texas Department of Transportation (TxDOT) or a rail line owned by a common carrier or municipality. Requires the district, to the extent possible, to use existing rail or intermodal transportation corridors for the alignment of its system. Provides that 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 of the property or interest described in the resolution by the district for the construction, extension, improvement, or development of facilities and that it is in the public interest. Provides that such a resolution 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.

(f) Authorizes a district to make agreements with certain entities for the joint use of facilities, installations, or properties inside or outside of the district and to establish through routes and joint fares.

(g) Authorizes a district to adopt certain 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.

(h) Authorizes the district to enter into a joint ownership agreement with any person.

(i) Requires a district to establish and maintain rates or other compensation for the use of the facilities of the district's system that is reasonable and nondiscriminatory and is sufficient, together with grants received by the district, to produce revenues to pay for all expenses necessary for the operation and maintenance of the properties and facilities of the district, to pay interest on and principal of bonds issued by the district as they become due and payable in whole or in part from revenues, or to fulfill the terms of an agreement made with the holders of bonds or with any person in those persons' behalf.

(j) Sets forth certain entities with which a district is authorized to make contracts, leases and agreements and from which the district is authorized to accept grants and loans. Authorizes the commission to enter into an interlocal agreement with a district under which the district is authorized to exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the district. Authorizes a district to acquire rolling stock or other property under certain forms of contracts or trust agreements. Authorizes a revenue bond indenture to limit the exercise of powers granted by this section, and provides that such a limit applies as long as the revenue bonds issued under the indenture are outstanding and unpaid.

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

(l) Authorizes a district to lease all or part of the district's facilities to, or contract for the use or operation of all or part of said facilities by, an operator. Requires a district to encourage participation of private enterprise in the operation of those facilities to the maximum extent practicable. Prohibits the term of an operating contract under this subsection from exceeding 20 years.

(m) Authorizes a district to contract with a county or other political subdivision of this state for the district to provide commuter rail transportation services to an area outside of the district's boundaries on terms and conditions agreed to by the parties.

(n) Authorizes a district to purchase an additional insured provision to any liability insurance contract.

(o) Requires the board to adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year before beginning operation of the district's facilities. Requires the board to adopt an operating budget for the district each year. Provides that the fiscal year of the district ends September 30 unless changed by the board. Sets forth procedures regarding proper notice of public hearing of the budget and of a meeting to amend the budget. Prohibits an expenditure that is not budgeted from being made.

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

(q) Requires the board by resolution to name one or more banks for the deposit of district funds. Provides that district funds are public funds and authorizes the investment of said funds in securities permitted by Chapter 2256 (Public Funds Investment), Government Code. Requires those funds to be collateralized in the

manner provided for county funds to the extent that the funds are not insured by the Federal Deposit Insurance Corporation or its successor.

Sec. 5. BONDS AND NOTES. (a) Authorizes a district to issue revenue bonds and notes in amounts as the board considers necessary or appropriate for certain actions in relation to the district's facilities. Provides that a bond or note is fully negotiable and is authorized to be made redeemable before maturity at the district's option and at the price and under the terms the board determines in the resolution authorizing the public or private sale of the bond or note.

(b) Requires a district to submit all bonds and notes and the record of proceedings relating to their issuance to the attorney general for examination before delivery. Requires the attorney general to approve the bond and note and for the comptroller of public accounts (comptroller) to register said bonds or notes, if the attorney general determines that the bonds and notes have been issued in accordance with the constitution and this article and that the bonds and notes will be binding obligations of the district from which the bonds and notes were issued. Provides that 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) Authorizes the district to encumber and pledge all or any part of the revenues of its facilities, to mortgage and encumber all or part of the property of the facilities, and to prescribe the terms and provisions of the bond or note in any manner not inconsistent with this article to secure the payment of the bond or note. Authorizes a district to encumber any item of real or personal property separately if not prohibited by the resolution or indenture relating to those bonds or notes.

(d) Provides that a bond or note is a legal and authorized investment for certain fiduciary institutions. Provides that a bond or note is eligible to secure the deposit of public funds of this state or another certain political corporation or subdivision of this state. Provides that 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. Authorizes the letting of a contract in the amount of more than \$15,000 for the construction of improvements or the purchase of certain property other than real property only on competitive bids after notice is published in a newspaper of general circulation in the district at least 15 days before the date set for receiving bids. Authorizes the board to adopt rules governing the taking of bids and the awarding of contracts. Provides that this section does not apply to personal or professional services, the acquisition of an existing rail transportation system, or 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. Exempts the property, material purchases, revenues, and income of a district and the interest on a bond or note issued by the district from all taxes imposed by this state or a political subdivision of this state.

Sec. 8. TAXATION. (a) Authorizes a district to impose any kind of tax except an ad valorem property tax.

(b) Prohibits a district from imposing a tax or increasing the rate of an existing tax unless a proposition proposing such is approved by a majority of the votes received at an election held for that purpose.

(c) Requires each new tax or rate increase to be expressed in a separate proposition consisting of a brief statement of the nature of the proposed law.

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

(e) Authorizes the board, subject to Subsection (b), to impose a sales and use tax for an authority at the rate of 1/4, 1/2, 3/4, or one percent.

(f) Prohibits a district from adopting a sales and use tax rate, including a rate increase, that 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) Provides that 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. Requires a municipality located within the district that wishes to be served by district facilities to pay for construction of a commuter rail station.

SECTION 2. Effective date: September 1, 2007.