

TRANSPORTATION CODE

TITLE 5. RAILROADS

SUBTITLE I. SPECIAL DISTRICTS

CHAPTER 171. FREIGHT RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171.001. DEFINITIONS. In this chapter:

- (1) "Board" means the district's board of directors.
- (2) "Bonds" has the meaning assigned by Section [172.001](#).
- (3) "District" means a freight rail district created under this chapter.
- (4) "Rail facilities" has the meaning assigned by Section [172.001](#), except that the term includes property and interests necessary or convenient for the provision of a nonrural rail transportation system.
- (5) "Revenue" has the meaning assigned by Section [172.001](#).

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 4.03, eff. April 1, 2011.

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](#) apply to a district as if the district were created under that chapter.

(b) For purposes of applying Chapter [172](#) to a district created under this chapter, a reference to "rail facilities" in Chapter [172](#) means "rail facilities" as defined by Section [171.001](#).

(c) For purposes of applying Chapter [172](#) to a district created under this chapter, a reference in Chapter [172](#) to "eligible county" means a county that created the district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.04, eff. April 1, 2011.

SUBCHAPTER B. CREATION; ADDITION OF COUNTY TO DISTRICT

Sec. 171.051. APPLICABILITY TO CERTAIN COUNTIES. A district may be created only in a county with a population of 3.3 million or more and counties adjacent to such a county.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.052. CREATION BY COUNTIES AND MUNICIPALITIES. (a) The governing body of one or more counties and the most populous municipality in the most populous county may by concurrent order or ordinance create a district. At the time of creation, a district must include:

(1) a county with a population of 3.3 million or more; and

(2) that municipality.

(b) The order or ordinance creating the district:

(1) must specify:

(A) the number of district directors and who appoints the directors; and

(B) the method of selecting the board's presiding officer; and

(2) may specify terms and conditions that are not expressly inconsistent with this chapter.

(c) If the most populous county in the district contains a countywide navigation district and the presiding officer of the navigation district is jointly appointed by that county and the most populous municipality in that county, the order or ordinance creating the district must specify that:

(1) the presiding officer of the navigation district is a director of the freight rail district; and

(2) at least one director must be jointly appointed by the mayors of the municipalities in the district, except for the

mayor of the most populous municipality in the most populous county.

(d) The common law doctrine of incompatibility does not apply to a director serving under Subsection (c)(1) with regard to the director's service for the freight rail district or for the navigation district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

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, including the powers related to a commuter rail facility and other types of passenger rail services, including intercity rail services, by specifying in the concurrent order or ordinance creating the district that those powers may be exercised by the district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 33 (H.B. 2433), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.05, eff. April 1, 2011.

Sec. 171.054. DISTRICT TERRITORY. The district consists of the territory of:

- (1) each county that created the district;
- (2) each county added to the district under Section 171.055; and
- (3) the territory of the most populous municipality in the most populous county if that municipality's territory is located in more than one county.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 2, eff. June 17, 2011.

Sec. 171.055. ADDITION OF COUNTY TO DISTRICT. (a) A county may be added to a district if:

(1) the county is adjacent to a county with a population of 3.3 million or more that created the district; or

(2) the county:

(A) is adjacent to a county that is added to the district under Subdivision (1); and

(B) contains a navigation district.

(b) The following governing bodies must by joint resolution approve the addition of the county to the district:

(1) the commissioners court of the county to be added to the district;

(2) the commissioners court of each county in the district; and

(3) the governing body of the most populous municipality in the most populous county in the district.

(c) The resolution must include the number of directors the new county will have on the board.

(d) On adoption of the resolution by each commissioners court and the governing body of the municipality, the county is added to the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 3, eff. June 17, 2011.

#### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 171.101. COMPOSITION OF BOARD; PRESIDING OFFICER.

(a) The board consists of directors, including a presiding officer, as provided in the order or ordinance creating the district under Section 171.052(b).

(b) The board shall add directors for each county added to the district as provided in the joint resolution adding the county under Section 171.055.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 4, eff. June 17, 2011.

