A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
RAILROADS

Submitted to the 81st Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
2009

Title 5, Transportation Code
FOREWORD

The Texas Legislative Council is required by law (Section 323.007, Government Code) to carry out a complete nonsubstantive revision of the Texas statutes. The process involves reclassifying and rearranging the statutes in a more logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practicable—all toward promoting the stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law.

Under the classification scheme adopted by the council, the statutes will eventually consist of 27 codes. To date, the council has produced and the legislature has enacted the Agriculture Code, Alcoholic Beverage Code, Business & Commerce Code, Civil Practice and Remedies Code, Education Code, Election Code (which was a substantive revision), Finance Code, Government Code, Health and Safety Code, Human Resources Code, Insurance Code, Labor Code, Local Government Code, Natural Resources Code, Occupations Code, Parks and Wildlife Code, Property Code, Special District Local Laws Code, Tax Code (Title 1 of which was a substantive revision), Transportation Code, Utilities Code, and Water Code. The council staff also assisted the state bar in the Business Organizations Code, Penal Code, and Family Code projects, which were substantive revisions, and revised miscellaneous criminal procedure provisions as Title 2 of the Code of Criminal Procedure.

Title 5, Transportation Code, is a nonsubstantive revision of the Texas statutes relating to railroads, specifically statutes in Title 112, Revised Statutes. Titles 1, 2, 3, 4, 6, and 7, Transportation Code, were enacted in 1995 as the first revision of Texas statutes relating to transportation; the statutes relating to railroads were not codified at that time because many of those statutes were archaic and preempted by federal law. Title 5 was reserved for the eventual codification of railroad statutes. In 2007 the 80th Legislature repealed many of the archaic and preempted railroad statutes by enacting H.B. 3711 (Chapter 1115, Acts of the 80th Legislature, Regular Session, 2007).

When the revision of Title 5, Transportation Code, is complete, the title will be divided into subtitles, chapters, subchapters, and sections. Sections will be numbered decimally, and the number to the left of the decimal point is the same as the chapter number. Note that gaps in chapter and section numbering are for future expansion.

In addition to the codification of railroad statutes in Title 5, Transportation Code, this revision includes a codification of statutes governing the Railroad Commission of Texas that were located in Title 112, Revised Statutes. Because the Railroad Commission no longer regulates railroads, the statutes relating to the commission were codified in an existing chapter of the Natural Resources Code, Chapter 81, which contains similar provisions governing the commission. Similarly, a small number of statutes in Title 112, Revised Statutes, were placed in other existing chapters of the Transportation Code and in one title of the Revised Statutes.
to align those provisions with other statutes of a similar nature and subject.

The revisor's report reflects Title 5, Transportation Code, and additional related provisions as enacted by the passage of S.B. 1540, Acts of the 81st Legislature, Regular Session, 2009. The revisor's report states the Revised Law, which is the text of the new law, and then provides the Source Law, which is the text of the former law from which the revised law is derived. If further explanation of either the revised law or the source law is required, a Revisor's Note is included after the source law. All substance in the source law is revised in the revised law or the reason for its omission is explained in a revisor's note.

Note that, to provide all affected parties a complete legislative cycle to more closely review the revision, Title 5, Transportation Code, and the additional related provisions will not take effect until April 1, 2011.

Because of the extensive reorganization of many statutes, and even of sentences within a statute, it may be helpful to refer to the source law as printed in Title 112, Revised Statutes, as it existed before the revision (so that the quoted source law may be seen in its former context) and to the disposition table (showing where the former statutes appear, as revised, in the code). The disposition table is printed as Appendix C to the revisor's report.

The revision required conforming amendments to several statutes. These conforming amendments, which were also enacted into law by the passage of S.B. 1540, are printed in Appendix A to the revisor's report. Appendix A also includes a section listing the laws repealed effective April 1, 2011, and a section stating the legislature's intent that the code be a nonsubstantive revision.

In reviewing the revisor's report to Title 5, Transportation Code, and the additional related provisions, the reader should keep in mind the following:

(1) Except as specifically provided in the codification, the Code Construction Act (Chapter 311, Government Code) applies to the Transportation Code. That act sets out certain principles of statutory construction applicable to new codes and also provides some definitions. The act is printed as Appendix B to the revisor's report.

(2) The proposed code is written in modern American English. Where possible, the present tense is used; the active rather than the passive voice is preferred; and the singular is used in preference to the plural.

(3) This is a nonsubstantive revision. The staff's authority does not include improving the substance of law. The sole purpose of this project was to compile all the relevant law, arrange it in a logical fashion, and rewrite it without altering its meaning or legal effect. If a particular source statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity was preserved.

This project was under the direction of Jennifer Stewart, Legislative Counsel, of the council staff. Questions may be directed to her at P.O. Box 12128, Capitol Station, Austin, Texas 78711, or at telephone number (512) 463-1155.
TRANSPORTATION CODE

TITLE 5. RAILROADS

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 81. GENERAL PROVISIONS

[Chapters 82-90 reserved for expansion]

SUBTITLE B. STATE RAIL FACILITIES (FORMERLY "SUBTITLE A: TEXAS DEPARTMENT OF TRANSPORTATION")*

CHAPTER 91. RAIL FACILITIES*

[Chapters 92-110 reserved for expansion]

SUBTITLE C. RAILROADS GENERALLY

CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

[Chapters 113-130 reserved for expansion]

SUBTITLE D. MISCELLANEOUS RAILROADS

CHAPTER 131. MISCELLANEOUS RAILWAYS

[Chapters 132-170 reserved for expansion]

SUBTITLE I. SPECIAL DISTRICTS*

CHAPTER 171. FREIGHT RAIL DISTRICTS*

CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

CHAPTER 174. COMMUTER RAIL DISTRICTS

*Denotes provisions that existed in Title 5, Transportation Code, before the revision.
TRANSPORTATION CODE

TITLE 5. RAILROADS

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS

Sec. 81.002. APPLICABILITY

Revised Law

Sec. 81.001. DEFINITIONS. In this title:

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

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

Revisor's Note

The definitions of "commission" and "department" are added to the revised law for drafting convenience and to avoid frequent, unnecessary repetition of the substance of the definitions.

Revised Law

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

Source Law

Art. 6259a. In this title, a reference to a railroad corporation or a railroad company means:

(1) a railroad incorporated under this title before September 1, 2007; or

(2) any other legal entity operating a railroad in this state, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business Organizations Code.
Revisor's Note
V.A.C.S. Article 6259a defines "railroad corporation" to include any legal entity operating a railroad. Throughout the proposed law, the revised law substitutes "railroad company" for "railroad corporation" because "company" is a broader term that encompasses more of the legal entities that may operate a railroad.

Revisor's Note
(End of Subtitle)

The revised law redesignates an existing Subtitle A of Title 5, "Texas Department of Transportation," as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, as Subtitle B of Title 5 and changes the heading of that subtitle to "State Rail Facilities."

SUBTITLE C. RAILROADS GENERALLY

CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A. GENERAL PROVISIONS

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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.)

*Revised Law*

To ensure that no substantive change is made by the revision of the term "person" as used in Title 112, Revised Statutes, the revised law adds a provision stating that the term "person" includes a corporation, as provided by Section 312.011, Government Code, and the definition of "person" in Section 311.005, Government Code, does not apply. Section 312.011(10), Government Code, which applies to Title 112, provides that "person" includes a corporation. Section 311.005(2), Government Code (Code Construction Act), which applies to the Transportation Code, defines "person" to include a "corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity."

*Revised Law*

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).)

Source Law

Art. 6445. (a) To the extent not preempted by federal law, the Texas Department of Transportation:

(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 corporations, private or municipal, owning or operating 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.

Revisor's Note

Subsection (a), V.A.C.S. Article 6445, refers to the Texas Department of Transportation. Section 81.001, Transportation Code, defines "department" to mean the Texas Department of Transportation for the purposes of Title 5, Transportation Code.

Revised Law

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).)
(b) All powers and duties of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads are transferred to the Texas Department of Transportation.

Revised Law

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).)

Source Law

(c) A reference in law to the Railroad Commission of Texas that relates primarily to railroads and the regulation of railroads means the Texas Department of Transportation.

Revisor's Note

Subsection (c), V.A.C.S. Article 6445, states that a reference in law to the Railroad Commission of Texas that relates primarily to railroads and the regulation of railroads means the Texas Department of Transportation. Throughout Title 5, the revised law substitutes references to the Texas Department of Transportation for references to the Railroad Commission of Texas in the context of railroads and their regulation.

Revisor's Note

V.A.C.S. Article 6446 provides that the railroad commission has the authority to perform acts and duties imposed on it by Title 112, Revised Statutes, and that railroads, persons, corporations, and associations subject to the commission's control are subject to the penalties provided by law for failure to comply with the commission's rules, orders, directions, or requirements. The revised law omits the provisions because the specific provisions of Title 112, Revised Statutes, codified in this code as this subtitle and Subtitle D and codified in the
Natural Resources Code in Subchapters B, C, and D, Chapter 81, Natural Resources Code, are sufficient by their own terms to authorize an agency's actions or to subject persons under the agency's jurisdiction to liability under the appropriate circumstances. The omitted law reads:

Art. 6446. The Railroad Commission of Texas is hereby vested with full power and authority to do and perform each act and duty authorized, directed or imposed upon it by the provisions of this title, and all railroads, persons, corporations, and associations subject to the control of the Commission shall be subject to the penalties prescribed by law for failure to comply with the rules, orders, directions or requirements of said Commission as severally provided in this title.

[Sections 111.005-111.050 reserved for expansion]

SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

Revised Law

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
under this subsection is a misdemeanor punishable by a fine of not less than $125 or more than $500. (V.A.C.S. Arts. 6464, 6465, 6559i-1.)

Source Law

Art. 6464. The Commissioners or either of them, or such persons as they may authorize in writing under the hand and seal of the Commission, shall have the right at any time to inspect the books and papers of any railroad company and to examine under oath any officer, agent or employé of such railroad in relation to the business and affairs of the same.

Art. 6465. If any railroad shall refuse to permit such examination of its books and papers, such railroad company shall, for each offense, pay to the State of Texas not less than one hundred and twenty-five nor more than five hundred dollars for each day it shall so fail or refuse.

Art. 6559i-1. Any officer, agent or employé of any railroad company who shall, upon proper demand, fail or refuse to exhibit to any member of the Railroad Commission of Texas or any person authorized to investigate the same, any book or paper of such railroad company, which is in the possession or under the control of such officer, agent, or employé, shall be fined not less than one hundred and twenty-five dollars nor more than five hundred dollars.

Revisor's Note

(1) V.A.C.S. Article 6464 refers to "[t]he Commissioners or either of them," meaning the individual members of the governing body of the Railroad Commission of Texas. The revised law substitutes a reference to the individual members of the Texas Transportation Commission (defined for the purposes of the revised law as "the commission"), the governing body of the Texas Department of Transportation, since that agency assumed the powers and duties of the Railroad Commission of Texas under Subsection (b), V.A.C.S. Article 6445.

(2) V.A.C.S. Article 6559i-1 provides a penalty for railroad company officers, agents, and employees who refuse to permit the Railroad Commission of Texas to examine the company's books and papers. The revised law clarifies that the conduct is a misdemeanor criminal offense. Article 6559i-1 was transferred to
its current designation from Article 1684, Vernon's Annotated Penal Code, by authority of Chapter 399, Acts of the 63rd Legislature, Regular Session, 1973, which enacted the Texas Penal Code. Article 47, Vernon's Annotated Penal Code, which applied to Article 1684 before its transfer, stated that "[an] offense is an act or omission . . . to which is annexed . . . any punishment prescribed by this Code" and that every offense that was not "punishable by death or confinement in the penitentiary" was considered a misdemeanor. Section 5 of Chapter 399 provided that the transfer of articles from the old penal code to new locations in Texas statutes was to be done "without altering the meaning or effect" of the unrepealed statutes. Accordingly, the revised law classifies this conduct as a misdemeanor criminal offense and conforms the language to the way offenses punishable by a fine are described by the Penal Code.

Revised Law

Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT. (a) The department shall as often as necessary provide each railroad company a questionnaire designed to elicit all information concerning the railroad. (b) A railroad company receiving a questionnaire under Subsection (a) shall properly fill out the questionnaire and answer each question fully and correctly. A railroad company that is unable to answer a question shall give satisfactory reason for the inability to answer. (c) A railroad company shall return the completed questionnaire, sworn to by the proper officer of the company, to the department not later than the 30th day after the date the company received the questionnaire. (V.A.C.S. Art. 6467.)

Source Law

Art. 6467. The Commission shall as often as necessary furnish each railroad company suitable
blanks with questions formed so as to elicit all information concerning such railroads. Any railroad company receiving such blanks shall cause them to be properly filled out so as to answer fully and correctly each question therein propounded, and if they are unable to answer any question therein propounded, they shall give satisfactory reason for their failure; and the answers duly sworn to by the proper officer of the company, shall be returned to the Commission within thirty days from the receipt thereof.

Revisor's Note

V.A.C.S. Article 6467 requires that information provided by a railroad be "duly sworn to by the proper officer of the company." The revised law omits "duly" because it does not add to the clear meaning of the law.

Revised Law

Sec. 111.053. REFUSAL TO ANSWER BY RAILROAD COMPANY OFFICER OR EMPLOYEE; CRIMINAL PENALTY. (a) An officer or employee of a railroad company commits an offense if the officer or employee:

(1) fails or refuses to fill out and return a questionnaire to the department as required by law;

(2) fails or refuses to answer any question in a questionnaire;

(3) gives a false answer to any question in a questionnaire if the answer to the question is within the officer's or employee's knowledge; or

(4) evades the answer to any question in a questionnaire.

(b) An offense under this section is a misdemeanor punishable by a fine of $500 for each day that the officer or employee violates this section after the date the questionnaire is due to the department. (V.A.C.S. Art. 6559i-2.)

Source Law

Art. 6559i-2. If any officer or employé of a railroad company shall fail or refuse to fill out and return any blanks to said Railroad Commission as provided by law, or fail or refuse to answer any question therein propounded, or give a false answer to any such question, where the fact inquired of is within his knowledge, or shall evade the answer to any such question, such person shall be fined five hundred dollars for each day he shall fail to perform such duty, after the expiration of the time allowed by law
to so answer.

Revisor's Note

V.A.C.S. Article 6559i-2 imposes a fine on a railroad company officer or employee who fails to provide certain information to the Railroad Commission of Texas. The revised law clarifies that the conduct is a misdemeanor criminal offense. Article 6559i-2 was transferred to its current designation from Article 1685, Vernon's Annotated Penal Code, by authority of Chapter 399, Acts of the 63rd Legislature, Regular Session, 1973, which enacted the Texas Penal Code. Article 47, Vernon's Annotated Penal Code, which applied to Article 1685 before its transfer, stated that "[an] offense is an act or omission . . . to which is annexed . . . any punishment prescribed by this Code" and that every offense that was not "punishable by death or confinement in the penitentiary" was considered a misdemeanor. Section 5 of Chapter 399 provided that the transfer of articles from the old penal code to new locations in Texas statutes was to be done "without altering the meaning or effect" of the unrepealed statutes. Accordingly, the revised law classifies the conduct as a misdemeanor criminal offense and conforms the language to the way offenses punishable by a fine are described by the Penal Code.

Revised Law

Sec. 111.054. REFUSAL TO ANSWER BY RAILROAD COMPANY; PENALTY. (a) A railroad company is liable to the state for a penalty of $500 if:

(1) an officer or employee of the company:

(A) fails or refuses to fill out and return a questionnaire under Section 111.052;

(B) fails or refuses to answer a question in a questionnaire under Section 111.052;

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(C) gives a false answer to a question in a questionnaire under Section 111.052 and the fact inquired of is within the officer's or employee's knowledge; or

(D) evades the answer to such a question in a questionnaire under Section 111.052; and

(2) it appears that the officer or employee acted in obedience to the company's direction, permission, or request in the officer's or employee's failure, refusal, or evasion.

(b) The department may prescribe a system of bookkeeping to be observed by each railroad company that receives a questionnaire under Section 111.052, under the penalties of Subsection (a).

(V.A.C.S. Art. 6468.)

Source Law

Art. 6468. If any officer or employé of a railroad shall fail or refuse to fill out and return any blanks as above required, or fail or refuse to answer any questions therein propounded, or shall give a false answer to any such questions where the fact inquired of is within his knowledge, or shall evade the answer to any such questions, a penalty of five hundred dollars shall be recovered from the company by the State when it appears that such persons acted in obedience to its direction, permission or request in his failure, evasion or refusal. Said Commission shall have the power to prescribe a system of book-keeping to be observed by each railroad subject hereto, under the penalties prescribed in this article.

Revised Law

Sec. 111.055. WITNESSES. (a) This section applies only to the extent that it does not conflict with Chapter 2001, Government Code.

(b) In an examination or investigation under this chapter, the department may compel the attendance of witnesses and may issue subpoenas for witnesses in accordance with rules prescribed by the department. The officer to whom process is directed shall serve it.

(c) A witness who appears before the department by order of the department at a place outside the county where the witness resides is entitled to receive for the witness's attendance:

(1) $1 for each day; and

(2) three cents for each mile the witness travels, by
the nearest practical route, in going to and returning from that place.

(d) On the presentation of proper vouchers, sworn to by the witness and approved by the department, the comptroller shall pay the witness the amount to which the witness is entitled.

(e) A witness is not entitled to fees or mileage if, when summoned at the request of a railroad, the witness:

(1) is directly or indirectly interested in the railroad;

(2) is in any way interested in stock, a bond, a mortgage, or a security, or the earnings of the railroad; or

(3) was an officer, agent, or employee of the railroad.

(f) A witness furnished with free transportation may not receive pay for the distance the witness travels on the free transportation.

(g) The department may issue an attachment as in civil cases for a witness who fails or refuses to obey a subpoena and may compel the witness to appear before the department and testify on a matter as the department requires.

(h) If a witness, after being summoned, fails or refuses to attend or to answer a question asked of the witness that the witness would be required to answer if in court, the department may fine and imprison the witness for contempt in the same manner that a judge of the district court might do under similar circumstances.

(i) The claim that testimony might tend to incriminate the person giving the testimony does not excuse a witness from testifying, but the evidence or testimony may not be used against the witness in a criminal trial. (New; V.A.C.S. Art. 6471.)

Source Law

Art. 6471. In any examination or investigation provided in this chapter, the Commission is authorized and empowered to compel the attendance of witnesses, and may issue subpoenas for witnesses by such rules as they may prescribe, and such process shall be served by the officer to whom it may be directed. Each witness who shall appear before the Commission by order of the Commission, at a place outside the county of his
residence, shall receive for his attendance one dollar per day and three cents per mile traveled by the nearest practical route, in going to and returning from the place of meeting of the Commission, which shall be paid by the Comptroller upon the presentation of proper vouchers, sworn to by the witness, and approved by the Commission. No witness shall be entitled to fees or mileage who is directly or indirectly interested in a railroad, or who is in anywise interested in any stock, bond, mortgage, security or earnings of such road, or was an officer, agent or employé of such road when summoned at the instance of such railroad. No witness furnished with free transportation shall receive pay for the distance he may travel on such free transportation. The Commission may issue an attachment as in civil cases, for a witness who fails or refuses to obey a subpoena, and compel him to attend before the Commission and give his testimony upon such matter as shall be lawfully required by them. If a witness, after being duly summoned, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, the Commission may fine and imprison such witness for contempt, in the same manner that a judge of the district court might do under similar circumstances. The claim that any such testimony might tend to criminate the person giving it shall not excuse a witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

Revisor's Note

(1) V.A.C.S. Article 6471 addresses the appearance and reimbursement of witnesses who participate in an examination or investigation by the Railroad Commission of Texas. The revised law adds a provision clarifying that Article 6471 is only effective to the extent that it does not conflict with the Texas administrative procedure law, Chapter 2001, Government Code. The original enactment of the Administrative Procedure and Texas Register Act, Chapter 61, Acts of the 64th Legislature, Regular Session, 1975, repeals all conflicting law. Because the enactment of Article 6471 predates the administrative procedure law, the provisions of Article 6471 that conflict with that law are repealed.

(2) V.A.C.S. Article 6471 refers to an examination or investigation under "this chapter," meaning Chapter 11, Title 112, Revised Statutes. Although Article 6471 is not explicitly limited to
witnesses participating in an examination and
investigation of a railroad, the revised law limits
the provision's application to an examination or
investigation of a railroad and does not apply the
provision to an examination or investigation
associated with the railroad commission's regulation
of the oil and gas industry. Subsequent to the
enactment of the 1891 statute that was revised in 1925
as Article 6471, the legislature enacted Section 10,
Chapter 14, Acts of the 36th Legislature, 3rd Called
Session, 1920, which specifically addressed the
appearance of witnesses in an investigation or
examination associated with the oil and gas industry,
leaving Article 6471 to apply only to the railroad
commission's regulation of railroads.

(3) V.A.C.S. Article 6471 refers to a witness's
giving testimony on a matter as "lawfully" required by
the railroad commission. The revised law omits
"lawfully" as unnecessary because the word does not
add to the clear meaning of the law. A person need not
comply with an unlawful order. That article also
provides for a penalty if a witness, after being "duly"
summoned, fails or refuses to attend or to answer a
question that the witness would be required to answer
if in court. The revised law omits "duly" as
unnecessary for the same reason.

Revised Law
Sec. 111.056. DEPOSITIONS. (a) The department may in its
discretion issue process to take the testimony of a witness by a
written or oral deposition instead of compelling the personal
attendance of the witness.

(b) An officer executing process issued under a provision of
this subtitle or Subtitle D may charge a fee as determined by the
department, not to exceed fees prescribed by law for similar
services. (V.A.C.S. Art. 6472.)

Source Law

Art. 6472. The Commission may in its discretion issue proper process and take written or oral depositions instead of compelling personal attendance of witnesses. The fees of an officer executing any process issued under the provisions of this title shall be such as the Commission may allow, not to exceed fees as prescribed by law for similar services.

Revisor's Note

V.A.C.S. Article 6472 refers to process issued under the provisions of "this title," meaning Title 112, Revised Statutes. Throughout this subtitle, the revised law substitutes references to "this subtitle or Subtitle D" for references to Title 112 that relate to railroads because the provisions of that title relating to railroads have been codified in those locations.

Revised Law

Sec. 111.057. PENALTY NOT OTHERWISE PROVIDED. A railway company doing business in this state is liable to the state for a penalty of not more than $5,000 each time the railway company:

(1) violates any provision of this subtitle or Subtitle D or fails or refuses to perform any duty imposed upon it for which a penalty has not been provided by law; or

(2) fails, neglects, or refuses to obey any requirement, order, judgment, or decree of the department.

(V.A.C.S. Art. 6476.)

Source Law

Art. 6476. If any railway company doing business in this State shall violate any provision of this title, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided by law or shall fail, neglect or refuse to obey any lawful requirement, order, judgment or decree made by the Commission, for every such act of violation it shall pay to the State of Texas a penalty of not more than five thousand dollars.

Revisor's Note

(1) V.A.C.S. Article 6476 provides a penalty for a railway company if the company "shall violate any
provision of this title, or shall do any act herein prohibited." The revised law omits "shall do any act herein prohibited" because performing an act prohibited by the title would be a violation of a provision of the title.

(2) V.A.C.S. Article 6476 refers to "lawful requirement, order, judgment or decree." The revised law omits the reference to "lawful" for the reason stated in Revisor's Note (3) to Section 111.055.

Revised Law

Sec. 111.058. SUITS FOR PENALTY. (a) For a penalty provided under this chapter that is recoverable by the state, the attorney general, or an attorney acting under the direction of the attorney general, may bring suit in the name of the state in:

(1) Travis County; or
(2) any county in or through which the railroad runs.

(b) The attorney bringing a suit under this section is entitled to receive:

(1) a fee to be paid by the state of $50 for each penalty recovered and collected by the attorney; and
(2) 10 percent of the amount collected.

(c) In all suits arising under this chapter or Section 112.003, the rules of evidence shall be the same as in ordinary civil actions, except as otherwise provided by this chapter.

(V.A.C.S. Art. 6477 (part).)

Source Law

Art. 6477. All of the penalties herein provided, except as provided in Article 6475, recoverable by the State shall be recovered and suits thereon shall be brought by the Attorney General or under his direction in the name of the State of Texas, in Travis County, or in any county into or through which such railroad may run; and the attorney bringing such suit shall receive a fee to be paid by the State of fifty dollars for each penalty recovered and collected by him, and ten percent of the amount collected. In all suits arising under this chapter, the rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. . . .
Revisor's Note

(1) V.A.C.S. Article 6477 establishes venue for the state to recover from a railroad the penalties provided "herein," meaning Chapter 11, Title 112, "except as provided in Article 6475." The revised law omits the quoted exception because Article 6475 (codified as Section 112.003) addresses damages recoverable from a railroad as opposed to a penalty against a railroad, so the exception is unnecessary.

(2) V.A.C.S. Article 6477 requires fines and penalties recovered by the state under Chapter 11, Title 112, Revised Statutes, to be paid into the state treasury. The revised law omits the provision as unnecessary because under Section 404.094, Government Code, all fines and penalties received by a state agency are required to be deposited in the state treasury. The omitted law reads:

Art. 6477. . . . All fines and penalties recovered by the state under this chapter shall be paid into the State Treasury; provided . . . .

[Sections 111.059-111.100 reserved for expansion]

SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

Revised Law

Sec. 111.101. IMPLEMENTATION OF FEDERAL SAFETY LAWS; FEES.


(b) The department by rule shall:

(1) adopt reasonable fees to be assessed annually against railroads operating within the state; and

(2) establish the method by which the fees are calculated and assessed.
(c) The total amount of fees estimated to be collected by rules adopted by the department under this section may not exceed the amount estimated by the department to be necessary to recover the costs of administering the department's rail safety program.

(d) In adopting a fee structure, the department may consider the gross ton miles for railroad operations within this state for each railroad operating in the state to provide for the equitable allocation among railroads of the cost of administering the department's rail safety program.

(e) A fee collected under this section shall be deposited to the credit of the general revenue fund to be used for the rail safety program. (V.A.C.S. Art. 6448a.)

Source Law

Art. 6448a
Sec. 1. The Railroad Commission of Texas is hereby authorized to perform any act and issue any rules and orders as permitted by the Federal Railroad Safety Act of 1970 (45 U.S.C.A. 431 et seq.).

Sec. 2. (a) The Railroad Commission of Texas by rule shall adopt reasonable fees to be assessed annually against railroads operating within the state.

(b) The commission by rule shall establish the method by which the fees are calculated and assessed.

(c) The total amount of fees estimated to be collected by rules adopted by the commission under this section may not exceed the amount estimated by the commission to be necessary to recover the costs of administering the commission's rail safety program.

(d) In adopting a fee structure, the commission may consider the gross ton miles for railroad operations within the State of Texas for each railroad operating in the state to provide for the equitable allocation among railroads of the cost of administering the commission's rail safety program.

(e) A fee collected under this section shall be deposited to the credit of the general revenue fund to be used for the rail safety program.

Revisor's Note

(1) V.A.C.S. Article 6448a allows the railroad commission to "issue any rules." The revised law substitutes "adopt" for "issue" in the context of rules for consistency with terminology used in the Texas administrative procedure law, Chapter 2001, Government Code, and specifically Subchapter B of that chapter, which addresses rulemaking by state agencies.

(2) V.A.C.S. Article 6448a refers to "the
with other federal railroad laws, was recodified in
1994 by Pub. L. No. 103-272 in Subtitle 5 of Title 49,
United States Code. The revised law cites the
recodified sections of the Federal Railroad Safety Act
of 1970 as identified in the definition of "Federal
railroad safety laws" in 49 C.F.R. Section 209.3.

Revised Law

Sec. 111.102. HAZARDOUS MATERIALS INSPECTIONS. (a) The
department may enter private property on which a railroad facility
that is connected to but not a part of a general railroad system of
transportation is located at a reasonable time and in a reasonable
manner to perform an inspection, investigation, or surveillance of
facilities, equipment, records, and operations relating to the
packaging, loading, or transportation of hazardous materials to
determine whether the railroad facility complies with the
applicable safety requirements of this chapter or a rule adopted
under this chapter.

(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.)

Source Law

Art. 6448b
Sec. 1. The Railroad Commission of Texas may
enter private property on which a railroad facility
that is connected to but not a part of a general
railroad system of transportation is located at a
reasonable time and in a reasonable manner to perform
an inspection, investigation, or surveillance of
facilities, equipment, records, and operations
relating to the packaging, loading, or transportation
of hazardous materials to determine whether the
railroad facility complies with the applicable safety
requirements of this chapter or rules adopted under
this chapter.

Sec. 2. In performing an inspection under this
article, the commission may not require a railroad
facility owner or operator to alter or cease rail
operations.

Sec. 3. Any inspection, investigation, or
surveillance performed on the site of a manufacturing
facility shall be performed in compliance with the
safety rules or regulations of the facility, including
security clearance at the front gate if appropriate.

Revisor's Note

Section 3, V.A.C.S. Article 6448b, refers to
"rules or regulations." The revised law omits the
reference to "regulations" because Section 311.005,
Government Code (Code Construction Act), defines
"rule" to include "regulation."

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CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

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.)

Revisor's Note

To ensure that no substantive change is made by the revision of the term "person" as used in Title 112, Revised Statutes, the revised law adds a provision stating that the term "person" includes a corporation,
as provided by Section 312.011, Government Code, and
the definition of "person" in Section 311.005, Government Code, does not apply. Section 312.011(10), Government Code, which applies to Title 112, provides
that "person" includes a corporation. Section 311.005(2), Government Code (Code Construction Act), which applies to the Transportation Code, defines
"person" to include a "corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership,
association, and any other legal entity."

Revised Law
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.)
Art. 6341. Railroad corporations shall have the following other rights:

1. To have succession, and in their corporate name may sue and be sued, plead and be impleaded.
2. To have and use a seal, which it may alter at pleasure.
3. To receive and convey persons and property on its railway by the power and force of steam, or by any mechanical power.
4. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor, subject to the provisions of law.
5. Of eminent domain for the purposes prescribed in this title.
6. To purchase, hold and use all such real estate and other property as may be necessary for the construction and use of its railway, stations and other accommodations necessary to accomplish the objects of its incorporation, and to convey the same when no longer required for the use of such railway.
7. To take, hold and use such voluntary grants of real estate and other property as shall be made to it in aid of the construction and use of its railway, and to convey the same when no longer required for the uses of such railway, in any manner not incompatible with the terms of the original grant.

Reviser's Note

V.A.C.S. Article 6341 refers to "real estate and other property." The revised law omits the reference to "real estate" because under Section 311.005, Government Code (Code Construction Act), "property" includes both real and personal property.

Revised Law

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.)

Source Law

Art. 6475. If any railroad subject to this title shall do, cause or permit to be done any matter, act or thing prohibited or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, such railroad shall be liable to the person or persons, firm or corporation injured thereby
for the damages sustained in consequence of such violation.

Revisor's Note

(1) V.A.C.S. Article 6475 refers to a "matter, act or thing" done, caused, or permitted to be done by a railroad. The revised law omits the reference to "matter" because, in the context of this phrase, "matter" is included in the meaning of "act or thing."

(2) V.A.C.S. Article 6475 refers to an "act, matter or thing" that a railroad is required but omits to do. The revised law omits the references to "matter" and "thing" because in the context of this phrase, "matter" and "thing" are included within the meaning of "act."

(3) V.A.C.S. Article 6475 refers to "person or persons." The revised law omits the reference to "persons" because under Section 311.012(b), Government Code (Code Construction Act), a reference to the singular includes the plural.

[Sections 112.004-112.050 reserved for expansion]

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

Revised Law

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.)

Source Law

Art. 6318. Every railroad corporation shall
have the right to cause such examination and survey for
its proposed railway to be made as may be necessary to
the selection of the most advantageous route, and for
such purpose may enter upon the lands or waters of any
person or corporation, but subject to responsibility
for all damages that may be occasioned thereby.

Art. 6337. No railroad company shall enter
upon, except for a lineal survey, any real estate
whatever, the same being private property, for the
purpose of taking and condemning the same, or any
material thereon, for any purpose whatever, until the
said company shall agree with and pay the owner thereof
all damages that may be caused to the lands and
property of said owner by the condemnation of said real
estate and property, and by the construction of such
road.

Revisor's Note

(1) V.A.C.S. Article 6337 refers to the "taking
and condemning" of property. The revised law omits
"taking" because, in the context of the source law, the
meaning of that term is included in the meaning of
"condemning."

(2) V.A.C.S. Article 6337 refers to damages
caused to "lands and property." The revised law omits
the reference to "lands" because the meaning of that
term is included in the meaning of "property."

Revised Law

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.)

Source Law
Art. 6351. A railroad corporation or a receiver
of a railroad that changes, relocates, or abandons a
line of railroad in this State may acquire by
condemnation or otherwise all lands for right of way,
depot grounds, shops, roundhouses, water supply sites,
sidings, switches, spurs or any other purposes
connected with or necessary to the building, operating
or running of the railroad, as changed, relocated or
abandoned; provided that property acquired under this
article is declared for and charged with public use.

Revisor's Note
V.A.C.S. Article 6351 refers to the "operating or
running" of a railroad. The revised law omits
"running" because the meaning of that term is included
in the meaning of "operating."

Revised Law
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.)

Source Law

Art. 6336. (a) A railroad corporation may acquire property by condemnation if the corporation cannot agree with the owner for the purchase of the property and the property is required for the following purposes:
(1) the incorporation of the railroad;
(2) the transaction of railroad corporation 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 road bed;
(8) shortening a line;
(9) reducing grades;
(10) double tracking the railroad or constructing and operating tracks; or
(11) any other purpose connected with or necessary to the building, operating, or running of the railroad.

(b) A railroad corporation may not condemn property under this article that is located more than two miles from the right of way of the railroad corporation.

Revised Law

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 company under this subtitle or Subtitle D, including Section 112.052 or 112.053, does not apply to any property used for or designated under local zoning regulations for residential use unless the use of the condemned property is authorized under or in conformity with local zoning or development regulations. (V.A.C.S. Art. 6336a.)

Source Law

Art. 6336a. (a) This article applies only to the condemnation of property for a terminal switching railroad handling fewer than 10,000 but more than 3,000 carloads a year that operates in a single county with a population of 110,000 or more that is not adjacent to the Texas border and does not contain a portion of a national forest.

(b) The power to condemn property given to a railroad company under this title, including Articles 6316a, 6336, and 6351, does not apply to any property used for or designated under local zoning regulations for residential use unless the use of the condemned property is authorized under or in conformity with local zoning or development regulations.

Revisor's Note

V.A.C.S. Article 6336a refers to a railroad company's power to condemn property under Title 112, Revised Statutes, including Article 6316a. The revised law omits the reference to Article 6316a because that article was repealed by Chapter 1115, Acts of the 80th Legislature, Regular Session, 2007.

Revised Law

Sec. 112.055. RIGHT-OF-WAY ACQUIRED BY CONDEMNATION. (a) A right-of-way that a railway company in this state acquires by condemnation does not include a fee simple estate in public or private land.

(b) A right-of-way that a railway company acquires by condemnation is not lost on forfeiture or expiration of the railway company's charter. The right-of-way remains subject to an extension of the charter or the grant of a new charter, and a new condemnation of the way is not required. (V.A.C.S. Art. 6339.)
Art. 6339. The right of way secured by condemnation to any railway company in this State shall not be construed to include the fee simple estate in lands, either public or private, nor shall the same be lost by forfeiture or expiration of the charter, but shall remain subject to an extension of the charter or the grant of a new charter over the same way without a new condemnation.

Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS.

(a) Subject to Subsection (b), a corporation created to build, maintain, and operate a line of railroads to a mine, gin, quarry, manufacturing plant, or mill may acquire by condemnation land necessary for the right-of-way for a road connecting the mine, gin, quarry, manufacturing plant, or mill to the nearest line of railroad.

(b) The corporation may condemn property under this section only if the corporation declares itself a common carrier and its railroads public highways, placing the road under the control of the department. (V.A.C.S. Art. 6550.)

Art. 6550. Corporations created to build, maintain and operate a line of railroads to mines, gins, quarries, manufacturing plants, and mills, shall have the right to condemn land necessary for the right of way for such road from and between such mines, gin, quarry, manufacturing plant or mill and the nearest line of railroad, provided, that no such corporation shall have said right of eminent domain until it shall declare itself a public highway and common carrier, thus placing said road under the control of the Railroad Commission.

V.A.C.S. Article 6550 requires a railroad corporation to "declare itself a public highway and common carrier" before it may condemn certain land. The revised law substitutes "declares itself a common carrier and its railroads public highways" to conform to the language of Section 2, Article X, Texas Constitution, which declares railroads constructed in this state to be public highways and railroad companies common carriers.
Sec. 112.057. CONSTRUCTION ON OR NEAR CERTAIN WATERWAYS OR ROADS. (a) A railroad company may construct the company's road across, along, or on any stream of water, water course, street, highway, turnpike, or canal where the route of the company's railway intersects or touches the stream, water course, street, highway, turnpike, or canal.

(b) The railroad company shall:

(1) restore the stream, water course, street, highway, turnpike, or canal to its former state or to a state in which its usefulness is not unnecessarily impaired; and

(2) keep the crossing in repair. (V.A.C.S. Art. 6320.)

Art. 6320. Such corporation shall have the right to construct its road across, along, or upon any stream of water, water course, street, highway, plank road, turnpike, or canal when the route of said railway shall intersect or touch; but such corporation shall restore the stream, water course, street, highway, plank road, turnpike, or canal thus intersected or touched, to its former state, or to such state as not to unnecessarily impair its usefulness, and shall keep such crossing in repair.

Revisor's Note

(1) V.A.C.S. Article 6320 refers to "[such] corporation," referring to a "railroad corporation." The revised law substitutes a reference to "railroad company" for the reference to "corporation" for the reason stated in the revisor's note to Section 81.002.

(2) V.A.C.S. Article 6320 refers to a "plank road" among other types of roads and ways. The revised law omits the reference to a "plank road" because that type of road, common in the United States in the first half of the 19th century, is obsolete, and a way previously covered by a plank road, if still in use, would be covered by another type of surface.

Sec. 112.058. INTERSECTION OF RAIL LINE AND ROAD OR STREET.
Sections 112.051, 112.053, 112.054, 112.055, 112.057, 112.059, and 112.061 do not affect a law that requires a railroad company to provide a proper crossing at each intersection of a road or street. (V.A.C.S. Art. 6326.)

Source Law

Art. 6326. Nothing in this chapter shall be construed to affect the law requiring railroad companies to provide proper crossings at intersection of all roads and streets.

Revised Law

Sec. 112.059. CROSSINGS OF PUBLIC ROADS. (a) Each railroad company in this state shall place and keep the portion of the company's roadbed and right-of-way over or across which a public county road runs in proper condition for the use of the traveling public.  

(b) A railroad company is liable for a penalty of $10 for each week the company does not comply with the requirements of this section if:  

(1) the overseer of a public road gives written notice to the company's person responsible for maintaining the area where the work is needed; and  

(2) the company fails to complete the work or repairs within 30 days after the date written notice is given under Subdivision (1).  

(c) A county attorney, on the making of an affidavit of the facts by any person, shall immediately institute a suit against the railroad company to recover the penalty provided by this section. A county attorney's wilful failure or refusal to comply with this subsection is sufficient cause for the county attorney to be removed from office unless it is evident that the suit could not have been maintained.  

(d) A proceeding under this section shall be conducted in the name of the county and in the same manner as a proceeding in a civil suit.  

(e) A county attorney is entitled to a fee of $10, taxed as costs, for each suit maintained by the county attorney under this
section. If two or more penalties are sought in the same suit only
one fee may be recovered under this subsection.

(f) If the county is cast in the suit, the county may not be
charged costs.

(g) A penalty collected under this section shall be
deposited in the road and bridge fund of the county in which the
suit is brought. (V.A.C.S. Art. 6327.)

Source Law

Art. 6327. Every railroad company in this State
shall place and keep that portion of its roadbed and
right of way, over or across which any public county
road may run, in proper condition for the use of the
traveling public, and in case of its failure to do so
for thirty days after written notice given to the
section boss of the section where such work or repairs
are needed by the overseer of such public road, it
shall be liable to a penalty of ten dollars for each
week such railroad company may fail or neglect to
comply with the requirements of this article. Such
penalty shall go to the road and bridge fund of the
county in which the suit is brought; and the county
attorney, upon the making of an affidavit of the facts
by any person, shall at once institute against the
company violating any provision of this article suit
in the proper court to recover such penalty or
penalties, and his wilful failure or refusal to do so
shall be sufficient cause for his removal from office,
unless it is evident that such suit could not have been
maintained. The proceedings under this article shall
be conducted in the same manner as civil suits. The
county attorney attending to such suits shall be
entitled to a fee in each case of ten dollars, to be
taxed as costs; provided, that when two or more
penalties are sought to be recovered in the same suit,
but one such fee shall be allowed. Such suits shall be
conducted in the name of the county, and if the county
be cast in the suit no costs shall be charged against
it.

Revisor's Note

(1) V.A.C.S. Article 6327 refers to a "section
boss" of a "section" of a railroad where work or
repairs are needed. Because the term "section boss" is
no longer commonly used in the railroad business, the
revised law substitutes language generically
describing the person referred to in the source law as
a "section boss" according to the function performed
by that person as "the company's person responsible for
maintaining the area" where the work or repairs are
needed.
(2) V.A.C.S. Article 6327 requires a county attorney to file a suit "in the proper court" under certain circumstances. The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over a matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

**Revised Law** Sec. 112.060. CONVERSION OF PROPERTY IN CUSTODY OF RAILROAD COMPANY. (a) A railroad company in this state or a receiver of a railroad company in this state may not confiscate or otherwise convert to the company's or receiver's own use, in whole or in substantial part, a carload shipment of any article or commodity of freight traffic received by the company or receiver for transportation and delivery without the express consent of the owner or consignee of the shipment.

(b) An act of an agent, officer, or employee of a railroad company or receiver under this section that is within the apparent scope of the agent's, officer's, or employee's duties or authority with respect to the confiscation or conversion is considered to be an act of the company or receiver.

(c) This section does not apply to a conversion of freight that has been damaged or intermingled with other freight in wrecks, or to refused or unclaimed freight, that the railroad is unable to deliver.

(d) In addition to all other remedies or penalties that may be provided by law, a railroad company or receiver that violates this section is subject to:

(1) a penalty in favor of the state of not less than $125 or more than $500; and

(2) an additional penalty in favor of the owner or consignee of the converted shipment equal to twice the amount of the
purchase price of the converted shipment. (V.A.C.S. Arts. 6366, 6367.)

Source Law

Art. 6366. No railroad company or receiver thereof, in this State shall confiscate, or otherwise convert to its own use, any carload shipment or substantial portion of any such carload shipment of any article or commodity of freight traffic received by it, or them, for transportation and delivery, without the express consent of the owner or consignee thereof, and the acts of the agents, officers and employés of such carrier or receiver within the apparent scope of their duties or authority with respect to such conversion or confiscation shall be deemed to be the acts of such railway company, receiver or other carrier. The provisions of this article shall not apply to conversion of freight where the same has been damaged or intermingled with other freight in wrecks, nor to refused or unclaimed freight, the delivery of which the railroad is unable to effect.

Art. 6367. In addition to all other remedies or penalties that may be provided by law therefor, the violation of any provision of the preceding article shall subject the railway company, or receiver or other common carrier so offending to a penalty of not less than one hundred and twenty-five nor more than five hundred dollars in favor of the State of Texas, and a further penalty of twice the amount of the purchase price of the converted shipment in favor of the owner or consignee thereof.

Revisor's Note

(1) V.A.C.S. Article 6366 prohibits the conversion of a carload shipment by a "railroad company or receiver thereof." The article later states that an act of the agents, officers, and employees of "such carrier or receiver" within the scope of that person's duties or authority relating to the shipment are considered the acts of the "railway company, receiver or other carrier." The revised law substitutes "railroad company or receiver" for "such carrier or receiver" and "railway company, receiver or other carrier" for consistency within the provision and since the provision prohibits the conversion of shipments only by a railroad company or a railroad company's receiver.

(2) V.A.C.S. Article 6367 imposes a penalty on a "railway company, or receiver or other common carrier"
that violates Article 6366. The revised law substitutes "railroad company or receiver" for the quoted language since Article 6366 prohibits the conversion of shipments only by a railroad company or a railroad company's receiver.

Revised Law
Sec. 112.061. SUIT INVOLVING RAILROAD COMPANY PROPERTY.
(a) If a railroad company is sued for property occupied by the company for railroad purposes or for damages to property occupied by the company for railroad purposes, the court in which the suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, on petition or cross bill by the defendant requesting that remedy.

(b) A plea for condemnation under Subsection (a) is considered an admission of the plaintiff's title to the property.

(V.A.C.S. Art. 6338.)

Source Law
Art. 6338. When any railroad company is sued for any property occupied by it for railroad purposes, or for damages thereto, the court in which such suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, upon petition or cross bill, asking such remedy by defendant, but the plea for condemnation shall be an admission of the plaintiff's title to such property.

Revised Law
Sec. 112.062. RAILROAD COMPANY PROPERTY SUBJECT TO EXECUTION; CHARACTERIZATION OF ROLLING STOCK. (a) All or any part of a railroad company's real and personal property is subject to execution and sale in the same manner as the property of individuals.

(b) No portion of a railroad company's real or personal property is exempt from execution and sale.

(c) The rolling stock and all other movable property belonging to a railroad company is considered personal property.

(V.A.C.S. Art. 6420.)
Art. 6420. The rolling stock and all other movable property belonging to any railroad company or corporation shall be considered personal property. Its real and personal property or any part thereof shall be liable to execution and sale in the same manner as the property of individuals, and no such property shall be exempt from execution and sale.

[Sections 112.063-112.100 reserved for expansion]

SUBCHAPTER C. SAFETY

Sec. 112.101. CATTLE GUARDS. (a) A railroad company whose railroad passes through a field or enclosure shall construct and keep in good repair a good and sufficient cattle guard or stop at each location the railroad enters the field or enclosure.

(b) If a field or enclosure through which a railway passes is enlarged or extended, or the owner of any land over which a railway runs clears and opens a field so as to include the track of a railway, the railroad company shall construct and keep in repair good and sufficient cattle guards or stops at the borders of the extended enclosures or fields or the new fields.

(c) A cattle guard or stop required by this section shall be constructed and kept in repair to protect the fields and enclosures from the depredations of stock of any kind.

(d) If a railroad company fails to construct and keep in repair a cattle guard or stop required by this section, the owner of the enclosure or field may:

(1) have the required cattle guards or stops constructed at the proper places and kept in repair; and

(2) recover from the company the costs of constructing or repairing the required cattle guards or stops, unless it is shown that the enlargement or extension was made capriciously and with intent to harass and molest the company.

(e) A railroad company that neglects to construct or keep in repair a proper cattle guard or stop as required by this section is liable to a party injured by the neglect for all damages that may result from the neglect. The injured party may seek to recover the
damages by filing suit. (V.A.C.S. Art. 6400.)

Source Law

Art. 6400. Every railroad company whose railroad passes through a field or inclosure, shall place a good and sufficient cattle-guard or stop at the points of entering such field or inclosure, and keep them in good repair. If such field or inclosure shall be enlarged or extended, or the owner of any land over which a railway runs shall clear and open a field so as to embrace the track of a railway, such railroad company shall place good and sufficient cattle-guards or stops at the margins of such extended inclosures or fields or such new fields and keep the same in repair. Such cattle-guards or stops shall be so constructed and kept in repair as to protect such fields and inclosures from the depredations of stock of every description. If such company fails to construct and keep in repair such cattle-guards and stops, the owner of such inclosure or field may have such cattle-guards and stops placed at the proper places and kept in repair, and may recover the costs thereof from such railroad company, unless it be shown that said enlargement or extension was made capriciously and with intent to annoy and molest such company. If any company neglects to construct the proper cattle-guards and stops and keep the same in repair as required in this article, such company shall be liable to the party injured by such neglect for all damages that may result from such neglect, to be recovered by suit.

Revised Law

Sec. 112.102. LIABILITY FOR DEATH OR INJURY TO STOCK. (a) Subject to Subsection (b), a railroad company is liable to the owner for the value of all stock killed or injured by the company's locomotives and cars operating over the company's railways, regardless of whether the county or subdivision of a county in which the death or injury occurs has, under Subchapter B or D, Chapter 143, Agriculture Code, prohibited certain animals from running at large.

(b) A railroad company that fences its railway is liable only for injury to stock that results from a want of ordinary care. (V.A.C.S. Art. 6402.)

Source Law

Art. 6402. Each railroad company shall be liable to the owner for the value of all stock killed or injured by the locomotives and cars of such railroad company in running over their respective railways. Such liability shall also exist in counties and subdivisions of counties which adopt the stock law prohibiting the running at large of horses, mules, jacks, jennets and cattle. If said company fence its road it shall only be liable for injury resulting from a want of ordinary care.
Revisor's Note

V.A.C.S. Article 6402 refers to "the stock law prohibiting the running at large of horses, mules, jacks, jennets and cattle." The prohibition of the running at large of horses, mules, jacks, and jennets has been codified as Subchapter B, Chapter 143, Agriculture Code, and the prohibition of the running at large of cattle has been codified in Subchapter D of the same chapter. The revised law is drafted accordingly. The revised law substitutes "certain animals" for the list of specific animals for simplicity, and because the law prohibiting horses, mules, jacks, and jennets from running at large was amended in 1953 to include prohibitions against other animals running at large.

Revised Law

Sec. 112.103. DUTY TO STOP AND RENDER AID; OFFENSE. (a) In this section, "operator" means the person assigned by a railroad company to be responsible for the operation of a train.

(b) An operator who is involved, while operating a locomotive, in an accident resulting in injury to or death of a person or damage to a vehicle that is driven or attended by a person shall immediately stop the locomotive at the scene of the accident.

(c) The operator shall render to a person injured in the accident reasonable assistance, including transporting, or the making of arrangements for transporting, the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if the injured person requests transportation.

(d) A person who violates this section commits an offense. An offense under this subsection is a Class C misdemeanor.

(V.A.C.S. Art. 6419b; New.)

Source Law

Art. 6419b
Sec. 1. The person assigned by a railroad 82C150 JTS-D
corporation to be responsible for the operation of the
train who is involved, while operating a locomotive,
in an accident resulting in injury to or death of any
person or damage to any vehicle that is driven or
attended by a person shall immediately stop the
locomotive at the scene of the accident.
Sec. 2. The person responsible for the
operation of the train shall render to any person
injured in the accident reasonable assistance,
including the carrying, or the making of arrangements
for the carrying, of the person to a physician,
surgeon, or hospital for medical or surgical treatment
if it is apparent that treatment is necessary or if the
carrying is requested by the injured person.
Sec. 3. A person who violates this article
commits an offense. An offense under this article is a
Class C misdemeanor.

Revisor's Note
The definition of "operator" is added to the
revised law for drafting convenience and to avoid
frequent, unnecessary repetition of the substance of
the definition.
[Sections 112.104-112.150 reserved for expansion]

SUBCHAPTER D. LIABILITY FOR INJURIES TO EMPLOYEES

Revised Law
Sec. 112.151. APPLICABILITY OF SUBCHAPTER.
Notwithstanding any other law, this subchapter does not apply to
the portion of a person's, receiver's, or corporation's operations
that:
(1) consists solely of the fabrication, manufacture,
repair, or storage of rail rolling stock; or
(2) uses rail cars solely as a part of its own internal
manufacturing or production process. (V.A.C.S. Art. 6432A.)

Source Law
Art. 6432A. Notwithstanding any other law, this
chapter applies to any person, receiver, or
corporation except for the portion of the operations
of the person, receiver, or corporation that:
(1) consists solely of the fabrication,
manufacture, repair, or storage of rail rolling stock; or
or
(2) uses rail cars solely as a part of its
own internal manufacturing or production process.

Revised Law
Sec. 112.152. LIABILITY GENERALLY FOR INJURY TO OR DEATH OF
EMPLOYEE. (a) A corporation, receiver, or other person operating a
railroad in this state is liable for damages to a person who, while
employed by the railroad operator, is injured as a result of:

(1) the negligence of an officer, agent, or employee of the railroad operator; or

(2) any defect or insufficiency due to the railroad operator's negligence in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

(b) If an employee dies as a result of the negligence, defect, or insufficiency described by Subsection (a), the railroad operator is liable to the employee's personal representative for the benefit of the employee's surviving spouse and children and the employee's parents or, if the employee is not survived by a spouse, child, or parent, to the employee's next of kin who is dependent on the employee.

(c) Damages recovered under Subsection (b) are not liable for the debts of the deceased and shall be divided among the persons entitled to the benefit of the action who are living, in shares the fact finder considers proper.

(d) An action under Subsection (b) may be brought without administration by all parties entitled to damages under that subsection, or by any one or more of those parties, for the benefit of all of those parties. If all parties entitled to recover are not before the court, the action may proceed for the benefit of the parties who are before the court. (V.A.C.S. Art. 6439.)

Source Law

Art. 6439. Every corporation, receiver, or other person, operating any railroad in this State, shall be liable in damages to any person suffering injury while he is employed by such carrier operating such railroad, or in case of death of such employé, to his or her personal representative for the benefit of the surviving widow and children, or husband and children, and mother and father of the deceased, and, if none, then of the next kin dependent upon such employé for such injury or death resulting in whole or in part from the negligence of any of the officers, agents, or employés of such carrier; or by reason of any defect or insufficiency due to its negligence, in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment. The amount recovered shall not be liable for debts of deceased and shall be divided among the persons entitled to the benefit of the action or such of them as shall be alive, in such shares as the jury, or court trying the case without a jury, shall deem proper. In
case of the death of such employé, the action may be
brought without administration by all the parties
entitled thereto, or by any one or more of them, for
the benefit of all, and, if all parties be not before
the court, the action may proceed for the benefit of
such of said parties as are before the court.

Reviser's Note
V.A.C.S. Article 6439 refers to division of
damages in shares determined by "the jury, or court
trying the case without a jury." The revised law
substitutes "fact finder" for the quoted language
because that term describes the role of the jury or, if
a trial is held without a jury, of the judge trying the
case.

Revised Law
Sec. 112.153. CONTRIBUTORY NEGLIGENCE. (a) In an action
under Section 112.152, the employee's contributory negligence is
not a bar to recovery but the fact finder shall reduce the
employee's damages in proportion to the amount of contributory
negligence attributable to the employee.
   (b) An employee may not be found contributorily negligent in
   a case in which the railroad operator's violation of a statute
   enacted for the safety of employees contributed to the employee's
   injury or death. (V.A.C.S. Art. 6440.)

Source Law
Art. 6440. In all actions brought against any
such common carrier or railroad under or by virtue of
any provision of the foregoing article and the three
succeeding articles to recover damages for personal
injuries to an employé, or where such injuries have
resulted in his death, the fact that the employé may
have been guilty of contributory negligence shall not
bar a recovery, but the damages shall be diminished by
the jury in proportion to the amount of negligence
attributable to such employé; provided, that no such
employé who may be injured or killed shall be held to
have been guilty of contributory negligence in any
case where the violations by such common carrier of any
statute enacted for the safety of employés contributed
to the injury or death of such employé.

Reviser's Note
(1) V.A.C.S. Article 6440 refers to an action
"against any such common carrier or railroad" brought
under "the foregoing article [V.A.C.S. Article 6439]
and the three succeeding articles [V.A.C.S. Articles 6441, 6442, and 6443]." The revised law references only Section 112.152, the section in which Article 6439 is revised, because Article 6439 is the only one of the listed provisions under which the action may be brought.

(2) V.A.C.S. Article 6440 refers to an action against a "common carrier." Throughout this subchapter, in the context of liability under Article 6439, the revised law omits references to "common carrier" and substitutes references to "railroad operator" because under Section 2, Article X, Texas Constitution, railroads (referred to in this subchapter as "railroad operators") are declared to be "common carriers" and the action under Article 6439 may be brought only against a railroad operator and not any other type of common carrier.

(3) V.A.C.S. Article 6440 refers to a diminishment of damages "by the jury." The revised law substitutes "fact finder" for the reference to the jury for accuracy because, as indicated by Article 6439, revised as Section 112.152, under which the action would be brought, the action might not be before a jury, in which case the court would be the fact finder and would determine the measure of damages.

Revised Law

Sec. 112.154. ASSUMED RISK. (a) The plea of assumed risk is not available as a bar to recovery of damages in a suit brought in a court in this state against a corporation, receiver, or other person operating a railroad, interurban railway, or street railway in this state for the recovery of damages for the death of or personal injury to an employee caused by the wrong or negligence of the railroad or railway operator. An employee assumes the ordinary risk incident to the employee's employment but does not assume the
risk resulting from any negligence of the employee's employer, regardless of whether the negligence is known to the employee.

(b) If in a suit described by Subsection (a) it is alleged and proven that the deceased or injured employee was negligent in continuing in the service of the railroad or railway operator in view of the risk, dangers, and hazards of which the employee knew or must necessarily have known, in the ordinary performance of the employee's duties, that fact does not bar the employee's recovery, but is considered contributory negligence. If contributory negligence described by this subsection proximately caused or contributed to the cause of the death or injury, the damages recoverable by the employee or the employee's heirs or representatives shall be reduced only in proportion to the amount of negligence attributable to the employee.

(c) An employee of a railway company who is injured while engaged in the operation of a train in this state that is propelled by two or more engines is not considered to have assumed the risk of that injury if the injury is a result of the operation of two or more engines on the train rather than one.

(d) In an action against a railroad operator under Section 112.152, an employee may not be held to have assumed the risk of the employee's employment in a case in which the railroad operator's violation of a statute enacted for the safety of employees contributed to the employee's injury or death. (V.A.C.S. Arts. 6437, 6438, 6441.)

Source Law

Art. 6437. The plea of assumed risk shall not be available as a bar to recovery of damages in any suit brought in any court of this State against any corporation, receiver or other person, operating any railroad, interurban railway or street railway in this State for the recovery of damages for the death or personal injury of any employee or servant caused by the wrong or negligence of such person, corporation or receiver; it being contemplated that while the employee does assume the ordinary risk incident to his employment he does not assume the risk resulting from any negligence on the part of his employer, though known to him.

Where, however, in any such suit, it is alleged and proven that such deceased or injured employee was chargeable with negligence in continuing in the
service of any such corporation, receiver or person
above named in view of the risk, dangers and hazards of
which he knew or must necessarily have known, in the
ordinary performance of his duties, such fact shall
not operate to defeat recovery, but the same shall be
treated and considered as constituting contributory
negligence, and if proximately causing or contributing
to cause the death or injury in question, it shall have
the effect of diminishing the amount of damages
recoverable by such employé, or his heirs or
representatives in case of the employé's death, only in
proportion to the amount of negligence so attributable
to such employé.

Art. 6438. Employés of railway companies
employed by said companies in the operation of trains
within this State, propelled by two or more engines,
shall not be held to assume the risk, if any there be,
incident to their employment; provided, they be
injured while engaged in the operation of such trains
and that such injury was occasioned by reason of the
operation of two or more engines on such train instead
of one.

Art. 6441. In any action brought against any
common carrier under or by virtue of any provision of
the two preceding articles to recover damages for
injuries to or the death of any of its employés, such
employé shall not be held to have assumed the risks of
his employment in any case where the violation by such
common carrier of any statute enacted for the safety of
employés contributed to the injury or death of such
employé.

Revisor's Note

(1) V.A.C.S. Article 6437 refers to "any employé
or servant." The revised law omits "servant" as
unnecessary because that term is included in the
meaning of "employee." Similar changes have been made
throughout this subchapter.

(2) V.A.C.S. Article 6441 refers to an action
brought under one of the "two preceding articles
[V.A.C.S. Articles 6439 and 6440]." The revised law
refers only to the section in which Article 6439 is
revised because Article 6439 is the only one of the
listed provisions under which the action may be
brought.

Revised Law

Sec. 112.155. CERTAIN PROVISIONS VOID. A provision of a
contract, rule, or device the purpose of which is to exempt a
railroad operator from liability under Section 112.152 is void to
the extent of the purported exemption. (V.A.C.S. Art. 6442
Art. 6442. Any contract, rule, regulation or device whatsoever, the purpose or intent of which shall be to enable any common carrier to exempt itself from any liability created by the three preceding articles shall to that extent be void; provided, that,

Revisor's Note

(1) V.A.C.S. Article 6442 refers to the "purpose or intent" of a "contract, rule, regulation or device." The revised law omits "intent" as unnecessary because the meaning of that term is included in the meaning of "purpose." The revised law also omits "regulation," because under Section 311.005(5), Government Code (Code Construction Act), "rule" includes "regulation."

(2) V.A.C.S. Article 6442 refers to an exemption from liability created by V.A.C.S. Articles 6439, 6440, and 6441. The revised law refers only to Section 112.152, the section in which Article 6439 is revised, because Article 6439 is the only one of the listed provisions under which liability is created.

Revised Law

Sec. 112.156. LIABILITY OFFSET. In an action against a railroad operator under Section 112.152, the railroad operator may offset the railroad operator's liability by the amount of the railroad operator's contribution or payment to any insurance, relief benefit, or indemnity from which benefits have been paid to the injured employee or another person entitled to the benefits as a result of the injury or death that is the subject of the action.

(V.A.C.S. Art. 6442 (part).)
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.)

Art. 6443. Nothing in the provisions of the four preceding articles shall be held to limit the duty or liability of common carriers, or to impair the rights of employés, under other articles of these Statutes, but, in case of conflict, these articles shall prevail; and nothing in said articles shall affect the right of action under any law of this State.

V.A.C.S. Article 6443 refers to duties, liabilities, and rights under "other articles of these Statutes," meaning the Revised Statutes of 1925, in which Article 6443 is included. Therefore, the revised law substitutes "the Revised Statutes of 1925" for the quoted language.

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.

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

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

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

(g) This section does not impair or diminish the defense of contributory negligence if the injury of the employee is proximately caused by the employee's own contributory negligence.

(V.A.C.S. Arts. 6432, 6433, 6434, 6435, 6436.)

Source Law

Art. 6432. Every person, receiver, or corporation operating a railroad or street railway, the line of which shall be situated in whole or in part in this State, shall be liable for all damages sustained by any servant or employé thereof while engaged in the work of operating the cars, locomotives or trains of such person, receiver, or corporation, by reason of the negligence of any other servant or employé of such person, receiver or corporation, and the fact that such servants or employés were fellow-servants with each other shall not impair or destroy such liability.

Art. 6433. All persons engaged in the service of any person, receiver, or corporation controlling or operating a railroad or street railway, the line of which shall be situated in whole or in part in this State, who are intrusted by such person, receiver, or corporation with the authority of superintendence,
control or command of the other servants or employés, of such person, receiver, or corporation, with the authority to direct any other employé in the performance of any duty of such employé, are vice-principals of such person, receiver, or corporation, and are not fellow-servants with their co-employés.

Art. 6434. All persons who are engaged in the common service of such person, receiver, or corporation controlling or operating a railroad or street railway, and who while so employed are in the same grade of employment and are doing the same character of work or service, and are working together at the same time and place, and at the same piece of work and to a common purpose, are fellow-servants with each other. Employés who do not come within the provisions of this article shall not be considered fellow-servants.

Art. 6435. No contract made between the employer and employé based upon the contingency of death or injury of the employé and limiting the liability of the employer under the preceding articles of this chapter, or fixing damages to be recovered, shall be valid or binding.

Art. 6436. Nothing in the preceding articles of this chapter shall be held to impair or diminish the defense of contributory negligence when the injury of the servant or employé is caused proximately by his own contributory negligence, except as otherwise provided in this chapter.

[Chapters 113-130 reserved for expansion]

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SUBTITLE D. MISCELLANEOUS RAILROADS

CHAPTER 131. MISCELLANEOUS RAILWAYS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

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.)
Revisor's Note

To ensure that no substantive change is made by the revision of the term "person" as used in Title 112, Revised Statutes, the revised law adds a provision stating that the term "person" includes a corporation, as provided by Section 312.011, Government Code, and the definition of "person" in Section 311.005, Government Code, does not apply. Section 312.011(10), Government Code, which applies to Title 112, provides that "person" includes a corporation. Section 311.005(2), Government Code (Code Construction Act), which applies to the Transportation Code, defines "person" to include a "corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity."

[Sections 131.002-131.010 reserved for expansion]

SUBCHAPTER B. ELECTRIC RAILWAYS

Revised Law

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).)

Source Law

Art. 6540. An interurban electric railway company, within the meaning of this chapter, is a corporation chartered under the laws of this State for the purpose of conducting and operating an electric railway between two cities or between two incorporated towns or between one city and one incorporated town in this State; and . . . .

Revisor's Note

V.A.C.S. Article 6540 refers to "cities" and "incorporated towns." Throughout this chapter, the revised law substitutes the term "municipality" for "city," "incorporated town," or "town" because
"municipality" is the term used in the Local Government Code to refer to those entities.

Revised Law
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.)

Source Law
Art. 6535. All corporations chartered for the purpose of constructing, acquiring, maintaining and operating lines of electric railway between any cities and towns in this State for the transportation of freight or passengers, or both, shall have the right of eminent domain with all the rights and powers as fully as are conferred by law upon steam railroad corporations, and shall have the right and power to enter upon, condemn and appropriate the lands, rights of way, easements and property of any person or corporation whomsoever for the purpose of acquiring rights of way upon which to construct and operate their lines of railways and sites for depots and power plants.

Revisor's Note
(1) V.A.C.S. Article 6535 provides that electric railways "have the right of eminent domain." Throughout this chapter, the revised law substitutes for the quoted language and for similar phrases with the same meaning "may exercise the power of eminent domain" because the latter phrase is consistent with modern usage in laws relating to eminent domain, including Chapter 21, Property Code.
(2) V.A.C.S. Article 6535 grants electric railways the same powers of eminent domain as granted to "steam railroad corporations." The revised law omits the reference to "steam" as obsolete and because nothing in the laws granting eminent domain to railroads in this state (revised as Subchapter B, Chapter 112, Transportation Code) restricts that power to "steam" railroads. The revised law substitutes "companies" for "corporations" for the reason stated in the revisor's note to Section 81.002.

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

Source Law
Art. 6536. Such corporation shall have the right and power to lay out rights of way for their
railways not to exceed two hundred feet in width, and
to construct their railways and appurtenances thereon,
and for the purpose of cuttings and embankments to take
as much more land as may be necessary for the proper
construction and security of their said railways, and
to cut down any standing trees or remove any other
structure that may be in danger of falling upon or
obstructing such railway, compensation being made
therefor in accordance with law. Such corporation may
have such examination and survey of their proposed
railways made as may be necessary to the selection of
the most advantageous route, and for such purposes may
enter upon the lands or waters of any person or
corporation subject to responsibility for all damages
that may be occasioned thereby.

Revised Law

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

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

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

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

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

Source Law

Art. 6537. They may construct their railways
along, across and over any stream of water, water
course, bay, navigable water, arm of the sea, street,
highway, steam railway, plank road, turnpike or canal
which the route of such railway shall touch, and erect
and operate bridges, trams, trestles, or causeways over, along or across any such stream, water course, navigable water, bay, arm of the sea, street, highway, plank road, turnpike, or canal. Such bridge or other structure shall be so erected as to not unnecessarily or unreasonably prevent the navigation of such stream, water course, bay, arm of the sea or navigable water and nothing herein shall authorize the construction of any such railway upon or across any street, alley, square or property of any incorporated city or town without the assent of said corporation of said city or town, and before constructing an electric railway along and upon highways, plank roads, turnpikes or canals, such interurban electric railway company shall first obtain the consent of the lawful authorities having the jurisdiction of the same.

Revisor's Note

(1) V.A.C.S. Article 6537 refers to "plank roads" among other types of roads or structures. The revised law omits the reference to a "plank road" because that type of road, common in the United States in the first half of the 19th century, is obsolete, and a road constructed as a plank road, if still in use, would be covered by another type of surface.

(2) V.A.C.S. Article 6537 refers to "the . . . said corporation of said city or town," meaning a municipal corporation that governs an incorporated city or town. The revised law substitutes "governing body" for "said corporation" to conform to the modern terminology used in the Local Government Code.

Revised Law

Sec. 131.015. USE OF ELECTRIC STREET RAILWAY TRACKS. (a) An interurban electric railway company's power of eminent domain under this subchapter includes the power to condemn for its use and benefit easements and right-of-way to operate interurban cars along and on the track of an electric street railway company owning, controlling, or operating track on any public street or alley in a municipality for a purpose described by Subsection (b), subject to the consent, authority, and control of the governing body of the municipality.

(b) Condemnation under Subsection (a) may be used only to secure an entrance into and an outlet from a municipality on a route
designated by the governing body of the municipality.

(c) In a proceeding to condemn an easement or right-of-way under this section, the court or the jury trying the case shall define and establish the terms on which the easement or right-of-way may be used.

(d) A court rendering a judgment in a proceeding under this section may review and reform the terms of a grant and the provisions of the judgment on a subsequent application by a party to the original proceeding or a person claiming through or under a party to the original proceeding.

(e) The hearing on an application brought under Subsection (d) is in the nature of a retrial of the proceeding with respect to the terms on which the easement may be used except that the court may not declare the easement forfeited or impair the exercise of the easement.

(f) An application under Subsection (d) may not be made before the second anniversary of the date of the final judgment on the most recent application. (V.A.C.S. Arts. 6538, 6539.)

Source Law

Art. 6538. The right of condemnation herein given to interurban electric railway companies shall include the power and authority to condemn for their use and benefit, easements and rights of way to operate interurban cars along and upon the track or tracks of any electric street railway company owning, controlling or operating such track or tracks upon any public street or alley in any town or city of this State for the purpose hereinafter mentioned, subject to the consent, authority and control of the governing body of such town or city.

Art. 6539. Any interurban electric railway company, seeking to avail itself of the benefits of this chapter shall have the right to condemn an easement along and upon the track or tracks of any electric street railway company for the purpose only of securing an entrance into and an outlet from a town or city upon a route to be designated by the governing body of the city or town. In any proceeding to condemn an easement or right of way for the purposes above mentioned, the court, or the jury trying the case shall define and fix the terms and conditions upon which such easement or right of way shall be used. The court rendering such judgment shall be authorized upon a subsequent application or applications by either of the parties to the original proceedings, or any one claiming through or under them, to review and reform the terms and conditions of such grant and the provisions of such judgment, and the hearing upon such application shall be in the nature of a retrial of said
cause with respect to the terms and conditions upon
which said easement shall be used; but the court shall
not have power upon any such rehearing to declare such
easement forfeited or to impair the exercise thereof,
and no application for a rehearing shall be made until
two years after the final judgment on the last
preceding application.

Revisor's Note

(1) V.A.C.S. Article 6538 refers to the "power
and authority" to condemn property. The revised law
omits the reference to "authority" because it is
included in the meaning of "power."

(2) V.A.C.S. Article 6539 refers to "terms and
conditions" of an easement. The revised law omits the
reference to "conditions" because it is included in
the meaning of "terms."

Revised Law

Sec. 131.016. TIME REQUIRED FOR CONSTRUCTION. The rights
secured under this chapter by an interurban electric railway
company are void unless the road to be constructed under the charter
of the company is fully constructed from one municipality to
another within 12 months of the date of the final judgment awarding
the company an easement or right-of-way under Section 131.015.
(V.A.C.S. Art. 6540 (part).)

Source Law

Art. 6540. . . . the rights secured under this
chapter by any interurban company shall be inoperative
and void if the road to be constructed under the
charter of said company is not fully constructed from a
city or incorporated town to some other city or
incorporated town within twelve months from the date
of the final judgment awarding to said company said
easements and right of way. . . .

Revisor's Note

V.A.C.S. Article 6540 provides that certain
rights may become "inoperative and void." The revised
law omits the reference to "inoperative" because it is
included in the meaning of "void."

Revised Law

Sec. 131.017. USE OF CONDEMNED TRACK. (a) Unless the
company whose track is condemned under this subchapter consents, an
interurban electric railway company exercising the powers granted under this chapter may not receive for transportation freight or passengers at any location on the condemned track destined to another location on the condemned track.

(b) A company that wilfully violates Subsection (a) forfeits the easement or right-of-way used to provide the transportation. (V.A.C.S. Art. 6540 (part).)

Source Law

Art. 6540. . . Any interurban company availing itself of the privileges conferred in this chapter is hereby prohibited from receiving for transportation at any point on that portion of the track or tracks so condemned, without the consent of the company over whose track or tracks the easement is condemned, any freight or passengers destined to a point or points between the termini of the track or tracks so condemned; and a wilful violation by the company of the provisions of this article shall operate to forfeit such easements or rights of way.

Revisor's Note
(End of Subchapter)

V.A.C.S. Article 6542 provides that the provisions of the chapter (meaning Chapter 13, Title 112, Revised Statutes) granting eminent domain or other powers do not authorize the condemnation of any land or ground that is occupied by a line or track of an interurban electric railway, or of any land or ground that will be used to relocate a line or track of an interurban railroad, if the line or track was constructed on or before March 5, 1907. The revised law omits this article as obsolete because the likelihood is remote that an entity that existed in 1907 would want to condemn land on which 100-year-old tracks are located or would want to relocate 100-year-old tracks. The omitted law reads:

Art. 6542. No provision in this chapter shall be construed to have the effect to confer the power of eminent domain, or any power herein conferred, except that conferred in the preceding article, upon any interurban railroad or interurban railroad company, or upon any person, firm, association, or corporation or to add to the powers already possessed by
any such railroad or railroad company, person, firm, association or corporation so as to enable or authorize it to condemn any land or ground occupied by any portion of its line or track, already constructed March 5, 1907, or to condemn any land or ground for the purpose of changing the location of any track or line already constructed at said date. Nothing in this article shall be construed to take from any interurban railroad company, person, firm, association or corporation, any power of eminent domain already possessed by it.

[Sections 131.018-131.030 reserved for expansion]

SUBCHAPTER C. MERGER OF INTERURBAN RAILWAY

Revised Law
Sec. 131.031. DEFINITION. In this subchapter, "interurban railway" means an electric or other interurban line of railway in this state. (V.A.C.S. Art. 6543 (part).)

Source Law
Art. 6543. [Any corporation] . . . [authorized to construct, acquire and operate] electric or other interurban lines of railway in this State, commonly known as interurban railways, . . . .

Revised Law
Sec. 131.032. ACQUISITION OF RAILWAY PROPERTY AUTHORIZED.
(a) A corporation organized under the laws of this state that is authorized to construct, acquire, and operate an interurban railway may:
(1) acquire, lease, or purchase the physical property, rights, and franchise of any other railway corporation with similar powers; or
(2) lease or purchase physical property, rights, and franchises of any suburban or street railway corporation the railway lines of which are to be operated in connection with the interurban railway.
(b) The owner of physical property or a right or franchise described by Subsection (a)(1) or (2) may sell or dispose of the property, right, or franchise to the corporation making an acquisition, lease, or purchase under Subsection (a).
(c) An acquisition or purchase under this section may be on the terms:
(1) agreed to by the board of directors of each corporation; and

(2) authorized or approved by a majority of the stockholders of each corporation. (V.A.C.S. Art. 6543 (part).)

Source Law

Art. 6543. Any corporation organized under the laws of this State authorized to construct, acquire and operate . . . interurban railways, may acquire, lease or purchase the physical properties, rights and franchise of any other railway corporation having and possessing like power, or may lease or purchase physical properties, rights and franchises of any suburban or street railway corporation, the lines of whose railway are to be operated in connection with the lines of the interurban railway, and may sell or dispose of the physical properties, rights and franchise by such corporation or person owning the same, to such corporation, acquiring, leasing or purchasing same hereunder. Such acquisition or purchase may be made upon such terms as may be agreed upon by the respective boards of directors and authorized or approved by a majority of the stockholders of such corporations, respectively . . . .

Revised Law

Sec. 131.033. MUNICIPAL CONSENT REQUIRED. (a) Before selling property under this subchapter, a corporation that owns or operates a street car railway must obtain the consent of the governing body of the municipality in which the street car line is located.

(b) This subchapter does not affect a charter provision of a municipality that provides for the right of qualified voters of the municipality to vote on the granting or amending of franchise to a street or interurban railway. (V.A.C.S. Art. 6543 (part).)

Source Law

Art. 6543. . . . Corporations owning and operating said street car railways before making sale of its properties hereunder, shall obtain the consent of the governing body of the city where such street car line may be located; and, in cities and towns operating under any charter which provides for the right of qualified voters to vote on the granting or amending of franchise to street railways or interurban railways, this right shall still exist . . . .

Revised Law

Sec. 131.034. USE OF STREET RAILWAYS. A corporation authorized to construct, acquire, and operate an interurban railway

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and a corporation owning and operating a street railway may enter
into a trackage or lease contract to allow for continuous passage
into or through a municipality, subject to the consent of the
governing body of the municipality. (V.A.C.S. Art. 6543 (part).)

Source Law

Art. 6543. . . . Any corporation authorized to
construct, acquire and operate electric or other
interurban lines of railway in this State, commonly
known as interurban railways, shall also have the
power to make and enter into trackage or lease contract
with any corporation owning and operating street
railways, so as to procure continuous passage into or
through such city or town; provided, the governing
body of the city or town shall consent thereto; in such
case, the owner of such street railways is also
authorized to enter into such trackage or lease
contract. . . .

Revised Law

Sec. 131.035. LIMITATION ON ACQUISITION. A corporation
described by this subchapter may not:

(1) acquire, own, control, or operate a parallel or
competing interurban line; or

(2) purchase, lease, acquire, own, or control,
directly or indirectly, the shares or certificates of stock or
bonds, a franchise or other right, or the physical property or any
part of the property, of any corporation in violation of the law
commonly known as the antitrust law. (V.A.C.S. Art. 6543 (part).)

Source Law

Art. 6543. . . . No corporation named in this
article shall ever be permitted to acquire, own,
control or operate any parallel or competing
interurban line. No such corporation shall be
permitted to purchase, lease, acquire, own or control,
directly or indirectly, the shares or certificates of
stock or bonds, franchise or other rights, or the
physical properties or any part thereof, of any other
 corporation, if the same will violate any provision of
the law commonly known as the anti-trust law.

[Sections 131.036-131.060 reserved for expansion]

SUBCHAPTER D. PROVISION OF UTILITIES

Revised Law

Sec. 131.061. INTERURBAN ELECTRIC RAILWAYS. An interurban
electric railway company, as defined by Section 131.011, is
entitled to produce, supply, and sell electric light and power to
the public and to municipalities. (V.A.C.S. Art. 6541.)

Source Law
Art. 6541. Interurban electric railway companies shall also have the right to produce, supply and sell electric light and power to the public and to municipalities.

Revised Law
Sec. 131.062. SUPPLY AND SALE OF ELECTRICITY BY STREET, SUBURBAN, OR BELT LINE RAILWAY. A corporation organized under the general laws of this state that owns or operates with electric power any street or suburban railway or belt line of railways in and near a municipality for the transportation of freight and passengers within this state may:
(1) supply and sell electric light and power to the public or a municipality;
(2) acquire or otherwise provide appliances necessary for an activity authorized by Subdivision (1); and
(3) in the manner provided by law, amend its articles of incorporation to expressly include the authority under this section. (V.A.C.S. Art. 6545 (part).)

Source Law
Art. 6545. ... Any corporation heretofore or hereafter organized under the general laws of this State, and which owns or operates with electric power any street or suburban railway or belt line of railways within and near cities and towns for the transportation of freight and passengers within Texas shall be authorized to supply and sell electric light and power to the public or municipalities, and to acquire or otherwise provide the necessary appliances therefore [therefor], and may, by proceeding in the manner provided by law, amend its articles of incorporation so as to expressly include such authority. ... [Sections 131.063-131.100 reserved for expansion]

SUBCHAPTER E. REDUCED STREET RAILWAY FARES

Revised Law
Sec. 131.101. APPLICABILITY. This subchapter applies only to a person or corporation owning or operating a street railway in or on the public streets of a municipality with a population of 40,000 or more. (V.A.C.S. Art. 6544 (part).)
Source Law

Art. 6544. All persons or corporations owning or operating street railways in or upon the public streets of any town or city of not less than forty thousand inhabitants are required:

... 

Revised Law

Sec. 131.102. CHILDREN YOUNGER THAN 13 YEARS OF AGE. (a) The owner or operator of a street railway shall transport a child younger than 13 years of age for half the fare regularly collected for the transportation of an adult.

(b) This section does not apply to the transportation of a child to or from a school or other institution of learning located one mile or more outside the corporate limits of the municipality in which the street car operates. (V.A.C.S. Art. 6544 (part)).

Source Law

Art. 6544. [All persons or corporations owning streets of any town or city of not less than forty thousand inhabitants are required]:

1. To carry children of the age of twelve years or less for one-half the fare regularly collected for the transportation of adults. This law shall not apply to street cars carrying children or students to and from schools, colleges or other institutions of learning situated at a distance of one mile or more beyond the limits of the incorporated city or town from which said cars run.

... 

Revisor's Note

V.A.C.S. Article 6544 states that the provision does not apply to "carrying children or students to and from schools, colleges or other institutions of learning." The revised law omits "students" as included in the term "children," since the provision applies only to children younger than 13 years of age, and "colleges" as included in "other institutions of learning."

Revised Law

Sec. 131.103. STUDENTS. (a) The owner or operator of a street railway shall sell or provide for the sale of tickets for half of the regular fare collected for the transportation of adults
to students younger than 18 years of age who attend academic, 
public, or private school in a grade not higher than the highest 
grade of the public high schools located in or adjacent to the 
municipality in which the railway is located. 
(b) Tickets under this section must be sold in lots of 20, 
with each ticket valid for one trip over the railway lines. 
(c) Tickets under this section are not required to be sold 
unless the student making the purchase presents the written 
certificate of the principal of the school the student attends 
stating that the student: 
(1) is younger than 18 years of age; and 
(2) is in regular attendance at a school in a grade 
that qualifies under Subsection (a). 
(d) Tickets under this section are not required to be sold 
and may not be used except during the months when a school 
qualifying under Subsection (a) is in session. 
(e) A student described by Subsection (a) shall be 
transported at half fare only when the student presents a ticket 
issued under this section. (V.A.C.S. Art. 6544 (part).)

Source Law
Art. 6544. [All persons or corporations owning 
or operating street railways in or upon the public 
streets of any town or city of not less than forty 
thousand inhabitants are required]: 

2. To sell or provide for the sale of tickets in 
lots of twenty, each good for one trip over the line or 
lines owned or operated by such person or corporation, 
for one-half of the regular fare collected for the 
transportation of adults, to students not more than 
seventeen years of age in actual attendance upon any 
academic, public or private school of grades not 
higher than the grades of the public high schools 
situated within or adjacent to the town or city in 
which such railway is located. Such tickets are 
required to be sold only upon the presentation by the 
student desiring to purchase them of the written 
certificate of the principal of the school which he 
attends showing that he is not more than seventeen 
years old, is in regular attendance upon such school 
and is within the grades herein provided. Such tickets 
are not required to be sold to such students and shall 
not be used except during the months when such school 
is in actual session and such students shall be 
transported at half fare only when they present such 
tickets.

...
V.A.C.S. Article 6544 provides that a student must be in "actual" attendance and that the school must be in "actual" session. The revised law omits the reference to "actual" as unnecessary because the term does not add to the clear meaning of the law.

Revised Law
Sec. 131.104. CHILDREN YOUNGER THAN SIX YEARS OF AGE. The owner or operator of a street railway shall transport free of charge a child younger than six years of age when attended by a passenger who is at least six years of age. (V.A.C.S. Art. 6544 (part).)

Source Law
Art. 6544. [All persons or corporations owning or operating street railways in or upon the public streets of any town or city of not less than forty thousand inhabitants are required):

3. To transport free of charge children of the age of five years or less when attended by a passenger of above said age.

Revised Law
Sec. 131.105. TRANSFER RIGHTS. The owner or operator of a street railway shall offer a passenger paying a reduced fare or no fare under this subchapter the same rights as to the use of transfers issued by the owner or operator's line or other lines as offered to a passenger paying full fare. (V.A.C.S. Art. 6544 (part).)

Source Law
Art. 6544. [All persons or corporations owning or operating street railways in or upon the public streets of any town or city of not less than forty thousand inhabitants are required]:

4. To accord to all passengers referred to in this article the same rights as to the use of transfers issued by their own or other lines as are or may be accorded to passengers paying full fare.

[Sections 131.106-131.900 reserved for expansion]

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Revised Law
Sec. 131.901. STREET AND SUBURBAN RAILWAYS. (a) Street and
suburban railways engaged in the transportation of freight in and near a municipality are subject to the control of the department.

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

Source Law

Art. 6545. All street and suburban railways engaged in the transportation of freight within and near cities and towns, shall be subject to the control of the Railroad Commission. No street railway company shall be exempt from payment of assessments that may be legally levied or charged against it for street improvements. . . .

Revisor's Note

(1) V.A.C.S. Article 6545 provides that a street railway company is not exempt from assessments that are "legally levied or charged." The revised law omits the reference to "legally" because the railway company could not be made subject to an illegal assessment and substitutes the term "imposed" for "levied or charged" because "imposed" is the term used in Chapter 313, Transportation Code, which authorizes assessments for street improvements.

(2) A portion of V.A.C.S. Article 6545 allows certain corporations created under "chapter one of this title" (meaning Title 112) to issue stocks and bonds without railroad commission control under "Chapter 50, Acts 1893" (revised in 1925 as Chapter 12, Title 112, Revised Statutes). The revised law omits the provision as obsolete since both Chapters 1 and 12 were repealed in 2007 by Chapter 1115, Acts of the 80th Legislature, Regular Session, 2007. The omitted law reads:

Art. 6545. . . . When the Railroad Commission shall decide that any corporation created under chapter one of this title for the purpose of operating a local suburban railway not exceeding ten miles from the corporate limits of any city or town in addition to such mileage as it may have within the same, is not for any
A reason subject to the control of said Commission in reference to the issuance of stocks and bonds or either under the provisions of Chapter 50, Acts 1893, after such decision of the Commission, said corporation shall have the right to issue its stocks and bonds or either and also to increase its stocks and bonds or either without the control of the Commission and without complying with the Act aforesaid in reference thereto, and when so issued said stocks and bonds shall in all respects be valid and binding.

Revised Law

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

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

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

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

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

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

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

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

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

(2) no other route is possible or practicable.

(V.A.C.S. Art. 6546.)

Source Law

Art. 6546. All electric, gas or gasoline,
denatured alcohol or naphtha interurban or motor railways incorporated as such, which shall engage in transporting freight, shall be subject to the control of the Railroad Commission. No such corporation shall ever be exempt from the payment of assessments that may be legally levied or assessed against it for street improvements. Such interurban railways shall have the same right of eminent domain as are now given by law to steam railroads, and may exercise such right for the purpose of acquiring right of way upon which to construct their railway lines, and sites for depots and power plants, and shall have the same rights, powers and privileges as are now granted by law to interurban electric railways companies. Any such interurban company shall have the right and authority to acquire, hold and operate other public utilities in and adjacent to the cities or towns within or through which said company operates. No property upon which is located a cemetery shall ever be condemned by any such interurban railway, unless it shall affirmatively be shown, and so found by the court trying such condemnation suit, that it is necessary to take such property, and no other route is possible or practicable.

Revisor's Note
(1) V.A.C.S. Article 6546 refers to assessments that are "legally levied or assessed." The revised law omits the reference to "legally" and substitutes the term "imposed" for "levied or assessed" for the reasons stated in Revisor's Note (1) to Section 131.901.

(2) V.A.C.S. Article 6546 grants certain railways the same eminent domain powers as "steam railroads." The revised law omits the reference to "steam" as obsolete and because nothing in the laws granting eminent domain to railroads in this state (revised as Subchapter B, Chapter 112, Transportation Code) restricts that power to "steam" railroads.

Revised Law
Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN RAILWAYS. A corporation organized before September 1, 1925, under any law of this state, that operates a line of electric, gas or gasoline, denatured alcohol, or naphtha motor railway in and between municipalities in this state, may:
(1) own and operate union depots and office buildings;
(2) acquire, hold, and operate electric light and power plants in and adjacent to a municipality in or through which the railway operates. (V.A.C.S. Art. 6547 (part).)

Source Law

Art. 6547. Any corporation heretofore organized under any law of this State, and which now or may hereafter operate a line of electric, gas or gasoline, denatured alcohol, or naphtha motor railway, within and between any cities or towns in Texas, is authorized to own and operate union depots and office buildings, and to acquire, hold and operate electric light and power plants in and adjacent to cities or towns within or through which said company operates. . . .

Revisor's Note

(1) V.A.C.S. Article 6547 applies to corporations that "heretofore" have been incorporated and "now or may hereafter" operate certain railways. The revised law substitutes the effective date of the legislation enacting Article 6547 for "hereafter" to clarify to the reader the time referred to in the article. The revised law omits the phrase "now or may hereafter" as unnecessary since under Section 311.022, Government Code (Code Construction Act), all statutes are presumed to have prospective application unless expressly provided otherwise.

(2) V.A.C.S. Article 6547 authorizes a corporation to amend its charter to authorize the corporation to perform certain activities. The revised law omits this provision as unnecessary because it duplicates the general authority contained in Section 3.051, Business Organizations Code, which authorizes a corporation to make amendments to its certificate of formation (previously called articles of incorporation or a charter) at any time. The omitted law reads:

Art. 6547. . . . Such existing corporation, or one heretofore organized under subdivision 68 of Article 1302, may, by proceeding in the manner provided by law, amend its charter so as to expressly include any or all powers herein authorized.
Sec. 131.904. MOTOR BUS LINES. (a) This section applies only to a corporation authorized to operate a street or suburban railway or an interurban railway and to carry passengers for hire.

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

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

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

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

(B) public roads and highways that are located outside the corporate limits of that municipality but within five miles of the corporate limits, under regulations prescribed by the commissioners court of the county.

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

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

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

Art. 6548. Any corporation authorized to operate a street or suburban railway or interurban railway and to carry passengers for hire, is hereby authorized subject in every case to the approval and consent of the governing body of the city or town where said street, suburban or interurban railway company is located to substitute, wholly or partly, motor bus lines for its railway or to maintain and operate automobile motor buses to carry passengers for hire on:

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

(B) public roads and highways that are located outside the corporate limits of that municipality but within five miles of the corporate limits, under regulations prescribed by the commissioners court of the county.

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

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

(3) This section may not be construed to impair the rights of a municipality under a franchise granted to a corporation or its predecessor before August 30, 1933. (V.A.C.S. Art. 6548 (part).)
operated to substitute for such railway automobile
motor bus lines, in whole or in part, and to maintain
and operate motor buses for the purpose of carrying
passengers for hire on the public roads, streets,
plazas, alleys, and highways within the corporate
limits of any incorporated cities or towns, under such
regulations as may be prescribed by any such cities or
towns, and on the public roads and highways within five
(5) miles of the corporate limits of any such
incorporated cities or towns, under such regulations,
in territory outside of city limits, as the
Commissioners Court of the county may prescribe; and
such substitution of motor buses for street cars and
street or interurban railway and the discontinuance of
such street or interurban railways shall not in any way
impair any of the corporate powers of corporations
heretofore incorporated as street or interurban
railways with respect to the operation of other public
utilities authorized by their charters and by statutes
now in force.
   Provided, however, companies taking advantage of
this Act shall amend their charters and pay the fees
provided by law for the filing of such amendments; and,
provided that . . . nothing herein contained shall be
so construed as to impair the rights of any city under
any franchise it may heretofore have granted to the
corporation in question, or its predecessor.

Revisor's Note

(1) V.A.C.S. Article 6548, as amended in 1933,
refers to corporations "heretofore" incorporated,
franchises "heretofore" granted, and to statutes "now
in force." The revised law substitutes the effective
date of the legislation amending Article 6548 for
"heretofore" and "now in force" to clarify to the
reader the time referred to in the article following
the amendment.

(2) V.A.C.S. Article 6548, as amended in 1933,
provided that "this Act" does not affect cases "now
pending in the courts." Since the effective date of
the 1933 amendment was August 30, 1933, the revised law
omits that provision as obsolete. The omitted law
reads:

   Art. 6548. . . . this Act shall not
   affect any case now pending in the courts;
   and, provided further that . . . .

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CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 172.001. DEFINITIONS. In this chapter:

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

(2) "Bonds" means:

(A) bonds;

(B) notes, including bond anticipation notes, revenue anticipation notes, and grant anticipation notes;

(C) warrants;

(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:
   (A) property, or an interest in that property, that the board determines is necessary or convenient to provide a rural rail transportation system; and
   (B) property or an interest necessary or convenient to acquire, provide, construct, enlarge, remodel, renovate, improve, furnish, use, or equip the system, including:
      (i) a right-of-way;
      (ii) an earthwork or structure, including clearing and grubbing of right-of-way, demolition of a structure, relocation of utilities, a pipeline, or any other obstacle in a right-of-way, stripping and stockpiling, removal of subsoil for embankment or spoil, a borrow pit, dressing and seeding of a slope, construction of a culvert, a road crossing, a bridge, restoration of a roadway, drainage within a right-of-way or along a road network, and restoration of a hydrologic system;
      (iii) trackwork;
      (iv) a train control, including signalling, interlocking equipment, speed monitoring equipment, an emergency braking system, a central traffic control facility, and a
communication system;
(v) a passenger or freight service
building, terminal, or station, a ticketing facility, a waiting
area, a platform, a concession, an elevator, an escalator, a
facility for handicapped access, an access road, a parking facility
for passengers, a baggage handling facility, a local maintenance
facility, and offices for district purposes and includes an
interest in real property necessary or convenient for an item
listed under this subparagraph;
(vi) rolling stock; and
(vii) a maintenance facility.
(8) "Revenue" means the income, receipts, and
collections received by, to be received by, or pledged to the
district from or by any source, except a restricted gift or a grant
in aid of construction.
(9) "Right-of-way" means:
(A) a right of passage over property;
(B) a strip of land in length and width
determined required, necessary, or convenient by the board over,
on, or under which trackwork is or is to be constructed or acquired;
or
(C) a right of precedential passing.
(10) "Rolling stock" means a locomotive, an engine, a
rail car, a repair construction car, or another car designed to
operate on trackwork.
(11) "Trackwork" means track, a track bed, track bed
preparation, a tie, a rail fastener, a slab, a rail, an emergency
crossover, a setout track, storage track, and a switch. (V.A.C.S.
Art. 6550c, Secs. 2(1), (2), (4), (5), (8), (9), (11), (12), (13),
(14), (15), (16), (17); New.)
Source Law
Sec. 2. In this Act:
(1) "Board" means the board of directors
of a rural rail transportation district.
(2) "Bonds" means bonds; notes, including
bond anticipation notes, revenue anticipation notes,
and grant anticipation notes; warrants; certificates
of obligation; interest-bearing contracts; interest-bearing leases of property; equipment trust certificates; commercial paper; and any obligation issued to refund any type of bond.

(4) "District" means a rural rail transportation district created under this Act.

(5) "Earthworks and structures" includes the clearing and grubbing of right-of-way; demolition of structures; relocation of utilities, pipelines, and any other obstacles in right-of-way; stripping and stockpiling; removal of subsoils for embankment or spoil; borrow pits; dressing and seeding of slopes; construction of culverts; road crossings; bridges; restoration of roadway; drainage within a right-of-way or along road networks; and restoration of a hydrologic system.

(8) "Maintenance and operating expenses" means all expenses of operating and maintaining a district and its rail facilities, including all compensation, labor, materials, repairs, and extensions necessary, required, or convenient in the discretion of the board to render efficient service or to maintain and operate the district, and taxes or other amounts paid, payable, or to be paid to the United States pursuant to Section 148(f) of the Internal Revenue Code of 1986 (26 U.S.C. Section 148), or any similar law.

(9) "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.

(11) "Rail facilities" means any real, personal, or mixed property, or any interest in that property that is determined by the board to be necessary or convenient for the provision of a rural rail transportation system and all property or interests necessary or convenient for the acquiring, providing, constructing, enlarging, remodeling, renovating, improving, furnishing, using, or equipping of the system, including rights-of-way, earthworks and structures, trackwork, train controls, stations, rolling stock, and maintenance facilities.

(12) "Revenues" means all income, receipts, and collections received by, to be received by, or pledged to the district from or by any source, except a restricted gift or a grant in aid of construction.

(13) "Right-of-way" means a right of passage over property; a strip of land in length and width determined required, necessary, or convenient by the board over, on, or under which trackwork is or is to be constructed or acquired; or a right of precedential passing.

(14) "Rolling stock" means locomotives, engines, rail cars, repair construction cars, or other cars designed to operate on trackwork.

(15) "Station" means a passenger or freight service building, terminal, or station, ticketing facility, waiting area, platform, concession, elevator, escalator, facility for handicapped access, access road, parking facility for passengers, baggage handling facility, local maintenance facility, and offices for district purposes, together with any interest in real property necessary or convenient for any of the listed items.

(16) "Trackwork" means track, track beds,
track bed preparation, ties, rail fasteners, slabs, rails, emergency crossovers, setout tracks, storage track, and switches.

(17) "Train controls" includes signalling, interlocking equipment, speed monitoring equipment, emergency braking systems, central traffic control facilities, and communication systems.

Revisor's Note

(1) Section 2(10), V.A.C.S. Article 6550c, refers to the definition provided by Section 311.005, Government Code (Code Construction Act). The revised law omits the reference because Chapter 311 applies to the revised law under Section 311.002, Government Code. The omitted law reads:

(10) "Person" has the meaning assigned by Section 311.005, Government Code.

(2) Section 2(11), V.A.C.S. Article 6550c, refers to "real, personal, or mixed property." The revised law omits the reference to "real, personal, or mixed" property because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

(3) The definition of "director" is added to the revised law for drafting convenience.

Revised Law

Sec. 172.002. 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, Sec. 5(a) (part).)

Source Law

Sec. 5. (a) A rural rail transportation district is a public body and a political subdivision of the state exercising public and essential governmental functions and . . . . A district, in the exercise of powers under this Act, is performing only governmental functions and is a "governmental unit" within the meaning of Chapter 101, Civil Practice and Remedies Code. . . .
Revised Law

Sec. 172.003. FINDINGS. The legislature finds that:

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

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

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

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

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

(6) the creation, re-creation, financing, maintenance, and operation of rural rail transportation districts and facilities acquired by the districts under this chapter will help develop, maintain, and diversify the economy of the state, eliminate unemployment or underemployment, foster the growth of enterprises based on agriculture, and serve to develop and expand transportation and commerce within the state under the authority granted by Section 52-a, Article III, Texas Constitution; and

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

Source Law

Art. 6550c

Sec. 1. The legislature finds that:

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

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

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

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

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

(6) the creation, re-creation, financing, maintenance, and operation of rural rail transportation districts and facilities acquired by the districts under this Act will help develop, maintain, and diversify the economy of the state, eliminate unemployment or underemployment, foster the growth of enterprises based on agriculture, and serve to develop and expand transportation and commerce within the state under the authority granted by Article III, Section 52-a, of the Texas Constitution; and

(7) financing by rural rail transportation districts for the purposes provided by this Act is a lawful and valid public purpose.

[Sections 172.004-172.050 reserved for expansion]

SUBCHAPTER B. CREATION

Revised Law

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

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

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

Source Law

[Sec. 2]

(6) "Eligible counties" means [two or more counties] that meet the requirements of Sections 3(a) and (b) of this Act.

[Sec. 3]

(b) A county eligible to create or re-create a district is one in which is located a rail line that is in the process of being or has been abandoned through a bankruptcy court or Interstate Commerce Commission proceeding, or any line carrying 3 million gross tons per mile per year or less.

Sec. 3A. (a) In addition to eligible counties,
... a county that meets the requirements of Section 3(b) of this Act ... may create a rural rail transportation district ... .

Revisor's Note

Section 3(b), V.A.C.S. Article 6550c, refers to the "Interstate Commerce Commission." The ICC Termination Act of 1995 (Pub. L. No. 104-88) abolished the Interstate Commerce Commission and established the Surface Transportation Board. The revised law substitutes "Surface Transportation Board" for "Interstate Commerce Commission" because the Surface Transportation Board is now the federal oversight agency for rail transportation regulatory matters.

Revised Law

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

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

(1) create a district; or

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

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

(c) Each concurrent order must:

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

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

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

(4) designate the district's name; and

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

(d) The commissioners court of each county included in a district by order may provide for the district's dissolution if each commissioners court determines that the dissolution will not
impart an obligation of any contract of the district. The

dissolution order is effective only on the creation or re-creation
of another district in which each county included in the dissolving
district is included. (V.A.C.S. Art. 6550c, Secs. 2(3), (6)
(part), 3(a), (c), (d).

Source Law

[Sec. 2]

(3) "Concurrent orders" means the orders
adopted by eligible counties that contain identical
provisions regarding the creation or re-creation of a
district.

(6) ["Eligible counties" means two or
more counties that meet the requirements of Sections
3(a) and [(b)] of this Act.

Sec. 3. (a) The commissioners courts of two or
more eligible counties that, taken together,
constitute a contiguous geographic area may by order
create or re-create a rural rail transportation
district consisting of the territory of the counties
whose commissioners courts adopt the order.

(c) The commissioners courts of two or more
eligible counties that create a district or provide
for the re-creation of a district by the addition of
one or more counties shall by concurrent order at the
time of creation or re-creation:
(1) declare the boundaries of the district
as the boundaries of the counties included;
(2) designate the name of the district;
and
(3) designate the number of board members,
which may not be less than four, and the manner of
their appointment by a commissioners court.
(d) The commissioners courts of all counties
included within a district by order may provide for the
dissolution of the district if:
(1) the commissioners courts determine
that the dissolution will not impair an obligation of
any contract of the district; and
(2) the dissolution order will become
effective only on the creation or re-creation of
another district in which each county included within
the dissolving district is included.

Revised Law

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

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

(c) At the time the district is created, the commissioners
(1) designate the district's name; and
(2) appoint at least four residents of the county to serve as directors.

(d) The commissioners court of the county by order may provide for the district's dissolution if the commissioners court determines that the dissolution will not impair an obligation of any contract of the district. The dissolution order is effective only on the creation of another district in which the county is included. (V.A.C.S. Art. 6550c, Secs. 3A(a) (part), (b), (c), (f).)

Source Law

(a) ... the commissioners court of a county by order may create a rural rail transportation district for purposes of developing, financing, maintaining, and operating a new rail system under this Act and for other purposes of this Act.
(b) The boundaries of a district created under this section are the boundaries of the county in which the district is created.
(c) At the time the district is created, the commissioners court shall:
   (1) designate the name of the district; and
   (2) appoint at least four residents of the county to serve as directors of the district.

(f) The commissioners court of the county by order may provide for the dissolution of the district if:
   (1) the commissioners court determines that the dissolution will not impair an obligation of any contract of the district; and
   (2) the dissolution order will become effective only on the creation of another district under this Act that includes the county and meets the requirements of Sections 3(a) and (b) of this Act.

Revised Law

Sec. 172.054. NOTICE OF CREATION. (a) The board of each newly created district shall provide notice to the Texas Transportation Institute of the district's creation.
(b) On being notified by the board, the Texas Transportation Institute shall make available to the board a guide to the services and information that the institute provides. (V.A.C.S. Art. 6550c, Sec. 3(f).)
(f) The board of directors of each newly created district shall provide notice to the Texas Transportation Institute of the creation of the district. On being notified by the board, the Texas Transportation Institute shall make available to the board a guide to the services and information that the institute provides.

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

Source Law
(e) A district created or re-created under this contract executed by the district or a predecessor district and in force on the date of the creation or re-creation unless the contract expressly expires on the date of dissolution or re-creation of the district that executed the contract.

[Sections 172.056-172.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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

(b) The right to control and regulate district affairs is vested exclusively in the board except as specifically otherwise provided by this chapter. (V.A.C.S. Art. 6550c, Secs. 4(a), (d) (part).)

Source Law
Sec. 4. (a) The board of directors is responsible for the management, operation, and control of the district.

(d) . . . The right to control and regulate the affairs of the district is vested exclusively in the board except as specifically otherwise provided by this Act.
TERMS.  

(a) A director serves a two-year term.  

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

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

(2) an order creating the district under Section 172.053 was adopted.  

Source Law  

[Sec. 3A]  

(d) A member of the board of directors serves for a two-year term. An initial director serves for a term ending on the second anniversary of the date on which the order creating the district was adopted.  

[Sec. 4]  

(b) . . . A board member serves for a term of two years ending on the second anniversary of the latest date a concurrent order was adopted creating or re-creating the district. . . .

QUALIFICATIONS FOR OFFICE.  

(a) To be eligible for appointment as a director, a person must be a resident of the county governed by the commissioners court that appoints the person.  

(b) An elected officer of this state or a political subdivision of this state who is not prohibited by the Texas Constitution from serving on the board is eligible to serve on the board.  

Section 4 of this Act applies to a board member appointed under this section.
the commissioners court that appoints the person.

... (g) An elected officer of the state or a political subdivision of the state who is not prohibited by the Texas Constitution from serving on the board is eligible to serve on the board.

Revised Law

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

Source Law

[Sec. 3A] (e) Section 4 of this Act applies to a board member appointed under this section.

[Sec. 4] (b) ... A vacancy on the board shall be filled for the remainder of the term by the commissioners court that appointed the member who vacated the position.

Revised Law

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

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

(2) a hearing before the commissioners court.

(b) At the hearing on the question of removal of a director, the director is entitled to be heard in person or through counsel.

(V.A.C.S. Art. 6550c, Secs. 3A(e), 4(b) (part).)

Source Law

[Sec. 3A] (e) Section 4 of this Act applies to a board member appointed under this section.

[Sec. 4] (b) ... A board member may be removed from office for neglect of duty or malfeasance in office by the commissioners court that appointed the member, after at least 10 days' written notice to the member and a hearing before the commissioners court. At a hearing on the question of removal of a board member, the board member is entitled to be heard in person or through counsel.

Revised Law

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

Source Law

[Sec. 3A]
(e) Section 4 of this Act applies to a board
member appointed under this section.

[Sec. 4]
(c) Members of the board shall select a
president, vice-president, treasurer, and secretary.
The secretary is not required to be a board member.

Revised Law

Sec. 172.107. MEETINGS; NOTICE. (a) The board shall hold
at least one regular meeting each month to conduct district
business.
(b) The president may call a special board meeting.
(c) Chapter 551, Government Code, applies to board
meetings, except that notice of a board meeting shall be posted at
the administrative office of the district and at the courthouse in
the county in which that office is located. (V.A.C.S. Art. 6550c,
Secs. 3A(e), 4(c) (part), (f).)

Source Law

[Sec. 3A]
(e) Section 4 of this Act applies to a board
member appointed under this section.

[Sec. 4]
(c) . . . The board shall hold at least one
regular meeting each month for the purpose of
transacting business of the district. The president
may call special meetings of the board. . . .
(f) Notice of a meeting of the board shall be
posted at the administrative office of the district
and at the courthouse in the county in which that
office is located. In all other respects Chapter 271,
Acts of the 60th Legislature, Regular Session, 1967
(Article 6252-17, Vernon's Texas Civil Statutes),
applies to meetings of the board.

Revisor's Note

(1) Section 4(c), V.A.C.S. Article 6550c,
states that "[a] majority of the members [of the board]
is a quorum." The revised law omits that provision
because it duplicates Section 311.013, Government Code
(Code Construction Act), which provides that a quorum
of a public body is a majority of the number of members
fixed by statute. The omitted law reads:

(c) ... A majority of the members

is a quorum.

(2) Section 4(f), V.A.C.S. Article 6550c,
refers to Chapter 271, Acts of the 60th Legislature,
Regular Session, 1967 (Article 6252-17, Vernon's Texas
Civil Statutes). That statute was codified in 1993 as
Chapter 551, Government Code. The revised law is
drafted accordingly.

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

Source Law
(d) The board shall adopt rules for its
proceedings and . . . .

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

Source Law
(d) [The board] . . . . may employ and compensate
persons to carry out the powers and duties of the
district. . . . .

Revised Law
Sec. 172.110. PECUNIARY INTEREST IN CERTAIN CONTRACTS
PROHIBITED. A district employee may not have a direct or indirect
pecuniary interest in any contract or agreement to which the
district is a party. (V.A.C.S. Art. 6550c, Sec. 4(e).)

Source Law
(e) A board member or employee of a district may
not be pecuniarily interested, directly or indirectly,
in any contract or agreement to which the district is a
party.

Revisor's Note
Section 4(e), V.A.C.S. Article 6550c, states that
a "board member or employee of a district may not be
pecuniarily interested" in a contract or agreement to which the district is a party. The revised law omits the reference to a "board member" because the language in Section 4(e) regarding a board member was impliedly repealed by the subsequent enactment of Chapter 640, Acts of the 68th Legislature, Regular Session, 1983 (Article 988b, Vernon's Texas Civil Statutes), codified in 1987 as Chapter 171, Local Government Code. Chapter 171, Local Government Code, regulates conflicts of interest for members of the governing body of certain local governments, including a district.

[Sections 172.111-172.150 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Revised Law

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

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

Source Law

Sec. 5. (a) A rural rail transportation district is [a public body and a political subdivision of the state] . . . having all the powers necessary or convenient to carry out the purposes of this Act, including the powers granted in this section. . . .

(k) A district . . . may generally perform all acts necessary for the full exercise of the powers vested in it. . . .

Revisor's Note

Section 5(a), V.A.C.S. Article 6550c, states that a district has all powers necessary or convenient to carry out the purposes of Article 6550c, "including the powers granted in this section." The revised law omits the quoted language because the powers granted by Section 5 (revised in several places in this
chapter) are included in the powers necessary or convenient to carry out the purposes of the article.

_Revised Law_

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

_Source Law_

(h) A district may adopt rules to govern the operation of the district, its employees, the rail facilities, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, and telephone and utility services, to protect the health, safety, and general welfare of the state.

_Revised Law_

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

_Source Law_

(k) A district may make contracts, leases, and agreements with, and . . . the United States of America, its departments and agencies, the state, its agencies, and political subdivisions, and public or private corporations and persons, and . . . .

_Revisor's Note_

Section 5(k), V.A.C.S. Article 6550c, refers to the United States of America, and "its departments and agencies." The revised law omits the quoted language because under Section 311.005, Government Code (Code Construction Act), "United States" includes a department, bureau, or other agency of the United States of America.
Revised Law

Sec. 172.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE.
A district may:
(1) enter into agreements with a public utility, private utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or property inside or outside the district; and
(2) establish:
(A) through routes;
(B) joint fares; and
(C) divisions of tariffs, subject to approval of a tariff-regulating body that has jurisdiction. (V.A.C.S. Art. 6550c, Sec. 5(g).)

Source Law
(g) A district may enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or properties within or outside the district and establish through routes, joint fares, and, subject to approval of any tariff-regulating body having jurisdiction, divisions of tariffs.

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

Source Law
(i) A district may enter into joint ownership agreements with any person.

Revised Law
Sec. 172.156. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.
(a) A contract in the amount of more than $15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may be awarded only through competitive bidding after notice is published in a newspaper of general circulation in the district at least 15 days before the date set for receiving bids.
(b) A board may adopt rules governing the taking of bids and
the awarding of contracts.

(c) This section does not apply to:

(1) personal or professional services; or

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

Source Law

Sec. 7. A contract in the amount of more than $15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may only be let 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. A board may adopt rules governing the taking of bids and the awarding of contracts. This section does not apply to personal or professional services or the acquisition of existing rail transportation systems.

Revisor's Note

Section 7, V.A.C.S. Article 6550c, refers to a contract "let on competitive bids." The revised law substitutes "awarded" for "let" because the terms are synonymous and "awarded" conforms to the modern usage found in competitive bidding statutes in the Local Government Code.

Revised Law

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

(1) land in fee simple; or

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

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

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

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

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(1) is a public necessity; and
(2) is necessary and proper for the construction, extension, improvement, or development of rail facilities and is in the public interest.
(e) The resolution is conclusive evidence of the public necessity of the proposed acquisition and that the real property or interest in property is necessary for public use. (V.A.C.S. Art. 6550c, Sec. 5(f).)

Source Law

(f) A district has the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under, or above lands, including, without limitation, easements, rights-of-way, rights of use of airspace or subsurface space. The right may not be exercised in a manner that would unduly interfere with interstate commerce. Eminent domain proceedings brought by a district are governed by Title 52, Revised Statutes, except as it is inconsistent with this Act. Proceedings for the exercise of the power of eminent domain are commenced 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 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.

Revisor's Note

(1) Section 5(f), V.A.C.S. Article 6550c, provides that the district has the "right of eminent domain" to acquire property. The revised law substitutes for the quoted language "[a] district may exercise the power of eminent domain" because the phrases have the same meaning and the latter phrase is consistent with modern usage in laws relating to eminent domain, including Chapter 21, Property Code.
(2) Section 5(f), V.A.C.S. Article 6550c, refers to the acquisition of land, "including, without limitation" certain specific interests in land. The revised law omits "without limitation" because Section 311.005(13), Government Code (Code Construction Act),
provides that "including" is a term of enlargement and not of limitation and does not create a presumption that components not expressed are excluded.

(3) Section 5(f), V.A.C.S. Article 6550c, states that eminent domain proceedings are governed by Title 52, Revised Statutes. Title 52 was repealed in 1983 and its provisions codified as Chapter 21, Property Code. The revised law is drafted accordingly.

(4) Section 5(f), V.A.C.S. Article 6550c, states that the resolution initiating an eminent domain proceeding is conclusive evidence that the "real or personal property or interest in property" is necessary for public use. The revised law omits the reference to personal property because Section 5(f) does not authorize a district to acquire personal property by eminent domain.

Revised Law

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

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

Source Law

(1) A district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties not needed for or, in the case of leases, not inconsistent with the efficient operation and maintenance of the system. It may, on adoption of an order by the board, sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.
Revisor's Note

(1) Section 5(1), V.A.C.S. Article 6550c, refers to "personal or real" property. The revised law omits the reference to "personal or real" property because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

(2) Section 5(1), V.A.C.S. Article 6550c, refers to "surplus materials or . . . property." The revised law omits "materials" because the term is included in the meaning of "property."

(3) Section 5(1), V.A.C.S. Article 6550c, states that the board may dispose of materials or property "at any time." The revised law omits the quoted language because the authority to dispose of materials or property implies the authority to do so at any time.

Revised Law

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

(1) sue and be sued;

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

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

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

Source Law

(c) A district may sue and be sued in all courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond. An action at law or in equity against the district shall be brought in the county in which the principal office of the district is located, except that in eminent domain proceedings suit shall be
brought in the county in which the land is located.

Revisor's Note
Section 5(c), V.A.C.S. Article 6550c, provides that a district may sue and be sued "in all courts of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may be brought only in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

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

Source Law
(b) A district has perpetual succession.

[Sections 172.161-172.200 reserved for expansion]

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

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

Source Law
(e) A district may plan, acquire, construct, complete, develop, own, operate, and maintain rail facilities inside or outside the district, and . . . .

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

(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).)

Source Law

(e) [A district may plan, acquire, construct, complete, develop, own, operate, and maintain rail
facilities inside or outside the district, and] for
those purposes subject to a grant previously secured
or with the consent of any municipality, county, or
other political subdivision may use streets, alleys,
roads, highways, and other public ways of any
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, 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
rail facilities. . . .

Revised Law

Sec. 172.203. RULES GOVERNING SYSTEM; 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 whenever the board considers it advisable. (V.A.C.S. Art.
6550c, Sec. 5(m).)

Source Law

(m) A district by resolution may adopt rules and
regulations governing the use, operation, and
maintenance of the system and shall determine all
routings and change them whenever the board considers
it advisable.

Revisor's Note

Section 5(m), V.A.C.S. Article 6550c, refers to
"rules and regulations." The revised law omits the
reference to "regulations" because under Section
311.005(5), Government Code (Code Construction Act), a
rule is defined to include a regulation.
Sec. 172.204. ACQUISITION OF PROPERTY. (a) A district may purchase, whenever the district considers the purchase expedient, land, property rights, right-of-way, franchises, easements, and other interests in land the district considers necessary to acquire, construct, or operate a rail facility on terms and at a price to which the district and the owner agree.

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

(c) The governing body of a municipality, a county, any other political subdivision, or a public agency may convey without advertisement 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 rail facilities.

(V.A.C.S. Art. 6550c, Sec. 5(e) (part).)

Source Law

(e) . . . A district may acquire by purchase, whenever it considers the purchase expedient, any land, property rights, right-of-way, franchises, easements, and other interests in land as it considers necessary for the acquisition, construction, or operation of any rail facility on such terms and at such price as agreed to between the district and the owner and may take title in the name of the district. The governing body of every municipality, county, other political subdivision, or public agency is authorized without any form of advertisement to make conveyance of 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 rail facilities.

Revised Law

Sec. 172.205. 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, Sec. 5(d).)

Source Law

(d) 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 any of its powers under this Act.

Revisor's Note
Section 5(d), V.A.C.S. Article 6550c, refers to "real and personal" property. The revised law omits the quoted language because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

Revised Law
Sec. 172.206. 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, Sec. 5(k) (part).)

Source Law
(k) . . . 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. . . .

Revised Law
Sec. 172.207. COMPENSATION FOR USE OF SYSTEM FACILITIES. (a) A district shall establish and maintain reasonable and nondiscriminatory rents 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 rents 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 all 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, Sec. 5(j).)
Source Law

(j) A district shall establish and maintain rents or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district that are reasonable and nondiscriminatory and, together with grants received by the district, are sufficient to produce revenues adequate:
1. (1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the district;
2. (2) to pay the interest on and principal of all bonds issued by the district under this Act payable in whole or in part from the revenues, as they become due and payable; and
3. (3) to fulfill the terms of any agreements made with the holders of bonds or with any person in their behalf.

Revised Law

Sec. 172.208. OPERATION OR USE CONTRACTS. (a) A district may:
1. (1) lease all or part of the rail facilities to any operator; or
2. (2) contract for the use or operation of all or part of the rail facilities by any operator.

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

(c) The term of an operating contract under this section may not exceed 20 years. In this subsection, "operating contract" means a professional services contract executed by a district and another person under which the person agrees to provide all or part of the:
1. (1) rolling stock required for operation as a common carrier over all or a part of the rail facilities of the district; and
2. (2) personnel required for the operation of the rolling stock owned or leased by the district or for the operation of the rail facilities of the district. (V.A.C.S. Art. 6550c, Secs. 2(7), 5(n).)

Source Law

[Sec. 2]

(7) "Operating contract" means a
professional services contract executed by a district and another person under which the person agrees to provide:

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

(B) all or part of the personnel required for the operation of the rolling stock owned or leased by the district or for the operation of the rail facilities of the district.

[Sec. 5]

(n) A district may lease the rail facilities or any part to, or contract for the use or operation of the rail facilities or any part by, any operator. A district shall encourage to the maximum extent practicable the participation of private enterprise in the operation of rail facilities. The term of an operating contract under this subsection may not exceed 20 years.

Revised Law

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

Source Law

(o) A district may contract with any county or other political subdivision of the state for the district to provide rail transportation services to any area outside the boundaries of the district on such terms and conditions as may be agreed to by the parties.

Revisor's Note

Section 5(o), V.A.C.S. Article 6550c, refers to "terms and conditions" of a contract. The revised law omits the reference to "conditions" because "conditions" is included in the meaning of "terms."

Revised Law

Sec. 172.210. ABANDONMENT OF RAIL LINE. (a) A district may not abandon a district rail line for which state money has been loaned or granted unless the abandonment is approved by the commission as being consistent with the policies of this chapter.

(b) The commission by rule shall adopt procedures for applying for and obtaining approval for abandonment under this section. (V.A.C.S. Art. 6550c, Sec. 5(r).)
(r) A district may not abandon a rail line of the district with respect to which state funds have been loaned or granted unless the abandonment is approved by the Texas Transportation Commission as being consistent with the policies of this Act. The commission by rule shall adopt procedures for applying for and obtaining approval under this subsection.

[Sections 172.211-172.250 reserved for expansion]

SUBCHAPTER F. FINANCIAL PROVISIONS

Revised Law

Sec. 172.251. FISCAL YEAR. (a) Unless the board changes the fiscal year, the district's fiscal year ends on September 30. (b) The board may not change the fiscal year more than once in a three-year period. (V.A.C.S. Art. 6550c, Sec. 5(p) (part).)

Source Law

(p) . . . The fiscal year of the district ends September 30 unless changed by the board not more than once in any three-year period. . . .

Revised Law

Sec. 172.252. ANNUAL BUDGET. (a) Before beginning the operation of rail facilities, the board shall adopt an annual operating budget specifying the district's anticipated revenue and expenses for the remainder of the fiscal year. The district shall adopt an operating budget for each succeeding fiscal year. (b) The board must hold a public hearing before adopting each budget except the initial budget. Notice of the hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district. (c) A budget may be amended at any time if notice of the proposed amendment is given in the notice of meeting. (d) An expenditure that is not budgeted may not be made. (V.A.C.S. Art. 6550c, Sec. 5(p) (part).)

Source Law

(p) Before beginning the operation of rail facilities the board of a district shall adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year, and the district shall adopt an operating budget for each succeeding fiscal year. . . . The board shall hold a public hearing before adopting each budget except 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 if notice of the proposed amendment is given in the notice of meeting. An expenditure that is not budgeted may not be made.

Revised Law
Sec. 172.253. GRANTS AND LOANS. A district may accept a grant or loan from the United States, this state and its agencies and political subdivisions, public or private corporations, and any other person. (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

Source Law
(k) A district may . . . accept grants and loans from the United States of America, its departments and agencies, the state, its agencies, and political subdivisions, and public or private corporations and persons, and . . . .

Revisor’s Note
Section 5(k), V.A.C.S. Article 6550c, refers to the United States of America and "its departments and agencies." The revised law omits the quoted language for the reason stated in the revisor’s note to Section 172.153.

Revised Law
Sec. 172.254. DEPOSITORY. (a) The board by resolution shall name one or more banks for the deposit of district funds.
(b) District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code.
(c) To the extent district funds are not insured by the Federal Deposit Insurance Corporation or its successor, the funds shall be collateralized in the manner provided for county funds. (V.A.C.S. Art. 6550c, Sec. 5(q).)

Source Law
(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 the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes). 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.
Section 5(q), V.A.C.S. Article 6550c, refers to the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes). That act was codified in 1993 as Chapter 2256, Government Code. The revised law is drafted accordingly.

Revised Law

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

Source Law

Sec. 6A. (a) A district may use the procedures provided by Chapter 271, Local Government Code, to finance rail facilities of the district, except to the extent of conflict with this Act and except that the district may not levy or collect ad valorem taxes.

Revised Law

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

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

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

(b) A district may covenant with the purchaser of bond anticipation notes that the proceeds of one or more particular
series of bonds will be used for the ultimate payment of the purchase money notes or bond anticipation notes. (V.A.C.S. Art. 6550c, Sec. 6A(b).)

Source Law
(b) A district may issue nonnegotiable purchase money notes, payable in installments and secured by the property being acquired or constructed, to acquire or construct rail facilities. A district may also secure the obligation of the notes by a pledge or undertaking to issue bonds or bond anticipation notes. A district may covenant with the purchaser of bond anticipation notes that the proceeds of one or more particular series of bonds will be used for the ultimate payment of the purchase money notes or bond anticipation notes.

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

Source Law
Sec. 8. The property, revenues, and income of a district and the interest on bonds and notes issued by a district are exempt from all taxes levied by the state or a political subdivision of the state.

Revisor's Note
(1) Section 8, V.A.C.S. Article 6550c, refers to the "property, revenues, and income" of a district. The revised law omits the reference to "income" because Section 2(12), V.A.C.S. Article 6550c (revised in this chapter as Section 172.001(8)), defines "revenue" to include district income.

(2) Section 8, V.A.C.S. Article 6550c, refers to the interest on "bonds and notes" issued by a district. Throughout this chapter, the revised law omits the reference to "notes" when used with "bonds" because Section 2(2), V.A.C.S. Article 6550c (revised in this chapter as Section 172.001(2)), defines "bonds" to include notes.

[Sections 172.258-172.300 reserved for expansion]
Sec. 172.301. REVENUE BONDS. A district, by board resolution, may issue revenue bonds in amounts that the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its rail facilities. (V.A.C.S. Art. 6550c, Secs. 6(a) (part), (e).)

Sec. 6. (a) A district may issue revenue bonds and notes from time to time and in such amounts as its board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its rail facilities. . . .

(e) Bonds payable solely from revenues may be issued by resolution of the board.

Revisor's Note

(1) Section 6(a), V.A.C.S. Article 6550c, provides that a district may issue revenue bonds and notes "from time to time." The revised law omits the quoted language because the authority to issue revenue bonds implies the authority to do so at any time.

(2) Section 6(a), V.A.C.S. Article 6550c, provides that district bonds and notes are fully negotiable and may be redeemed before maturity under terms fixed by the district's board. The revised law omits that provision because it duplicates, in substance, parts of Sections 1201.021 and 1201.022, Government Code, which provide that public securities, including bonds and notes, may be redeemed before maturity and be payable in specified amounts and at specified times, and Section 1201.041, Government Code, which provides that public securities are negotiable. Chapter 1201, Government Code, applies to district bonds by application of Section 1201.002, Government Code. The omitted law reads:

(a) . . . All bonds and notes are fully negotiable and may be made redeemable
before maturity, at the option of the
issuing district, at such price or prices
and under such terms and conditions as may
be fixed by the issuing district in the
resolution authorizing the bonds or notes,
and . . . .

(3) Section 6(a), V.A.C.S. Article 6550c,
provides that district bonds and notes may be sold at a
public or private sale. The revised law omits the
provision because it duplicates Section
1201.022(a)(3)(A), Government Code. Chapter 1201,
Government Code, applies to district bonds and notes
by application of Section 1201.002, Government Code.
The omitted law reads:

(a) . . . [the bonds and notes] . . .
may be sold at public or private sale, as
determined by the board.

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

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

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

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

Source Law

(c) In order to secure the payment of the bonds
or notes, the district may encumber and pledge all or
any part of the revenues of its rail facilities, may
mortgage and encumber all or any part of the properties
of the rail facilities, and everything pertaining to
them acquired or to be acquired, and . . . . If not
prohibited by the resolution or indenture relating to
outstanding bonds or notes, any district may encumber
separately any item or items of real estate or
personalty.

Revisor's Note

(1) Section 6(c), V.A.C.S. Article 6550c,
refers to a district's power to "mortgage and encumber"
it property. The revised law omits "mortgage"
because "mortgage" is included within the meaning of "encumber."

(2) Section 6(c), V.A.C.S. Article 6550c, refers to "real estate or personalty." The revised law substitutes "property" for "real estate or personalty" because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

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

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

(b) The bonds are:
(1) eligible to secure the deposit of public funds of this state or a municipality, a county, a school district, or any other political corporation or subdivision of this state; and
(2) lawful and sufficient security for the deposit to the extent of the principal amount or market value of the bonds, whichever is less. (V.A.C.S. Art. 6550c, Sec. 6(d).)

Source Law
(d) All bonds and notes are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies. The bonds and notes are eligible to secure the deposit of public funds of the state, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds and notes are lawful and sufficient security for the deposits to the extent of the bonds' principal amount or market value, whichever is less.

Revisor's Note
Section 6(d), V.A.C.S. Article 6550c, refers to "cities, towns, [and] villages." The revised law substitutes "a municipality" for "cities, towns, [and] villages" because "municipality" is the term used for
those entities in the Local Government Code.

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

(1) a district is an issuer; and

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

Source Law
(a) . . . A district is . . . an "issuer" under . . . Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes); and . . . . The acquisition, improvement, or repair of rail facilities by a district is an "eligible project" under Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

Revisor's Note
Section 5(a), V.A.C.S. Article 6550c, refers to Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes). That statute was codified in 1999 as Chapter 1371, Government Code. The revised law is drafted accordingly.

Revised Law

Source Law
(k) . . . Any revenue bond indenture may provide limitations on the exercise of the powers granted by this section, and the limitations apply so long as any of the revenue bonds issued pursuant to the indenture are outstanding and unpaid.
Revisor's Note

Section 5(k), V.A.C.S. Article 6550c, provides that any revenue bond indenture may limit the exercise of powers granted by "this section." The powers in Section 5 are revised in certain sections of this chapter. The revised law is drafted accordingly.

Revised Law

Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY ATTORNEY GENERAL. District notes authorized to be issued to an agency of the 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).)

Source Law

(b) [Before delivery, all bonds and notes authorized to be issued,] except notes issued to an agency of the federal or state government, and the records relating to their issuance [shall be submitted to the attorney general for examination.] . . .

Revisor's Note

Section 6(b), V.A.C.S. Article 6550c, requires district bonds and notes to be approved by the attorney general and registered by the comptroller. Section 6(b) also provides that after approval, registration, and sale and delivery, the bonds and notes are incontestable. The revised law omits those provisions because they duplicate, in substance, parts of Chapter 1202, Government Code. Section 1202.003(a), Government Code, requires that public securities, including bonds and notes, be submitted to the attorney general. Section 1202.003(b), Government Code, provides for approval of the public securities by the attorney general and requires the attorney general to submit the approved public securities to the comptroller for registration. Section 1202.005, Government Code, requires registration of the public
securities by the comptroller. Section 1202.006, Government Code, provides that after approval and registration the public securities are incontestable and binding obligations. In addition, for the convenience of the reader, the revised law adds a cross-reference to Chapter 1202. Chapter 1202, Government Code, applies to district bonds by application of Section 1202.001, Government Code. The omitted law reads:

(b) Before delivery, all bonds and notes authorized to be issued, . . . [and the records relating to their issuance] shall be submitted to the attorney general for examination. If the attorney general finds that they have been issued in accordance with the constitution and this Act, and that they will be binding obligations of the district issuing them, the attorney general shall approve them, and they shall be registered by the state comptroller of public accounts. After approval, registration, and sale and delivery of the bonds to the purchaser, they are incontestable.

Revisor's Note
(End of Subchapter)

Section 6(c), V.A.C.S. Article 6550c, provides that the district may prescribe the terms of district bonds and notes. The revised law omits that provision because it duplicates, in substance, provisions of general law. Sections 1201.005 and 1201.022, Government Code, provide that an issuer may specify the terms under which public securities, including bonds and notes, are issued. Chapter 1201, Government Code, applies to district bonds by application of Section 1201.002, Government Code. The omitted law reads:

(c) . . . [the district] . . . may prescribe the terms and provisions of the bonds and notes in any manner not inconsistent with this Act. . . .

Revisor's Note
(End of Chapter)

(1) Section 5(a), V.A.C.S. Article 6550c,
refers to various laws that have been codified.

Section 5(a) provides that a district is a "local
government" under Chapter 1084, Acts of the 70th
Legislature, Regular Session, 1987 (Article 715c,
Vernon's Texas Civil Statutes), an "issuer" under
Chapter 503, Acts of the 54th Legislature, 1955
(Article 717k, Vernon's Texas Civil Statutes), Chapter
784, Acts of the 61st Legislature, Regular Session,
1969 (Article 717k-3, Vernon's Texas Civil Statutes),
the Bond Procedures Act of 1981 (Article 717k-6,
Vernon's Texas Civil Statutes), Chapter 53, Acts of the
70th Legislature, 2nd Called Session, 1987 (Article
717k-8, Vernon's Texas Civil Statutes), and a "public
agency" under Chapter 3, Acts of the 61st Legislature,
Regular Session, 1969 (Article 717k-2, Vernon's Texas
Civil Statutes), and Chapter 400, Acts of the 66th
Legislature, 1979 (Article 717m-1, Vernon's Texas
Civil Statutes).

Article 715c was codified in 1999 as Chapter
2259, Government Code. Articles 717k and 717k-3 were
codified in 1999 as Chapter 1207, Government Code.
Article 717k-6 was codified in 1999 as Chapters 1201,
1202, and 1206, Government Code. Article 717k-8 was
codified in 1999 as Chapter 1202, Government Code.
Article 717k-2 was codified in 1999 as Chapter 1204,
Government Code. Article 717m-1 was codified in 1999
as Chapter 1205, Government Code. The revised law
omits the references to the Government Code chapters
because they apply to rural rail transportation
districts by their own terms. The omitted law reads:

(a) . . . A district is a "local
government" under Chapter 1084, Acts of the
70th Legislature, Regular Session, 1987
(Article 715c, Vernon's Texas Civil
Statutes); [an "issuer"] under Chapter 503,
Acts of the 54th Legislature, 1955 (Article
717k, Vernon's Texas Civil Statutes),
Chapter 784, Acts of the 61st Legislature,
Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), the Bond
Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), Chapter 53,
Acts of the 70th Legislature, 2nd Called
Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes), and . . . a "public
agency" under Chapter 3, Acts of the 61st
Legislature, Regular Session, 1969 (Article
717k-2, Vernon's Texas Civil Statutes), and
Chapter 400, Acts of the 66th Legislature,
1979 (Article 717m-1, Vernon's Texas Civil
Statutes). . . .

(2) Section 9, V.A.C.S. Article 6550c, provides
that the powers and duties under that article are in
addition to powers and duties provided by other law.
The revised law omits the provision because an
accepted general principle of statutory construction
requires a statute to be given cumulative effect with
other statutes unless it provides otherwise or unless
the statutes are in conflict. The general principle
applies to the revised law. The omitted law reads:

Sec. 9. The powers and duties
provided by this Act are in addition to the
powers and duties provided by other law for
counties regarding rail transportation.

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CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law
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.)

Revisor's Note
To ensure that no substantive change is made by
the revision of the term "person" as used in Title 112,
Revised Statutes, the revised law adds a provision
stating that the term "person" includes a corporation,
as provided by Section 312.011, Government Code, and
the definition of "person" in Section 311.005,
Government Code, does not apply. Section 312.011(10),
Government Code, which applies to Title 112, provides
that "person" includes a corporation. Section
311.005(2), Government Code (Code Construction Act),
which applies to the Transportation Code, defines
"person" to include a "corporation, organization,
government or governmental subdivision or agency,
business trust, estate, trust, partnership,
association, and any other legal entity."

Revised Law
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,
A 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.

"Creating municipality" means a municipality described by Section 2(a) of this article.

"Director" means a board member.

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

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

"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-1, Secs. 1(2), (3), (5), (6), (7); New.)

**Source Law**

Sec. 1. In this article:

(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.

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

(5) "District" means an intermunicipal 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 created under this article.

**Revisor's Note**

(1) The definitions of "board" and "director" are added to the revised law for drafting convenience.

(2) Section 1(1), V.A.C.S. Article 6550c-1, defines "[c]ommission" as the Texas Transportation Commission and Section 1(4) of that article defines "[d]epartment" as the Texas Department of Transportation. The revised law omits the definitions because they duplicate the definitions of those terms in Section 81.001, which apply to Chapter 173. The
omitted law reads:

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

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

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

Source Law
Sec. 2(d), V.A.C.S. Article 6550c-1, describes a population number that is to be determined according to the most recent federal census. The revised law omits the reference to the federal census because Section 311.005(3), Government Code (Code Construction Act), defines "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

Revised Law
Sec. 173.004. 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-1, Sec. 4(a) (part).)

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

Sec. 173.051. CREATION OF DISTRICT. (a) A district may be 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. 2. (a) A district may be 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) A district is created on passage of a resolution favoring the creation of the district by the governing body of each creating municipality and the governing body of each county in which a creating municipality is located.

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.).)

Source Law
(c) The following political subdivisions may become a part of a district created under Subsection (b) of this section with the approval of the governing body of the political subdivision:
(1) a county located adjacent to a 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) of this subsection.

[Sections 173.053-173.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Revised Law
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.).)

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

Revised Law
Sec. 173.102. COMPOSITION OF BOARD; TERMS. (a) The board is composed of:
(1) two public directors appointed by the commission;
(2) one elected member of the governing body of each political subdivision that has become a part of the district under Subchapter B;
(3) one elected director appointed by the regional planning organization of which a creating municipality is a part;
(4) one director appointed by each creating municipality to represent the business community of the municipality;
(5) one director appointed by each authority created under Chapter 451 that serves a creating municipality;

(6) one director appointed by each county in which a creating municipality is located to represent transportation providers that provide service to rural areas in the county; and

(7) one director appointed by all other directors to represent all municipalities in the district that do not otherwise have representation on the board who is an elected official of one of those municipalities.

(b) Each director serves a staggered two-year term, with as near as possible to half of the directors' terms expiring February 1 of each year. If one or more directors are added to the board, the directors other than the new directors shall determine the lengths of the new directors' terms so that one-half, or as near one-half as possible, of the directors serve terms expiring each year.

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

Source Law

(b) The board is composed of the following members:

(1) two public members appointed by the commission;

(2) one elected member of the governing body of each political subdivision that has become a part of the district under Section 2 of this article;

(3) one elected member appointed by the regional planning organization of which a creating municipality is a part;

(4) one member appointed by each creating municipality to represent the business community of the municipality;

(5) one member appointed by each authority created under Chapter 451, Transportation Code, that serves a creating municipality;

(6) one member appointed by each county in which a creating municipality is located to represent transportation providers that provide service to rural areas in the county; and

(7) one member appointed by all other board members to represent all municipalities in the district that do not otherwise have representation on the board and who shall be an elected official of one of those municipalities.

(c) ... Each member serves a staggered two-year term with as near as possible to half of the members' terms expiring February 1 of each year. If one or more members are added to the board, the board members other than the new members shall determine the lengths of the new members' terms so that one-half, or as near one-half as possible of the members serve terms expiring each year.
Sec. 173.103. VACANCY. A vacancy on the board shall be filled in the same manner as the original appointment or election. (V.A.C.S. Art. 6550c-1, Sec. 3(c) (part).)

(c) If a vacancy occurs on the board, a successor shall be appointed or elected in the same manner as the original appointment or election.

Sec. 173.104. PRESIDING OFFICER. (a) The directors shall elect one member 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-1, Sec. 3(d).)

(d) 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.

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

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

Sec. 173.106. BOARD MEETINGS BY TELEPHONE OR VIDEOCONFERENCE. (a) Chapter 551, Government Code, does not prohibit the board from holding an open or closed meeting by telephone conference call or videoconference. (b) A meeting held by telephone conference call or videoconference need not have a quorum present at any one location. (c) A telephone conference call or videoconference meeting is subject to the notice requirements applicable to other meetings.
(d) The notice of a telephone conference call or videoconference meeting must specify each location of the meeting where a director will participate and the physical location where the presiding officer of the board will preside. Each of those locations must be open to the public during the open portion of the meeting.

(e) Each part of a telephone conference call meeting that is required to be open to the public must be audible to the public at each meeting location specified in the notice of the meeting and shall be tape recorded. The district shall make the tape recording available to the public.

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

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

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

(g) Without regard to whether a director is participating in a meeting from a remote location by videoconference call, the board may allow a member of the public to testify at a meeting from a remote location by videoconference call. The board shall designate the location for public participation in the notice of the meeting.

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

Source Law

Sec. 3A. (a) Chapter 551, Government Code, does not prohibit the board from holding an open or closed meeting by telephone conference call or videoconference.

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

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

(d) The notice of a telephone conference call or videoconference meeting must specify all locations of the meeting where a member of the board will participate. The notice must also specify the physical location from which the presiding officer of the board will preside. All locations must be open to the public during the open portion of the meeting.

(e) Each part of a telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in
the notice of the meeting as the location of the meeting and shall be tape recorded. The tape recording shall be made available to the public.

(f) Each part of a videoconference meeting that is required to be open to the public shall:
   (1) be visible and audible to the public at all locations specified in the notice of the meeting as the locations of the meeting; and
   (2) have two-way audio and video communications with each participant in the meeting during the entire meeting.

(g) Without regard to whether a member of the board is participating in a meeting from a remote location by videoconference call, the board may allow a member of the public to testify at a meeting from a remote location by videoconference call. The board shall designate the location for public participation in the notice of the meeting.

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

Source Law
(g) The board shall adopt rules for its proceedings and . . . .

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

Source Law
(f) 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.

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

Source Law
(g) The board . . . may employ and compensate persons to carry out the powers and duties of the district.

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

Sec. 173.111. RETIREMENT BENEFITS. A district is eligible to participate in the Texas County and District Retirement System. (V.A.C.S. Art. 6550c-1, Sec. 4(q).)

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

Source Law

Revised Law

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

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

Source Law

Revised Law

Sec. 4. (a) A district . . . has all the powers necessary or convenient to carry out the purposes of this article. . . .

(k) A district . . . may generally perform all acts necessary for the full exercise of the powers vested in it. . . .
Sec. 173.152. RULES. To protect district residents' health, safety, and general welfare, 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 regarding health, safety, alcohol or beverage service, food service, or telephone or utility service. (V.A.C.S. Art. 6550c-1, Sec. 4(h).)

(h) 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 regarding 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.

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

(k) A district may make contracts, leases, and agreements with, and . . . the United States of America, its departments and agencies, the state, its agencies and political subdivisions, and public or private corporations and persons and . . . .

Section 4(k), V.A.C.S. Article 6550c-1, refers to the United States of America and "its departments and agencies." The revised law omits the quoted language because under Section 311.005, Government Code (Code Construction Act), "United States" includes a department, bureau, or other agency of the United States of America.

Sec. 173.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:
(1) 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 property inside or outside the district; and

(2) establish:

(A) through routes;

(B) joint fares; and

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

Source Law

(g) A district may make agreements with any other public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties within or outside the district and establish through routes, joint fares, and, subject to approval of any tariff-regulating body having jurisdiction, divisions of tariffs.

Revised Law

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

Source Law

(i) A district may make joint ownership agreements with any person.

Revised Law

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

(b) The exclusive development agreement:

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

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

(c) The board may adopt rules governing an agreement under this section. (V.A.C.S. Art. 6550c-1, Sec. 6A.)
Sec. 6A. (a) In this section, "exclusive development agreement" means an agreement with a private entity that at a minimum provides for the design and construction of a commuter rail facility or system. The agreement may also provide for the financing, acquisition, maintenance, or operation of a commuter rail facility or system.

(b) A board may enter into an exclusive development agreement with a private entity.

(c) The board may adopt rules governing agreements under this section.

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

(k) ... The commission may enter an interlocal agreement with a district under which a district may exercise a power or duty of the commission for the development and efficient operation of intermodal corridors in the district. ... .

Sec. 173.158. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.

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

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

(c) This section does not apply to:

(1) personal or professional services;

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

(3) a contract with a common carrier to construct lines and to operate commuter rail service on lines wholly or partly
owned by the carrier; or
(4) an agreement with a private entity under Section 173.156. (V.A.C.S. Art. 6550c-1, Sec. 6.)

Source Law
Sec. 6. A contract in the amount of more than $15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except 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. A 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 existing rail transportation systems;
   (3) a contract with a common carrier to construct lines and to operate commuter rail service on lines owned in whole or in part by the carrier; or
   (4) an agreement with a private entity under Section 6A of this Article.

Revisor's Note
Section 6, V.A.C.S. Article 6550c-1, refers to a contract "let only on competitive bids." The revised law substitutes "awarded" for "let" because the terms are synonymous and "awarded" conforms to the modern usage found in competitive bidding statutes in the Local Government Code.

Revised Law
Sec. 173.159. EMINENT DOMAIN. (a) A district may exercise the power of eminent domain to acquire:
   (1) land in fee simple; or
   (2) any interest less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space.
(b) The power of eminent domain under this section does not apply to:
   (1) land under the jurisdiction of the department or a metropolitan transit authority; or
   (2) a rail line owned by a common carrier or municipality.
(c) To the extent possible, the district shall use existing
rail or intermodal transportation corridors for the alignment of its system.

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

(1) is a public necessity; and
(2) is necessary and proper for the construction, extension, improvement, or development of commuter rail facilities and is in the public interest.

(e) The resolution is conclusive evidence of the public necessity of the proposed acquisition and that the real property or interest in property is necessary for public use. (V.A.C.S. Art. 6550c-1, Sec. 4(f).)

Source Law

(f) A district has the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under, or above lands, including easements, rights-of-way, and rights of use of airspace or subsurface space. The power of eminent domain under this section does not apply, however, to land under the jurisdiction of the department or a metropolitan transit authority 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. Proceedings for the exercise of the power of eminent domain are 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.

Revisor's Note

(1) Section 4(f), V.A.C.S. Article 6550c-1, provides that the district has the "right of eminent domain" to acquire property. The revised law substitutes for the quoted language "[a] district may exercise the power of eminent domain" because the phrases have the same meaning and the latter phrase is consistent with modern usage in laws relating to
eminent domain, including Chapter 21, Property Code.

(2) Section 4(f), V.A.C.S. Article 6550c-1, states that the resolution initiating an eminent domain proceeding is conclusive evidence that the "real or personal property or interest in property" is necessary for public use. The revised law omits the reference to personal property because Section 4(f) does not authorize a district to acquire personal property by eminent domain.

Revised Law
Sec. 173.160. SUITS. (a) A district may:

(1) sue and be sued;

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

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

(b) 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 a suit in eminent domain must be brought in the county in which the land is located. (V.A.C.S. Art. 6550c-1, Sec. 4(c).)

Source Law
(c) A district may sue and be sued in all courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving 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 eminent domain proceedings, suit must be brought in the county in which the land is located.

Revisor's Note
Section 4(c), V.A.C.S. Article 6550c-1, provides that a district may sue and be sued "in all courts of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may be brought only in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction.
over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

[Sections 173.161-173.200 reserved for expansion] SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION, CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES

Revised Law

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).)

Source Law

(e) A district may acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities inside, or connect political subdivisions in, the district.

Revised Law

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).)

Source Law

(d) 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 any of its powers under this article.

Revisor's Note

Section 4(d), V.A.C.S. Article 6550c-1, refers to "real and personal" property. The revised law omits the quoted language because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."
Revised Law

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).)

Source Law

(e) . . . For these purposes and with the consent of any municipality, county, or other political subdivision, the district may use streets, alleys, roads, highways, and other public ways of any 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, 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 in the state highway system without the permission of the commission or a railroad without permission of the railroad. . . .

Revised Law

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(1).)

Source Law

(1) 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.

Revised Law

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).)

Source Law

(e) . . . A district may at its discretion acquire by purchase any interest in real property for the acquisition, construction, or operation of any commuter rail facility on terms and at a price as agreed to between the district and the owner. The governing body of any municipality, county, other political subdivision, or public agency may make conveyance of 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.

Revised Law

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).)

Source Law

(k) . . . 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. . . .
Sec. 173.207. 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 all bonds issued by the district under this chapter 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-1, Sec. 4(j).)

Sec. 173.208. OPERATION OR USE CONTRACTS. (a) A district may:
   (1) lease all or part of the commuter rail facilities to any operator; or
   (2) contract for the use or operation of all or part of the commuter rail facilities by any 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-1, Sec. 4(m).)

Source Law

(m) A district may lease the commuter rail facilities or any part to, or contract for the use or operation of the commuter rail facilities or any part by, any 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.

Revised Law

Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. 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 district on terms to which the parties agree. (V.A.C.S. Art. 6550c-1, Sec. 4(n).)

Source Law

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

Revisor's Note

Section 4(n), V.A.C.S. Article 6550c-1, refers to "terms and conditions" of a contract. The revised law omits the reference to "conditions" because "conditions" is included in the meaning of "terms."

[Sections 173.210-173.250 reserved for expansion]

SUBCHAPTER F. FINANCIAL PROVISIONS

Revised Law

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

(p) . . . The fiscal year of the district ends September 30 unless changed by the board. . . .

Revised Law

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

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

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

(d) An expenditure that is not budgeted may not be made.

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

Source Law

(p) Before beginning the operation of commuter rail facilities, the board of a district shall adopt an annual operating budget specifying the anticipated revenues and expenses of the district for the remainder of the fiscal year, and the district shall adopt an operating budget for each succeeding fiscal year. . . . The board shall hold a public hearing before adopting each budget except 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 if notice of the proposed amendment is given in the notice of meeting. An expenditure that is not budgeted may not be made.

Revised Law

Sec. 173.253. GRANTS AND LOANS. A district may accept grants and loans from the United States, this state and its agencies and political subdivisions, public or private corporations, and other persons. (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)

Source Law

(k) A district may . . . accept grants and loans from, the United States of America, its departments and agencies, the state, its agencies and political subdivisions, and public or private corporations and
persons and . . . .

Revisor's Note

Section 4(k), V.A.C.S. Article 6550c-1, refers to the United States of America and "its departments and agencies." The revised law omits the quoted language for the reason stated in the revisor's note to Section 173.153.

Revised Law

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

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

(c) To the extent district funds are not insured by the Federal Deposit Insurance Corporation or its successor, the funds shall be collateralized in the manner provided for county funds.

(V.A.C.S. Art. 6550c-1, Sec. 4(r).)

Source Law

(r) 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.

Revised Law

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

Source Law

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

Revised Law

Sec. 173.256. FINANCING OF CERTAIN TRANSPORTATION INFRASTRUCTURE. (a) This section applies only to a local government, other than a school district, that is a member of a district and that is authorized to impose ad valorem taxes on real property.
(b) A district may enter into an interlocal contract with a local government member for the financing of transportation infrastructure that is constructed or that is to be constructed in the territory of the local government by the district.

(c) The agreement must include:

(1) the duration of the agreement;
(2) a description of each transportation infrastructure project or proposed project;
(3) a map showing the location of each project; and
(4) an estimate of the cost of each project.

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

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

(1) to provide a local match for the acquisition of right-of-way in the territory of the local government; or
(2) for design, construction, operation, or maintenance of transportation facilities in the territory of the local government. (V.A.C.S. Art. 6550c-1, Sec. 8.)

Source Law

Sec. 8. (a) This section applies only to a local government which is a member of a district, other than a school district, that is authorized to impose ad valorem taxes on real property.

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

(c) The agreement must include:

(1) the duration of the agreement;
(2) a description of each transportation infrastructure project or proposed project;
(3) a map showing the location of each project; and
project; and

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

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

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

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

(2) for design, construction, operation, or maintenance of transportation facilities in the territory of the local government.

Revised Law

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

Source Law

Sec. 7. The property, material purchases, revenues, and income of a district and the interest on bonds and notes issued by a district are exempt from all taxes levied by the state or a political subdivision of the state.

[Sections 173.258-173.300 reserved for expansion]

SUBCHAPTER G. BONDS

Revised Law

Sec. 173.301. REVENUE BONDS. A district may issue revenue bonds and notes in amounts that the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its commuter rail facilities. (V.A.C.S. Art. 6550c-1, Sec. 5(a) (part).)

Source Law

Sec. 5. (a) A district may issue revenue bonds and notes from time to time and in such amounts as its board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its commuter rail facilities. . . .
(1) Section 5(a), V.A.C.S. Article 6550c-1, provides that a district may issue revenue bonds and notes "from time to time." The revised law omits the quoted language because the authority to issue revenue bonds and notes implies the authority to do so at any time.

(2) Section 5(a), V.A.C.S. Article 6550c-1, provides that district bonds and notes are fully negotiable and may be redeemed before maturity under terms fixed by the district's board. The revised law omits that provision because it duplicates, in substance, parts of Sections 1201.021 and 1201.022, Government Code, which provide that public securities, including bonds and notes, may be redeemed before maturity and be payable in specified amounts and at specified times, and Section 1201.041, Government Code, which provides that public securities are negotiable. Chapter 1201, Government Code, applies to district bonds and notes by application of Section 1201.002, Government Code. The omitted law reads:

(a) . . . All bonds and notes are fully negotiable and may be made redeemable before maturity, at the option of the issuing district and at prices and under terms and conditions the issuing district determines in the resolution authorizing the bonds or notes, and . . . .

(3) Section 5(a), V.A.C.S. Article 6550c-1, provides that district bonds and notes may be sold at a public or private sale. The revised law omits the provision because it duplicates Section 1201.022(a)(3)(A), Government Code. Chapter 1201, Government Code, applies to district bonds and notes by application of Section 1201.002, Government Code. The omitted law reads:

(a) . . . [All bonds and notes]. . . . may be sold at public or private sale, as
the board determines.

Revised Law

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

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

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

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

Source Law

(c) To secure the payment of the bonds or notes, the district may encumber and pledge all or any part of the revenues of its commuter rail facilities, may mortgage and encumber all or any part of the properties of the commuter rail facilities and everything pertaining to them acquired or to be acquired, and . . . . If not prohibited by the resolution or indenture relating to outstanding bonds or notes, a district may encumber separately any item of real estate or personalty.

Revisor's Note

(1) Section 5(c), V.A.C.S. Article 6550c-1, refers to a district's power to "mortgage and encumber" its property. The revised law omits "mortgage" because "mortgage" is included within the meaning of "encumber."

(2) Section 5(c), V.A.C.S. Article 6550c-1, refers to "real estate or personalty." The revised law substitutes "property" for "real estate or personalty" because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

Revised Law

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

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

(b) The bonds and notes are:

(1) eligible to secure the deposit of public funds of this state or a municipality, a county, a school district, or any other political corporation or subdivision of this state; and
(2) lawful and sufficient security for the deposit to the extent of the principal amount or market value of the bonds or notes, whichever is less. (V.A.C.S. Art. 6550c-1, Sec. 5(d).)

Source Law

(d) All bonds and notes are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies. The bonds and notes are eligible to secure the deposit of public funds of the state, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. The bonds and notes are lawful and sufficient security for the deposits to the extent of the principal amount or market value of the bonds or notes, whichever is less.

Reviser's Note

Section 5(d), V.A.C.S. Article 6550c-1, refers to "cities, towns, [and] villages." The revised law substitutes "a municipality" for "cities, towns, [and] villages" because "municipality" is the term used for those entities in the Local Government Code.

Revised Law


(b) The limitation applies while any of the revenue bonds issued under the indenture are outstanding and unpaid. (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)
(k) . . . Any revenue bond indenture may provide limitations on the exercise of the powers granted by this section, and the limitations apply so long as any of the revenue bonds issued pursuant to the indenture are outstanding and unpaid.

Revisor's Note

Section 4(k), V.A.C.S. Article 6550c-1, provides that any revenue bond indenture may limit the exercise of powers granted by "this section." The powers in Section 4 are revised in certain sections of this chapter. The revised law is drafted accordingly.

Revisor's Note
(End of Subchapter)

(1) Section 5(b), V.A.C.S. Article 6550c-1, requires district bonds and notes to be approved by the attorney general and registered by the comptroller. Section 5(b) also provides that after approval, registration, and sale and delivery, the bonds and notes are incontestable. The revised law omits these provisions because they duplicate, in substance, parts of Chapter 1202, Government Code. Section 1202.003(a), Government Code, requires that public securities, including bonds and notes, be submitted to the attorney general. Section 1202.003(b), Government Code, provides for approval of the public securities by the attorney general and requires the attorney general to submit the approved public securities to the comptroller for registration. Section 1202.005, Government Code, requires registration of the public securities by the comptroller. Section 1202.006, Government Code, provides that after approval and registration the public securities are incontestable and binding obligations. Chapter 1202, Government Code, applies to district bonds and notes by application of Section 1202.001, Government Code. The omitted law reads:
(b) A district shall submit all bonds and notes authorized to be issued and the records 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. Bonds and notes issued under this article are incontestable after approval, registration, and sale and delivery of the bonds to the purchaser.

(2) Section 5(c), V.A.C.S. Article 6550c-1, provides that the district may prescribe the terms of district bonds. The revised law omits that provision because it duplicates, in substance, provisions of general law. Sections 1201.005 and 1201.022, Government Code, provide that an issuer may specify the terms under which a bond is issued. Chapter 1201, Government Code, applies to district bonds by application of Section 1201.002, Government Code. The omitted law reads:

(c) . . . [the district] . . . may prescribe the terms and provisions of the bonds and notes in any manner not inconsistent with this article. . . .

[Sections 173.305-173.350 reserved for expansion]

SUBCHAPTER H. SALES AND USE TAXES

Revised Law

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

Source Law

Sec. 9. (a) A sales and use tax is imposed on items sold on district property. . . .

Revised Law

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

Source Law

(a) . . . The sales and use tax shall be imposed at the rate of the highest combination of local sales and use taxes imposed at the time of the district's creation in any local governmental jurisdiction which is a member of a district. . . .

Revised Law

Sec. 173.353. PREEMPTION OF OTHER SALES AND USE TAXES. The tax imposed under this subchapter preempts all other local sales and use taxes that would otherwise be imposed on district property.

(V.A.C.S. Art. 6550c-1, Sec. 9(a) (part).)

Source Law

(a) . . . All other local sales and use taxes that would otherwise be imposed on district property are preempted by the imposition of this tax.

Revised Law

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

Source Law

(b) . . . Chapter 321, Tax Code, governs the computation, administration, governance, and use of the tax except as inconsistent with this Act.

Revised Law

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

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

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

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

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

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

Source Law

(c) The district shall notify the comptroller in writing by United States registered or certified mail of the district's creation and of its intent to impose the sales and use tax under this Act. The district shall provide to the comptroller all information required to implement the tax, including:

(1) an adequate map showing the property boundaries of the district;
(2) a certified copy of the resolution of the district board adopting the tax; and
(3) certified copies of the resolutions of the governing bodies of the municipalities creating the district and of the commissioners courts in the counties in which the municipalities are located.

(d) Not later than the 30th day after the date the comptroller receives the notice, map, and other information, the comptroller shall inform the district whether the comptroller is prepared to administer the tax.

Revised Law

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

(1) notify each affected local governmental jurisdiction of the district's creation; and
(2) provide each jurisdiction with an adequate map showing the property boundaries of the district. (V.A.C.S. Art. 6550c-1, Sec. 9(e).)

Source Law

(e) At the same time the district notifies the comptroller under Subsection (c) of this section, the district shall notify each affected local governmental jurisdiction of the district's creation and provide each jurisdiction with an adequate map showing the property boundaries of the district.

Revised Law

Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT TO TAX. (a) Not later than the 30th day after the date a district
1 acquires additional territory, the district shall notify the
2 comptroller and each affected local governmental jurisdiction of
3 the acquisition.
4
5 (b) The district must include with each notification:
6
7 (1) an adequate map showing the new property
8 boundaries of the district; and
9
10 (2) the date the additional territory was acquired.
11
12 (c) Not later than the 30th day after the date the
13 comptroller receives the notice under this section, the comptroller
14 shall inform the district whether the comptroller is prepared to
15 administer the tax in the additional territory. (V.A.C.S. Art.
16 6550c-1, Sec. 9(f).)

Source Law

(f) Not later than the 30th day after the date
the district acquires additional territory, the
district shall notify the comptroller and each
affected local governmental jurisdiction of the
acquisition. The district must include with each
notification an adequate map showing the new property
boundaries of the district and the date the additional
territory was acquired. Not later than the 30th day
after the date the comptroller receives the notice
under this subsection, the comptroller shall inform
the district whether the comptroller is prepared to
administer the tax in the additional territory.

Revised Law

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

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

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

Source Law

(a) ... The comptroller shall remit to a
district the local sales and use tax collected on the
district's property. ... .

(b) The comptroller shall administer, collect,
and enforce a tax imposed under this Act. ... .

Revised Law

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

Source Law

(g) A tax imposed under this Act or the repeal of a tax abolished under this Act takes effect on the first day of the first complete calendar quarter that occurs after the expiration of the first complete calendar quarter that occurs after the date the comptroller receives a notice of the action as required by this section.

CHAPTER 174. COMMUTER RAIL DISTRICTS

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CHAPTER 174. COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

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.)

Revisor's Note

To ensure that no substantive change is made by
the revision of the term "person" as used in Title 112,
Revised Statutes, the revised law adds a provision
stating that the term "person" includes a corporation,
as provided by Section 312.011, Government Code, and
the definition of "person" in Section 311.005,
Government Code, does not apply. Section 312.011(10),
Government Code, which applies to Title 112, provides
that "person" includes a corporation. Section
311.005(2), Government Code (Code Construction Act), which applies to the Transportation Code, defines "person" to include a "corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity."

Revised Law
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.)

Source Law
Sec. 1. In this article:

(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.

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

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

Revisor's Note
(1) The definitions of "board" and "director" are added to the revised law for drafting convenience.

(2) Section 1(1), V.A.C.S. Article 6550c-3, defines "[c]ommission" as the Texas Transportation Commission and Section 1(4) of that article defines...
"[d]epartment" as the Texas Department of Transportation. The revised law omits the definitions because they duplicate the definitions of those terms in Section 81.001, which apply to Chapter 174. The omitted law reads:

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

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

(3) Sections 1(3) and (6), V.A.C.S. Article 6550c-3, define "[c]reating county" and "[d]istrict property." The revised law omits the definitions because the defined terms are not used elsewhere in Article 6550c-3, revised as this chapter. The omitted law reads:

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

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

Revised Law

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).)

Source Law

Sec. 4. (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 . . . . 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.

Revised Law

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.)

Source Law
Sec. 9. A municipality located within the
district that wishes to be served by district commuter
rail facilities must pay for construction of a
commuter rail station.

[Sections 174.005-174.050 reserved for expansion]

SUBCHAPTER B. CREATION

Revised Law
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.)

Source Law
Sec. 2. (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.

[Sections 174.052-174.100 reserved for expansion]

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Revised Law
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).)

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

Revised Law
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

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(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).)

Source Law

(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.

Revised Law

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).)

Source Law

(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.

Revised Law

Sec. 174.104. MEETINGS. 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. (V.A.C.S. Art. 6550c-3, Sec. 3(d).)

Source Law

(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.

Revised Law

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

Source Law

(f) The board shall adopt rules for its proceedings and . . . .
Revised Law
Sec. 174.106. COMPENSATION; REIMBURSEMENT. A director is not entitled to compensation for serving as a director but is entitled to reimbursement for reasonable expenses incurred while serving as a director. (V.A.C.S. Art. 6550c-3, Sec. 3(e).)

Source Law
(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.

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

Source Law
(f) ... The board may employ and compensate persons to carry out the powers and duties of the district.

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

Source Law
(f) [The board shall] ... appoint an executive committee. ...

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

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

[Sections 174.110-174.150 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

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

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

Source Law
Sec. 4. (a) [A district] . . . has all the powers necessary or convenient to carry out the purposes of this article. . . .

(j) A district . . . may perform any act necessary for the full exercise of the powers vested in it. . . .

Revised Law
Sec. 174.152. RULES. To protect the health, safety, and general welfare of district residents and people who use district services, 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 regarding health, safety, alcohol or beverage service, food service, or telephone or utility service. (V.A.C.S. Art. 6550c-3, Sec. 4(g).)

Source Law
(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.

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

Source Law
(j) [A district] may make contracts, leases, and agreements with, and . . . the United States of America, its departments and agencies, this state, agencies and political subdivisions of this state, and other persons and entities and . . . .

Revisor's Note
Section 4(j), V.A.C.S. Article 6550c-3, refers to the United States of America and "its departments and
agencies." The revised law omits the quoted language because under Section 311.005, Government Code (Code
Construction Act), "United States" includes a
department, bureau, or other agency of the United
States of America.

Revised Law
Sec. 174.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:

(1) 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 property inside or outside the district; and

(2) establish:

(A) through routes; and

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

Source Law
(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.

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

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

Revised Law
Sec. 174.156. INTERLOCAL AGREEMENTS WITH COMMISSION. The
commission may enter into an interlocal agreement with the district
under which the district may exercise a power or duty of the
commission for the development and efficient operation of an
intermodal corridor in the district. (V.A.C.S. Art. 6550c-3, Sec.
4(j) (part).)
(j) . . . The commission may enter an interlocal agreement with a district under which the district may exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the district. . . .

Sec. 174.157. AWARDING CONSTRUCTION OR PURCHASE CONTRACTS.

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

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

(c) 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 wholly or partly owned by the carrier. (V.A.C.S. Art. 6550c-3, Sec. 6.)

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

Section 6, V.A.C.S. Article 6550c-3, refers to a contract "let only on competitive bids." The revised law substitutes "awarded" for "let" because the terms
are synonymous and "awarded" conforms to the modern usage found in competitive bidding statutes in the Local Government Code.

Revised Law

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

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

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

(1) land under the jurisdiction of the department; or
(2) a rail line owned by a common carrier or municipality.

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

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

(1) is a public necessity; and
(2) is necessary and proper for the construction, extension, improvement, or development of commuter rail facilities and is in the public interest.

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

Source Law

(e) 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, 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.

Revisor's Note
(1) Section 4(e), V.A.C.S. Article 6550c-3, provides that the district has the "right of eminent domain" to acquire property. The revised law substitutes for the quoted language "[a] district may exercise the power of eminent domain" because the phrases have the same meaning and the latter phrase is consistent with modern usage in laws relating to eminent domain, including Chapter 21, Property Code.

(2) Section 4(e), V.A.C.S. Article 6550c-3, states that a resolution initiating an eminent domain proceeding is conclusive evidence that the "real or personal property or interest in property" is necessary for public use. The revised law omits the reference to personal property because Section 4(e) does not authorize a district to acquire personal property by eminent domain.

Revised Law
Sec. 174.159. SUITS. (a) A district may:
(1) sue and be sued;
(2) institute and prosecute suits without giving security for costs; and
(3) appeal from a judgment without giving a supersedeas or cost bond.
(b) 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 a suit in eminent domain involving an
interest in land must be brought in the county in which the land is
located. (V.A.C.S. Art. 6550c-3, Sec. 4(b).)

Source Law
(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.

Revisor's Note
Section 4(b), V.A.C.S. Article 6550c-3, allows a
district to sue and be sued "in all courts." The revised law omits the quoted language as unnecessary
because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which
courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code,
for the general jurisdiction of district courts.

[Sections 174.160-174.200 reserved for expansion]

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

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

Source Law
(d) A district may acquire, construct, develop,
own, operate, and maintain intermodal and commuter
rail facilities to connect political subdivisions in
the district. . . .

Revised Law
Sec. 174.202. 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.
(V.A.C.S. Art. 6550c-3, Sec. 4(c).)

Source Law
(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.

Revisor's Note
Section 4(c), V.A.C.S. Article 6550c-3, refers to "real and personal" property. The revised law omits the quoted language because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

Revised Law
Sec. 174.203. USE AND ALTERATION OF PROPERTY OF ANOTHER POLITICAL SUBDIVISION. (a) For a purpose described by Section 174.201, 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-3, Sec. 4(d) (part).)
(d) . . . 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, 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. . . .

Revised Law

Sec. 174.204. RULES GOVERNING SYSTEM AND ROUTINGS. 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. (V.A.C.S. Art. 6550c-3, Sec. 4(k).)

Source Law

(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.

Revised Law

Sec. 174.205. 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-3, Sec. 4(d) (part).)

Source Law

(d) . . . 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.

Revised Law
Sec. 174.206. 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-3, Sec. 4(j) (part).)

Source Law
(j) ... 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. ...

Revised Law
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).)

Source Law
(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
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.

Revised Law
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).)

Source Law
(1) 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.

Revised Law
Sec. 174.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. 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 district on terms to which the parties agree. (V.A.C.S. Art. 6550c-3, Sec. 4(m).)

Source Law
(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.
Revisor's Note
Section 4(m), V.A.C.S. Article 6550c-3, refers to "terms and conditions" of a contract. The revised law omits the reference to "conditions" because "conditions" is included in the meaning of "terms."

[Sections 174.210-174.250 reserved for expansion]

SUBCHAPTER F. FINANCIAL PROVISIONS

Revised Law
Sec. 174.251. FISCAL YEAR. Unless the board changes the fiscal year, the district's fiscal year ends on September 30.

(V.A.C.S. Art. 6550c-3, Sec. 4(o) (part).)

Source Law

(o) ... The fiscal year of the district ends September 30 unless changed by the board. ...

Revised Law
Sec. 174.252. ANNUAL BUDGET. (a) Before beginning the operation of commuter rail facilities, the board shall adopt an annual operating budget specifying the district's anticipated revenue and expenses for the remainder of the fiscal year. The district shall adopt an operating budget for each succeeding fiscal year.

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

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

(d) An expenditure that is not budgeted may not be made.

(V.A.C.S. Art. 6550c-3, Sec. 4(o) (part).)

Source Law

(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 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 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.

Revised Law
Sec. 174.253. GRANTS AND LOANS. A district may accept grants and loans from the United States, this state and its agencies and political subdivisions, and other persons and entities. (V.A.C.S. Art. 6550c-3, Sec. 4(j) (part).)

Source Law
(j) A district may . . . 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 . . . .

Revisor's Note
Section 4(j), V.A.C.S. Article 6550c-3, refers to the United States of America and "its departments and agencies." The revised law omits the quoted language for the reason stated in the revisor's note following Section 174.153.

Revised Law
Sec. 174.254. DEPOSITORY. (a) The board by resolution shall name one or more banks for the deposit of district funds.
(b) District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code.
(c) To the extent district funds are not insured by the Federal Deposit Insurance Corporation or its successor, the funds shall be collateralized in the manner provided for county funds. (V.A.C.S. Art. 6550c-3, Sec. 4(q).)

Source Law
(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. 174.255. PURCHASE OF ADDITIONAL INSURED PROVISIONS. A district may purchase an additional insured provision to any liability insurance contract. (V.A.C.S. Art. 6550c-3, Sec. 4(n.).)

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

Sec. 174.256. TAX EXEMPTION. District property, material purchases, revenue, and income and the interest on a bond or note issued by a district are exempt from any tax imposed by this state or a political subdivision of this state. (V.A.C.S. Art. 6550c-3, Sec. 7.)

Sec. 7. 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.

[Sections 174.257-174.300 reserved for expansion]

SUBCHAPTER G. BONDS

Sec. 174.301. REVENUE BONDS. A district may issue revenue bonds and notes in amounts that the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its commuter rail facilities. (V.A.C.S. Art. 6550c-3, Sec. 5(a) (part).)

Sec. 5. (a) A district may issue revenue bonds or 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. . . .
terms fixed by the district's board. The revised law omits that provision because it duplicates, in substance, parts of Sections 1201.021 and 1201.022, Government Code, which provide that public securities, including bonds and notes, may be redeemed before maturity and be payable in specified amounts and at specified times, and Section 1201.041, Government Code, which provides that public securities are negotiable. Chapter 1201, Government Code, applies to district bonds and notes by application of Section 1201.002, Government Code. The omitted law reads:

(a) ... A bond or note is fully 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...

(2) Section 5(a), V.A.C.S. Article 6550c-3, provides that district bonds and notes may be sold at a public or private sale. The revised law omits the provision because it duplicates Section 1201.022(a)(3)(A), Government Code. Chapter 1201, Government Code, applies to district bonds and notes by application of Section 1201.002, Government Code. The omitted law reads:

(a) ... [A bond or note] ... may be sold at public or private sale, as the board determines.

Revised Law

Sec. 174.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure payment of district bonds or notes, the district may:

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

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

(b) Unless prohibited by the resolution or indenture
relating to outstanding bonds or notes, a district may encumber separately any item of property. (V.A.C.S. Art. 6550c-3, Sec. 5(c) (part).)

Source Law

(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 the property of the commuter rail facilities and everything pertaining to them that is acquired or to be acquired, and . . . . 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.

Revisor's Note

(1) Section 5(c), V.A.C.S. Article 6550c-3, refers to a district's power to "mortgage and encumber" its property. The revised law omits "mortgage" because "mortgage" is included within the meaning of "encumber."

(2) Section 5(c), V.A.C.S. Article 6550c-3, refers to "real or personal property." The revised law substitutes "property" for "real or personal property" because under Section 311.005, Government Code (Code Construction Act), "property" means "real and personal property."

Revised Law

Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are legal and authorized investments for:

(1) a bank;

(2) a trust company;

(3) a savings and loan association; and

(4) an insurance company.

(b) The bonds and notes are:

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

(2) lawful and sufficient security for the deposit to
the extent of the principal amount or market value of the bonds or
notes, whichever is less. (V.A.C.S. Art. 6550c-3, Sec. 5(d).)

Source Law

(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.

Revised Law

Sec. 174.304. LIMIT ON POWER. (a) A revenue bond indenture
may limit the exercise of the power granted by Section 174.003,
174.254, or 174.255.

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

Source Law

(j) . . . 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.

Revisor's Note

Section 4(j), V.A.C.S. Article 6550c-3, provides
that any revenue bond indenture may limit the exercise
of powers granted by "this section." The powers in
Section 4 are revised in certain sections of this
chapter. The revised law is drafted accordingly.

Revisor's Note

(End of Subchapter)

(1) Section 5(b), V.A.C.S. Article 6550c-3,
requires district bonds and notes to be approved by the
attorney general and registered by the comptroller.
Section 5(b) also provides that after approval,
registration, and sale and delivery the bonds and
notes are incontestable. The revised law omits these provisions because they duplicate, in substance, parts of Chapter 1202, Government Code. Section 1202.003(a), Government Code, requires that public securities, including bonds and notes, be submitted to the attorney general. Section 1202.003(b), Government Code, provides for approval of the public securities by the attorney general and requires the attorney general to submit the approved public securities to the comptroller for registration. Section 1202.005, Government Code, requires registration of the public securities by the comptroller. Section 1202.006, Government Code, provides that after approval and registration the public securities are incontestable and binding obligations. Chapter 1202, Government Code, applies to district bonds and notes by application of Section 1202.001, Government Code. The omitted law reads:

(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.

(2) Section 5(c), V.A.C.S. Article 6550c-3, provides that the district may prescribe the terms of district bonds and notes. The revised law omits that provision because it duplicates, in substance, provisions of general law. Sections 1201.005 and 1201.022, Government Code, provide that an issuer may specify the terms under which public securities, including bonds and notes, are issued. Chapter 1201,
Government Code, applies to district bonds and notes by application of Section 1201.002, Government Code.

The omitted law reads:

(c) ... may prescribe the terms and provisions of the bond or note in any manner not inconsistent with this article. . . .

[Sections 174.305-174.350 reserved for expansion]

SUBCHAPTER H. TAXES

Revised Law

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

Source Law

Sec. 8. (a) A district may impose any kind of tax except an ad valorem property tax.

Revised Law

Sec. 174.352. IMPOSITION OF TAX. (a) 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.

(b) 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.

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

Source Law

(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.

Revised Law

Sec. 174.353. TAX RATE. (a) The board, subject to Section
174.352(a), may impose for a district 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.

(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).)

Source Law
(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, 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.

Revisor's Note
Section 8(e), V.A.C.S. Article 6550c-3, allows a board of a district to impose a sales and use tax "for an authority." The revised law substitutes "district" for "authority" because it is clear from the context of Article 6550c-3 that the commuter rail district that the board governs is the entity for which the board will impose the tax.

Revised Law
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).)
(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.

TRANSPORTATION CODE
CHAPTER 452. REGIONAL TRANSPORTATION AUTHORITIES
Sec. 452.0561. LIABILITY OF TRANSPORTATION ENTITY
PROVIDING PUBLIC TRANSPORTATION

CHAPTER 471. RAILROAD AND ROADWAY CROSSINGS
Sec. 471.009. ENHANCED PAVEMENT MARKING VISIBILITY AT CERTAIN GRADE CROSSINGS

REVISED STATUTES
TITLE 66. FREE PASSES, FRANKS AND TRANSPORTATION
Art. 4015g. SUITS FOR PENALTY

TRANSPORTATION CODE
CHAPTER 452. REGIONAL TRANSPORTATION AUTHORITIES
Revised Law
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.

(c) An independent contractor of a transportation entity performing a function of the entity or an authority is liable for damages only to the extent that the entity or authority would be liable if the entity or authority itself were performing the function. (V.A.C.S. Art. 6550d.)
Art. 6550d. A transportation entity created under this title for the purpose of providing public transportation as defined by Section 452.001, Transportation Code, is a governmental unit as that term is defined by the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), and all operations of the entity are essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act. If an independent contractor of the entity is performing a function of the entity or of a regional transportation authority operating under Chapter 452, Transportation Code, the contractor is liable for damages only to the extent that the entity or authority itself would be liable if the entity or authority itself were performing the function.

Revisor's Note
V.A.C.S. Article 6550d refers to a transportation entity created under "this title," meaning Title 112, Revised Statutes. The portions of Title 112 under which transportation entities may be created are revised as Subtitles C and D of Title 5, and Chapters 172, 173, and 174, Transportation Code, and the revised law is drafted accordingly. In addition, the revised law adds a reference to a transportation entity created under former Title 112 to account for entities created before the revised law takes effect.

CHAPTER 471. RAILROAD AND ROADWAY CROSSINGS

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

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

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

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

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

Source Law

Art. 6370c
Sec. 1. In this Act:
(1) "Department" means the Texas
Department of Transportation.
(2) "Grade crossing" and "retroreflectorized material" have the meanings
assigned by Section 1, Chapter 269, Acts of the 71st
Legislature, Regular Session, 1989 (Article 6370b, Vernon's Texas Civil Statutes).
(3) "Pavement markings" means markings
applied or attached to the surface of a roadway for the
purpose of regulating, warning, or guiding traffic.
(4) "Stop bar" means the marking that is
applied or attached to the surface of a roadway on
either side of a grade crossing and that indicates that
a vehicle must stop at the grade crossing.
Sec. 2. A county or municipality shall use standards developed by the department in applying
pavement markings or a stop bar at a grade crossing if
the cost of the markings or stop bar is paid either entirely or partly from state or federal funds. In
developing its standards, the department shall follow
the standards in the Manual of Uniform Traffic Control Devices issued by the United States Department of
Transportation Federal Highway Administration and,
where appropriate, require the use of retroreflectorized materials.

Revisor's Note
(1) Section 1, V.A.C.S. Article 6370c, defines "department" as the Texas Department of
Transportation. The revised law omits the definition
because the title-wide definition of "department" as
the Texas Department of Transportation contained in
Section 201.001, Transportation Code, applies to the
revised law.
(2) Section 1, V.A.C.S. Article 6370c, refers to definitions of "grade crossing" and "retroreflectorized material" in Section 1, Chapter
That section was codified in 1995 as part of Section 471.004, Transportation Code, and the term "reflecting material" was substituted for the term "retroreflectORIZED material" in that codification.
The revised law is drafted accordingly.

(3) Section 2, V.A.C.S. Article 6370c, refers to the "Manual of Uniform Traffic Control Devices issued by the United States Department of Transportation Federal Highway Administration." The revised law substitutes "on" for "of" in the manual's title because "Manual on Uniform Traffic Control Devices" is the proper title of the manual.

REVISED STATUTES

TITLE 66. FREE PASSES, FRANKS AND TRANSPORTATION

Revised Law

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).)

Source Law

Art. 6477. ... suits brought under Title 66 for recovery of penalties, may be brought in any county:
1. Where an act violative of any provision
thereof is committed.

2. Where such company or receiver has an agent or representative.

3. Where the principal office of such company is situated, or such receiver or receivers, or either, reside. One-half of all moneys collected under the provisions of said title, less the commission and expenses allowed by law, shall be paid into the State Treasury; the remainder thereof shall be paid into the treasury of the county where such suit or suits may be maintained and constitute a part of the jury fund of such county.

NATURAL RESOURCES CODE

CHAPTER 81. RAILROAD COMMISSION OF TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 81.002. DEFINITION OF PERSON FOR CERTAIN

[Sections 81.003-81.01000 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 81.01001. SUNSET PROVISION

Sec. 81.01002. CHAIRMAN

Sec. 81.01003. QUALIFICATIONS FOR OFFICE

Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF CONDUCT, AND CONFLICT OF INTEREST

Sec. 81.01005. NAME AND SEAL

Sec. 81.01006. PROCEDURAL RULES

Sec. 81.01007. SUPPLIES

Sec. 81.01008. SESSIONS

Sec. 81.01009. RECORDS RESEARCH FEE

Sec. 81.01010. FEE FOR COPIES

Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION

Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS

Sec. 81.01013. CONFLICT OF INTEREST

Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY

Sec. 81.01015. EMPLOYEE INCENTIVE PROGRAM

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CHAPTER 81. RAILROAD COMMISSION OF TEXAS
SUBCHAPTER A. GENERAL PROVISIONS
Revised Law
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.)
Revisor's Note
To ensure that no substantive change is made by
the revision of the term "person" as used in Title 112,
Revised Statutes, the revised law adds a provision
stating that the term "person" includes a corporation,
as provided by Section 312.011, Government Code, and
the definition of "person" in Section 311.005,
Government Code, does not apply. Section 312.011(10),
Government Code, which applies to Title 112, provides
that "person" includes a corporation. Section
311.005(2), Government Code (Code Construction Act),
which applies to the Natural Resources Code, defines
"person" to include a "corporation, organization,
government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity."

[Sections 81.003-81.01000 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Revised Law

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

Source Law

Art. 6445a. The Railroad Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished September 1, 2013.

Revised Law

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

Source Law

Organization.--The commissioners shall elect one of their number chairman. . . .

Revised Law

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

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

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

Source Law

Qualifications.--The members shall be resident citizens of this State, and qualified voters under the Constitution and laws, and not less than twenty-five years of age. . . .

Revisor's Note

(1) V.A.C.S. Article 6447 requires commissioners to be "resident citizens of this State"
and "qualified voters under the Constitution and laws." The revised law omits the requirement that a commissioner be a resident citizen of this state because it duplicates portions of Section 11.002, Election Code, and Section 2, Article VI, Texas Constitution, both of which require a qualified voter to be a citizen of the United States and a resident of this state. The policy of the legislative council's statutory revision program is to omit from the revised codes the duplicating statutory provisions because a statute that tracks the language of the constitution not only is superfluous but may foster the erroneous belief that a constitutional requirement is merely statutory and subject to amendment through the ordinary legislative process.

(2) V.A.C.S. Article 6447 in part specifies the composition of the commission and the manner of election and terms of the commissioners. The revised law omits that provision, which is substantively identical to Section 30(b), Article XVI, Texas Constitution, to conform to the policy of the legislative council's statutory revision program as described in Revisor's Note (1). The omitted law reads:

Art. 6447. Election.--The Railroad Commission of Texas shall be composed of three members, one of whom shall be elected biennially at each general election for a term of six years.

Revised Law

Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF CONDUCT, AND CONFLICT OF INTEREST. A commissioner is subject to the provisions of Chapter 572, Government Code, that apply to elected officers, including the requirements governing personal financial statements, standards of conduct, and conflicts of interest.

(V.A.C.S. Art. 6447 (part).)
Source Law

Qualifications. . . . The members are subject to the provisions of Chapter 572, Government Code, that apply to elected officers, including the requirements governing personal financial statements, standards of conduct, and conflicts of interest.

Revised Law

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

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

Source Law

Organization. . . . They shall be known collectively as the "Railroad Commission of Texas," and shall have a seal, a star of five points with the words "Railroad Commission of Texas" engraved thereon. . . .

Revised Law

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

Source Law

Organization. . . . They may make all rules necessary for their government and proceedings. . . .

Revisor's Note

V.A.C.S. Article 6447 authorizes the commission to "make all rules necessary" for the commission's government and proceedings. The revised law substitutes "adopt" for "make" in the context of rules for consistency with terminology used in Texas administrative procedure law, Chapter 2001, Government Code, and specifically Subchapter B of that chapter, which addresses rulemaking by state agencies.

Revised Law

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

Revised Law
Sec. 81.01008. SESSIONS. The commission may hold sessions at any place in this state when considered necessary. (V.A.C.S. Art. 6447 (part).)

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

Source Law
Art. 6447j. The commission shall charge a person who requests an examination or search of commission records $5 for each one-half hour or fraction of an examination or search, unless the person requesting the search represents the state or a county.

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

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

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

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

Source Law

Art. 3922. The Railroad Commission of Texas shall be authorized to charge fees for copies of all papers furnished by it, except such as may be furnished to some department of the State government, as follows:

For copies of any paper, document or record in its office, including certificate and seal, to be applied by the secretary, for each one hundred words, fifteen cents; provided, that this article shall not be construed to authorize the charging of such fees for railroad companies or other persons for tariff sheets for their own use, which such tariff sheets are in force.

The fees so charged and collected shall be accounted for by the secretary of the Railroad Commission and paid into the Treasury as provided in Article 3913.

Reviser's Note

(1) V.A.C.S. Article 3922 refers to "railroad companies or other persons." The revised law omits the reference to "railroad companies" as obsolete because Chapter 281, Acts of the 79th Legislature, Regular Session, 2005, transferred the powers and duties of the commission that relate primarily to railroads and the regulation of railroads to the Texas Department of Transportation.

(2) V.A.C.S. Article 3922 refers to V.A.C.S. Article 3913, which was codified in 1993 as Chapter 603, Government Code. The revised law reflects that change.

Revised Law

Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION.

(a) The commission may authorize payment, as prescribed by the commission, of a regulatory fee, fine, penalty, or charge for goods and services by means of an electronic payment method or a credit card issued by a financial institution chartered by a state or the United States or issued by a nationally recognized credit organization approved by the commission. A payment by the authorized method may be made in person, by telephone, or through the Internet.
(b) The commission may require a person who makes a payment to the commission by means of an electronic payment method or credit card to pay a discount or service charge in an amount reasonable and necessary to reimburse the commission for the costs involved in processing the payment.

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

Source Law

Art. 6447n. (a) The commission may authorize payment, as prescribed by the commission, of regulatory fees, fines, penalties, and charges for goods and services by means of an electronic payment method or a credit card issued by a financial institution chartered by a state or the United States or issued by a nationally recognized credit organization approved by the commission. A payment by the authorized method may be made in person, by telephone, or through the Internet.

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

(c) The commission may adopt rules as necessary to implement this article.

Revised Law

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

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

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

Source Law

Art. 6447i. (a) The commission may apply for, request, solicit, contract for, receive, accept, and administer gifts, grants, and donations of money or other assistance from any source to carry out any commission purpose or power authorized by law.
(b) The commission may not, under Subsection (a) of this section, accept a gift or donation of money or of property from a party in a contested case, as defined in Section 2001.003(1), Government Code, during the period from the inception of the contested case until 30 days after a final order is signed in the contested case.

Revisor's Note

Subsection (a), V.A.C.S. Article 6447i, authorizes the commission to apply for, request, solicit, contract for, receive, accept, and administer gifts, grants, and donations to carry out any commission purpose or power "authorized by law." The revised law omits "authorized by law" as unnecessary because the commission may carry out only those purposes or powers that the law authorizes the commission to carry out.

Revised Law

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

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

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

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

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, may not act as the general counsel to the commission.
(d) The commission shall provide to commissioners and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees. (V.A.C.S. Art. 6447c.)

Source Law

Art. 6447c. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

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

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

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

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

(d) The commission shall provide to members of the commission and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Revisor's Note

Subsection (b), V.A.C.S. Article 6447c, refers to the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) "and its subsequent amendments." The revised law omits "and its subsequent amendments" because under Section 311.027, Government Code (Code Construction Act), unless expressly provided otherwise, a reference to a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.
Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY. (a) The commission shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

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

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

(c) The policy statement must:

1. be updated annually;

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

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

Source Law

Art. 6447b. (a) The commission shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

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

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

(c) The policy statement must:

1. be updated annually;

2. be reviewed by the state Commission on Human Rights for compliance with Subsection (b) of
this article; and

(3) be filed with the governor's office.

Revisor's Note
Subsection (c)(2), V.A.C.S. Article 6447b, refers to the "state Commission on Human Rights." The revised law substitutes a reference to the "Texas Workforce Commission civil rights division" because Chapter 302, Acts of the 78th Legislature, Regular Session, 2003, abolished the Commission on Human Rights and transferred its powers and duties to the Texas Workforce Commission civil rights division.

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

Source Law
Art. 6447m. The commission shall provide to commission employees information and training on the benefits and methods of participation in the state employee incentive program.

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

Source Law
Art. 6447k. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the members of the commission and the management responsibilities of the staff of the commission.

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

Source Law
Art. 6447a. That the salary of the Secretary of
the Railroad Commission of Texas shall be such sum as may be appropriated therefor by the Legislature from time to time.

Revisor's Note
(End of Subchapter)

(1) V.A.C.S. Article 6447 requires that, before assuming the duties of office, each commissioner take and subscribe to the official oath. The revised law omits that provision, which is substantively identical to Section 1, Article XVI, Texas Constitution, to conform to the policy of the legislative council's statutory revision program as described in Revisor's Note (1) to Section 81.01003. Article 6447 also requires that each commissioner swear to enforce state laws concerning railroads. The revised law omits that provision as obsolete since, as noted in Revisor's Note (1) to Section 81.01010, the powers and duties of the commission that relate primarily to railroads and the regulation of railroads were transferred to the Texas Department of Transportation. The revised law does not require members of the Texas Transportation Commission to take such an oath because the requirement to take the oath is the responsibility of an individual commissioner and not an agency power or duty. The omitted law reads:

Oath, etc.--Before entering upon the duties of his office, each commissioner shall take and subscribe to the official oath and shall in addition thereto swear that he will to the best of his ability faithfully and justly execute and enforce the provisions of this title and all laws of this State concerning railroads, which oath shall be filed with the Secretary of State.

(2) V.A.C.S. Article 6447, which was enacted in 1891 and amended in pertinent part in 1983, provides in part for the reimbursement of commissioners and employees of the commission for travel expenses. That provision is omitted from the revised law because it was impliedly repealed by a 1997 amendment to Chapter...
660, Government Code, and by V.A.C.S. Article 6823b. Section 660.003(a), Government Code, provides that Chapter 660, the General Appropriations Act, and the rules adopted by the comptroller under Chapter 660 govern the procedures, amounts, timing, limits, required documentation, permissible payees, distinctions among different types of state employees, and all other details concerning travel expense payments or reimbursements by a state agency. V.A.C.S. Article 6823b, which was enacted in 1991, was codified in 1993 as Chapter 611, Government Code. That chapter also governs reimbursement of state officers and employees for lodging, meals, and travel. The omitted law reads:

Expenses.--The Commissioners shall receive from the State their necessary traveling expenses while traveling on the business of the Commission, which shall include the cost only of transportation while traveling on business for the Commission, upon an itemized statement thereof, sworn to by the party who incurred the expense, and approved by the Commission. Employees of the Commission are entitled to reimbursement for expenses incurred in traveling on the business of the Commission as provided by the General Appropriations Act.

(3) V.A.C.S. Article 6447d provides that the financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code. The revised law omits that article because Section 321.013, Government Code, requires the state auditor to conduct audits of all departments as specified in the audit plan as defined in Section 321.001 of that code, and it is unnecessary to repeat that provision in this chapter. The omitted law reads:

Art. 6447d. The financial transactions of the commission are subject to audit by the state auditor in accordance with Chapter 321, Government Code.
(4) V.A.C.S. Article 6447e provides that the commission is subject to the open meetings law, codified as Chapter 551, Government Code, and the Administrative Procedure and Texas Register Act, codified as Chapters 2001 and 2002, Government Code. The revised law omits that article as unnecessary because Chapter 551, Government Code, applies to the commission under Section 551.001 of that code and Chapters 2001 and 2002, Government Code, apply to the commission under Sections 2001.003 and 2002.001 of that code, respectively. The omitted law reads:

Art. 6447e. The commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Sections 81.021-81.050 reserved for expansion]

SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

Revised Law

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

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

Source Law

Art. 6447h. (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 copy of the commission's
policies and procedures relating to complaint
investigation and resolution.
(c) The commission, at least quarterly until
final disposition of the complaint, shall notify the
person filing the complaint and each person who is a
subject of the complaint of the status of the
investigation unless the notice would jeopardize an
undercover investigation.

Revised Law

Sec. 81.0592. CONSUMER INTEREST INFORMATION. (a) The
commission shall prepare information of consumer interest
describing the regulatory functions of the commission and the
procedures by which consumer complaints are filed with and resolved
by the commission.
(b) The commission shall make the information available to
the public and appropriate state agencies. (V.A.C.S. Art. 6447g.)

Source Law

Art. 6447g. The commission shall prepare
information of consumer interest describing the
regulatory functions of the commission and describing
the commission's procedures by which consumer
complaints are filed with and resolved by the
commission. The commission shall make the information
available to the general public and appropriate state
agencies.

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

Source Law
Art. 6447l. The commission shall develop and
implement policies that provide the public with a
reasonable opportunity to appear before the commission
and to speak on any issue under the jurisdiction of the
commission.

Revised Law
Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF
LICENSE, PERMIT, OR CERTIFICATE. (a) If the commission proposes to
suspend or revoke a person's license, permit, or certificate of
public convenience and necessity, the person is entitled to a
hearing before the commission.

(b) The commission may not:
(1) refuse to issue a license, permit, or certificate
to a person because of the person's race, religion, color, sex, or
national origin; or
(2) revoke or suspend the license, permit, or
certificate of a person because of the person's race, religion,
color, sex, or national origin. (V.A.C.S. Arts. 6447f(a), (c).)

Source Law
Art. 6447f. (a) If the commission proposes to
suspend or revoke a person's license, permit, or
certificate of public convenience and necessity, the
person is entitled to a hearing before the commission.

(c) The commission may not:
(1) refuse to issue a license, permit, or
certificate to a person because of the person's race, religion, color, sex, or national origin; or
(2) revoke or suspend the license, permit,
or certificate of a person because of the person's race, religion, color, sex, or national origin.

Revisor's Note
Subsection (b), V.A.C.S. Article 6447f, provides
that proceedings for the suspension or revocation of a
license, permit, or certificate of public convenience
and necessity are governed by the Administrative
Procedure and Texas Register Act. The revised law
omits that provision because the Administrative
Procedure and Texas Register Act, the pertinent part
of which was codified in 1993 as Chapter 2001,
Government Code, applies to those proceedings by its
own terms. The omitted law reads:

(b) Proceedings for the suspension or
revocation of a license, permit, or
certificate of public convenience and
necessity are governed by the
Administrative Procedure and Texas Register
Act (Article 6252-13a, Vernon's Texas Civil
Statutes).

Revised Law
Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED EMPLOYEE
IN CASES BEFORE COMMISSION. (a) In a case before the commission, a
commissioner, or an authorized commission employee, designated by
the commission for that purpose, in the same manner as if the entire
commission were present, may:

(1) hold a hearing;
(2) conduct an investigation;
(3) make a record of a hearing or investigation for the
use and benefit of the commission;
(4) administer an oath;
(5) certify to an official act; and
(6) compel the attendance of a witness and the
production of papers, books, accounts, and other pertinent
documents and testimony.

(b) The record of a hearing or investigation made under this
section that is certified to by the commissioner or employee has the
same effect as if made before the commission. The commission shall
determine a case in which the record is made under this section in
the same manner as if the record had been made before the
commission.

(c) The commission may punish for contempt a person who:
(1) refuses to comply with this section; or

(2) obstructs or attempts to obstruct a proceeding under this section. (V.A.C.S. Art. 6519a (part).)

Source Law

Art. 6519a. Any member of the Railroad Commission of Texas (or any authorized employee thereof) designated by the Commission for that purpose, shall have power in all cases coming before the Commission to hold hearings and conduct investigations and to make a record thereof for the use and benefit of the Commission, the same as if the entire Commission were present, and such commissioner or designated employee is hereby given the authority to administer oaths, certify to all official acts, and compel the attendance of witnesses and the production of papers, waybills, books, accounts and all other pertinent documents and testimony, and said record when so made and properly certified to by such commissioner or employee, shall have the same force and effect as if made before the Commission, and cases in which such records are made shall be determined by the Commission as if the record had been made before the Commission itself.

Any person who shall in any way, refuse to comply with any provision of this Act or any person who shall in any way undertake to obstruct or interfere with any proceeding under this Act, shall be subject to punishment for contempt by the Commission.

Revisor's Note

(1) V.A.C.S. Article 6519a states that a commissioner or an authorized commission employee may compel the production of "papers, waybills, books, accounts and all other pertinent documents and testimony." The revised law omits the reference to "waybills" because "waybills" is included in the meaning of "papers."

(2) V.A.C.S. Article 6519a states that a record of a hearing or investigation under that article that is certified to by the commissioner or employee has "the same force and effect" as if made before the commission. The revised law omits the reference to "force" because, in context, "force" is included in the meaning of effect.

(3) V.A.C.S. Article 6519a refers to a person who "obstruct[s]" or "interfere[s]" with a proceeding
under that article. The reference to "interfere" is
omitted from the revised law because "interfere" is
included in the meaning of "obstruct."

(4) V.A.C.S. Article 6519a provides that the
article is cumulative of all other laws conferring
jurisdiction and authority on the commission. The
revised law omits that provision because an accepted
general principle of statutory construction requires a
statute to be given cumulative effect with other
statutes unless the statute provides otherwise or
unless the statute conflicts with another statute.
The general principle applies to the revised law. The
omitted law reads:

Art. 6519a. ... This Act shall be cumulative of all
other laws conferring jurisdiction and
authority upon the Railroad Commission.

[Sections 81.065-81.090 reserved for expansion]

SUBCHAPTER D. WITNESSES

Revised Law

Sec. 81.093. DEPOSITIONS. (a) In a matter pending for
hearing before the commission or a division of the commission, the
commission or an interested party may produce the testimony of a
witness by written or oral deposition instead of compelling the
personal attendance of the witness. For that purpose, the
commission may issue a commission or other process necessary to
take a deposition.

(b) The deposition shall be taken, to the extent applicable
and to the greatest extent possible, in accordance with the
provisions of the Texas Rules of Civil Procedure relating to
written and oral depositions. (V.A.C.S. Art. 6472a.)

Source Law

Art. 6472a. In all matters pending for hearing
before the Railroad Commission of Texas, or any
division thereof, the Commission, or any interested
party, shall have the right to produce the testimony of
any witness, or witnesses, by either written or oral
depositions instead of compelling the personal
attendance of witnesses. For this purpose the
Commission is hereby empowered and authorized to issue commissions and all other process necessary for the purpose of taking such depositions. All depositions taken under the provisions of this Act shall be taken, insofar as applicable and to the fullest extent possible, in accordance with provisions of the Texas Rules of Civil Procedure, as amended, relating to written and oral depositions in civil cases.

Revisor's Note

(1) V.A.C.S. Article 6472a refers to the Texas Rules of Civil Procedure, "as amended." The revised law omits "as amended" for the reason stated in the revisor's note to Section 81.01013.

(2) V.A.C.S. Article 6472a refers to the provisions of the Texas Rules of Civil Procedure, "relating to written and oral depositions in civil cases." The revised law omits "in civil cases" as unnecessary because Rule 2, Texas Rules of Civil Procedure, states that the rules apply to "all actions of a civil nature."

Revisor's Note

(End of Chapter)

(1) V.A.C.S. Article 6444 defines "Commission" and "Commissioners." V.A.C.S. Article 6447a-1 defines "commission." The revised law omits those articles because they duplicate Section 81.001 of this code. The omitted laws read:

Art. 6444. The term "Commission" as used in this title means the Railroad Commission of Texas, and the term "Commissioners" means the members of the Railroad Commission of Texas.

Art. 6447a-1. In Articles 6447b-6447h, Revised Statutes, "commission" means the Railroad Commission of Texas.

(2) V.A.C.S. Article 6519c requires certain taxes and fees to be deposited to the credit of the general revenue fund, authorizes the comptroller to establish accounts to account for the sources and uses of dedicated money deposited to the credit of the general revenue fund, and authorizes the legislature
to appropriate money from the general revenue fund to
the commission to carry out the commission's duties.
The revised law omits that article as unnecessary.
Section 404.094, Government Code, requires, with
certain exceptions, all money collected or received by
a state agency to be deposited to the credit of the
general revenue fund. Section 403.031, Government
Code, requires the comptroller to maintain accounts
and information as necessary to show the sources of
state revenues and the purposes for which expenditures
are made. In addition, the legislature has the power
to appropriate money to the commission without an
express statement to that effect. The omitted law
reads:

Art. 6519c. (a) Except as provided by
Section 131.231, Natural Resources Code,
all taxes, license fees, permit fees,
examination fees, and truck registration
fees collected or received by the Railroad
Commission of Texas shall be deposited to
the credit of the General Revenue Fund.
(b) The comptroller of public
accounts may establish accounts as are
necessary to account for the sources and
uses of dedicated funds deposited to the
General Revenue Fund under this section.
(c) The legislature may appropriate
funds from the General Revenue Fund to the
Railroad Commission of Texas for the
operation of the commission and for
carrying out the duties of the commission as
required or permitted by law.
APPENDIX A

ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Section 101.0817, Government Code, is amended to read as follows:

Sec. 101.0817. STATUTORY COUNTY COURT FEES AND COSTS UNDER OTHER LAWS. The clerk of a statutory county court shall collect a fee of $10 under Section 112.059, Transportation Code [Article 6327, Vernon's Texas Civil Statutes], for a county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition.

SECTION 4.02. Subsection (c), Section 91.004, Transportation Code, is amended to read as follows:

(c) Subsection (b) does not apply to money appropriated or allocated:

(1) to a transit authority described by Chapter 451, a transportation authority described by Chapter 452 or 460, or a transit department described by Chapter 453; or

(2) for use by:

(A) a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; or

(B) a district created under Chapter 172 of this code or Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (former Article 6550c, Vernon's Texas Civil Statutes).

SECTION 4.03. Subdivisions (2), (4), and (5), Section 171.001, Transportation Code, are amended to read as follows:

(2) "Bonds" has the meaning assigned by Section 172.001 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)].

(4) "Rail facilities" has the meaning assigned by Section 172.001 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)], except that the term includes property and interests necessary or convenient for the provision of a nonrural rail transportation...
system.

(5) "Revenue" ["Revenues"] has the meaning assigned by Section 172.001 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)].

SECTION 4.04. Section 171.002, Transportation Code, is amended to read as follows:

Sec. 171.002. APPLICABILITY OF RURAL RAIL TRANSPORTATION DISTRICTS LAW. (a) Except as provided by this chapter, the provisions of Chapter 172 other than Section 172.003 [Sections 2-9, Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)] apply to a district as if the district were created under that chapter.

(b) For purposes of applying Chapter 172 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)] to a district created under this chapter, a reference to "rail facilities" in Chapter 172 [Chapter 623] means "rail facilities" as defined by Section 171.001.

(c) For purposes of applying Chapter 172 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)] to a district created under this chapter, a reference in Chapter 172 [Chapter 623] to "eligible county" means a county that created the district.

SECTION 4.05. Section 171.053, Transportation Code, is amended to read as follows:

Sec. 171.053. INTERMUNICIPAL COMMUTER RAIL DISTRICT POWERS. The governing bodies of the county or counties and of the most populous municipality in the most populous county may provide that the district may exercise the powers of an intermunicipal commuter rail district created under Chapter 173 or former Article 6550c-1, Revised Statutes, by specifying in the concurrent order or ordinance creating the district that those powers may be exercised by the district.

SECTION 4.06. Section 171.154, Transportation Code, is amended to read as follows:
Sec. 171.154. INTERMUNICIPAL COMMUTER RAIL POWERS. (a) The district may exercise the powers of an intermunicipal commuter rail district created under Chapter 173 or former Article 6550c-1, Revised Statutes, only if the concurrent order or ordinance creating the district specifies that the district may exercise those powers. The order or ordinance may not grant the district the power to impose a tax.

(b) In the event of a conflict between this chapter and a power granted by Chapter 173 [Article 6550c-1, Revised Statutes], this chapter controls. In the event of a conflict between Chapter 173 [Article 6550c-1] and Chapter 172 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)], Chapter 172 [Article 6550c] controls over Chapter 173 [Article 6550c-1].

SECTION 4.07. Section 171.251, Transportation Code, is amended to read as follows:

Sec. 171.251. PLEDGE OF REVENUE [REVENUES]. A district may secure and pledge revenue [revenues] derived from any source to secure the payment of district bonds.

SECTION 4.08. Section 171.302, Transportation Code, is amended to read as follows:

Sec. 171.302. DISSOLUTION. In addition to the dissolution procedures provided by Chapter 172 [Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)], the board may dissolve a district if:

1. all district liabilities have been paid or 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 the function and only for a cause of action that accrues on or after that date.

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

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

(1) the property is permanent university fund land;
(2) the property is county public school fund agricultural land;
(3) the property is a part of a public transportation facility owned by a municipality or county and:
(A) is an airport passenger terminal building or a building used primarily for maintenance of aircraft or other aircraft services, for aircraft equipment storage, or for air cargo;

(B) is an airport fueling system facility;

(C) is in a foreign-trade zone:
   (i) that has been granted to a joint airport board under Subchapter C, Chapter 681, Business & Commerce Code;
   (ii) the area of which in the portion of the zone located in the airport operated by the joint airport board does not exceed 2,500 acres; and
   (iii) that is established and operating pursuant to federal law; or

(D)(i) is in a foreign trade zone established pursuant to federal law after June 1, 1991, that operates pursuant to federal law;
   (ii) is contiguous to or has access via a taxiway to an airport located in two counties, one of which has a population of 500,000 or more according to the federal decennial census most recently preceding the establishment of the foreign trade zone; and
   (iii) is owned, directly or through a corporation organized under the Development Corporation Act (Subtitle C1, Title 12, Local Government Code), by the same municipality that owns the airport;

(4) the interest is in a part of:
   (A) a park, market, fairground, or similar public facility that is owned by a municipality; or
   (B) a convention center, visitor center, sports facility with permanent seating, concert hall, arena, or stadium that is owned by a municipality as such leasehold or possessory interest serves a governmental, municipal, or public purpose or function when the facility is open to the public, regardless of whether a fee is charged for admission;
the interest involves only the right to use the
property for grazing or other agricultural purposes; [6]

(6) the property is:

(A) owned by a municipality, a public port, or a
navigation district created or operating under Section 59, Article
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) [6] 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
Civil Statutes); and

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

ARTICLE 6. LEGISLATIVE INTENT; EFFECTIVE DATE

SECTION 6.01. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE. This Act is enacted under Section 43, Article III, Texas Constitution. No substantive change in law is intended by this Act.

SECTION 6.02. EFFECTIVE DATE. This Act takes effect April 1, 2011.
APPENDIX B

CHAPTER 311. CODE CONSTRUCTION ACT

(current as of end of 81st Legislature, 1st Called Session, 2009)

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Code Construction Act.

Sec. 311.002. APPLICATION. This chapter applies to:

(1) each code enacted by the 60th or a subsequent legislature as part of the state's continuing statutory revision program;

(2) each amendment, repeal, revision, and reenactment of a code or code provision by the 60th or a subsequent legislature;

(3) each repeal of a statute by a code; and

(4) each rule adopted under a code.

Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in this chapter are not exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of codes.

Sec. 311.004. CITATION OF CODES. A code may be cited by its name preceded by the specific part concerned. Examples of citations are:

(1) Title 1, Business & Commerce Code;

(2) Chapter 5, Business & Commerce Code;

(3) Section 9.304, Business & Commerce Code;

(4) Section 15.06(a), Business & Commerce Code; and

(5) Section 17.18(b)(1)(B)(ii), Business & Commerce Code.

Sec. 311.005. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

(1) "Oath" includes affirmation.

(2) "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal
entity.

(3) "Population" means the population shown by the most recent federal decennial census.

(4) "Property" means real and personal property.

(5) "Rule" includes regulation.

(6) "Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing.

(7) "State," when referring to a part of the United States, includes any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.

(8) "Swear" includes affirm.

(9) "United States" includes a department, bureau, or other agency of the United States of America.

(10) "Week" means seven consecutive days.

(11) "Written" includes any representation of words, letters, symbols, or figures.

(12) "Year" means 12 consecutive months.

(13) "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

Sec. 311.006. INTERNAL REFERENCES. In a code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of the code in which the reference appears.

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.
(b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the present tense include the future tense.

(b) The singular includes the plural and the plural includes the singular.

(c) Words of one gender include the other genders.

Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members fixed by statute.

(b) A quorum of a public body is a majority of the number of members fixed by statute.

Sec. 311.014. COMPUTATION OF TIME. (a) In computing a period of days, the first day is excluded and the last day is included.

(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following constructions apply unless the context in which the word or phrase appears necessarily requires a different construction or unless a different construction is expressly provided by statute:

(1) "May" creates discretionary authority or grants
permission or a power.

(2) "Shall" imposes a duty.

(3) "Must" creates or recognizes a condition precedent.

(4) "Is entitled to" creates or recognizes a right.

(5) "May not" imposes a prohibition and is synonymous with "shall not."

(6) "Is not entitled to" negates a right.

(7) "Is not required to" negates a duty or condition precedent.

SUBCHAPTER C. CONSTRUCTION OF STATUTES

Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that:

(1) compliance with the constitutions of this state and the United States is intended;

(2) the entire statute is intended to be effective;

(3) a just and reasonable result is intended;

(4) a result feasible of execution is intended; and

(5) public interest is favored over any private interest.

Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute is presumed to be prospective in its operation unless expressly made retrospective.

Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a statute, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the:

(1) object sought to be attained;

(2) circumstances under which the statute was enacted;

(3) legislative history;

(4) common law or former statutory provisions, including laws on the same or similar subjects;

(5) consequences of a particular construction;

(6) administrative construction of the statute; and

(7) title (caption), preamble, and emergency
Sec. 311.024. HEADINGS. The heading of a title, subtitle, chapter, subchapter, or section does not limit or expand the meaning of a statute.

Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a) Except as provided by Section 311.031(d), if statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment prevails.

(b) Except as provided by Section 311.031(d), if amendments to the same statute are enacted at the same session of the legislature, one amendment without reference to another, the amendments shall be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

(c) In determining whether amendments are irreconcilable, text that is reenacted because of the requirement of Article III, Section 36, of the Texas Constitution is not considered to be irreconcilable with additions or omissions in the same text made by another amendment. Unless clearly indicated to the contrary, an amendment that reenacts text in compliance with that constitutional requirement does not indicate legislative intent that the reenacted text prevail over changes in the same text made by another amendment, regardless of the relative dates of enactment.

(d) In this section, the date of enactment is the date on which the last legislative vote is taken on the bill enacting the statute.

(e) If the journals or other legislative records fail to disclose which of two or more bills in conflict is latest in date of enactment, the date of enactment of the respective bills is considered to be, in order of priority:

(1) the date on which the last presiding officer signed the bill;

(2) the date on which the governor signed the bill; or

(3) the date on which the bill became law by operation
Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER GENERAL. (a) If a general provision conflicts with a special or local provision, the provisions shall be construed, if possible, so that effect is given to both.

(b) If the conflict between the general provision and the special or local provision is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later enactment and the manifest intent is that the general provision prevail.

Sec. 311.027. STATUTORY REFERENCES. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A uniform act included in a code shall be construed to effect its general purpose to make uniform the law of those states that enact it.

Sec. 311.029. ENROLLED BILL CONTROLS. If the language of the enrolled bill version of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the enrolled bill version controls.

Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a repealing statute does not revive the statute originally repealed nor impair the effect of any saving provision in it.

Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by Subsection (b), the reenactment, revision, amendment, or repeal of a statute does not affect:

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute or any penalty,
forfeiture, or punishment incurred under the statute before its amendment or repeal; or

(4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature that enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature that enacted the code, the statute controls.

Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute contains a provision for severability, that provision prevails in interpreting that statute.

(b) If any statute contains a provision for nonseverability, that provision prevails in interpreting that statute.

(c) In a statute that does not contain a provision for severability or nonseverability, if any provision of the statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute that can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.
Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to preserve the legislature's interest in managing state fiscal matters through the appropriations process, a statute shall not be construed as a waiver of sovereign immunity unless the waiver is effected by clear and unambiguous language. In a statute, the use of "person," as defined by Section 311.005 to include governmental entities, does not indicate legislative intent to waive sovereign immunity unless the context of the statute indicates no other reasonable construction. Statutory prerequisites to a suit, including the provision of notice, are jurisdictional requirements in all suits against a governmental entity.
## APPENDIX C

### DISPOSITION TABLE

#### TRANSPORTATION CODE

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