Sec. 171.102. EX OFFICIO NONVOTING DIRECTOR; TEXAS TRANSPORTATION COMMISSION. The Texas Transportation Commission may appoint to the board a representative to serve as a nonvoting ex officio director.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.103. CONFLICT OF INTEREST. Chapter 171, Local Government Code, governs conflicts of interest for directors.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

#### SUBCHAPTER D. POWERS AND DUTIES

Sec. 171.151. REGIONAL MOBILITY AUTHORITY POWERS. A district may exercise the transportation project powers of a regional mobility authority under Chapter 370 for a transportation project that is a freight rail facility.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.152. GENERAL CONTRACT POWERS. A district may contract with any person, including:

- (1) a county or municipality, including a county or municipality that is a member of the district;
- (2) this state or any political subdivision of this state;
- (3) the United States; or
- (4) a railroad.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 5, eff. June 17, 2011.

Sec. 171.153. EXERCISE OF POWERS IN OTHER COUNTIES. The commissioners court of a county that is not in the district may authorize the district to exercise its powers in that county if that county is adjacent to a county that is in the district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

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, this chapter controls. In the event of a conflict between Chapter 173 and Chapter 172, Chapter 172 controls over Chapter 173.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.06, eff. April 1, 2011.

Sec. 171.155. MUNICIPAL LIMIT ON DISTRICT'S POWER OF EMINENT DOMAIN. If the property to be condemned is located in the corporate limits of one or more municipalities, the district may exercise the power of eminent domain to condemn the property only if each municipality in which the property is located consents to the exercise of that power.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

SUBCHAPTER E. RELATIONSHIP BETWEEN DISTRICT AND AFFECTED RAILROADS

Sec. 171.201. AGREEMENT WITH RAILROAD. (a) Before a district may undertake a freight or commuter rail project that materially affects the tracks, facilities, or other property of a railroad that owns track in the district, the district and railroad must enter into a written agreement regarding the scope, operational impact, financing, and other elements of the project. The district may not undertake the project unless the district and the railroad agree on these terms.

(b) The agreement may include provisions for the railroad's financial participation in the project according to the benefits the railroad derives from the project.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.202. PRESERVATION OF REGULATORY STRUCTURE AND OWNERSHIP RIGHTS. A district project may be conducted only in a manner that preserves the existing rail industry regulatory structure and railroad ownership rights.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.203. COMPETITIVE RELATIONSHIPS. The district may not undertake a project that changes the existing competitive relationships between and among railroads.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.204. SERVICE TO CUSTOMERS. The district may not undertake a project that negatively affects a railroad's present or future ability to provide consistent service to its customers.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.205. USE OF DISTRICT RAIL FACILITIES. This chapter does not prohibit the district from authorizing multiple freight

railroads to operate on district rail facilities.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

Sec. 171.206. LIMITATION ON EMINENT DOMAIN. The power of eminent domain may not be exercised under this chapter to condemn a right-of-way owned by a railroad.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

Sec. 171.207. EXCEPTION; GRADE SEPARATION PROJECTS. This subchapter does not apply to a rail-roadway or rail-rail grade separation project.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

#### SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 171.251. PLEDGE OF REVENUE. A district may secure and pledge revenue derived from any source to secure the payment of district bonds.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 4.07, eff. April 1, 2011.

Sec. 171.252. PURCHASE CONTRACTS. Subchapter O, Chapter [60](#), Water Code, as added by Chapter 307, Acts of the 78th Legislature, Regular Session, 2003, applies to the district as if the district were a navigation district under that subchapter. For the purposes of applying that subchapter to the district under this section, "commission" means the board.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff. June 17, 2005.

Sec. 171.253. AD VALOREM AND SALES AND USE TAXES PROHIBITED.



A district may not impose an ad valorem tax or a sales and use tax.  
Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff.  
June 17, 2005.

Sec. 171.254. FEES CHARGED TO RAILROADS. (a) A district may not impose a fee or other charge on a railroad unless the railroad agrees to the fee or other charge.

(b) This section does not prohibit a railroad from voluntarily contributing to the cost of rail facilities or prohibit the district from charging for the use of a rail facility by a railroad or other person.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff.  
June 17, 2005.

Sec. 171.255. PORT TERMINAL RAILROAD ASSOCIATION RAIL FACILITIES. The district may not spend money, including money from state or federal grants, to purchase a rail facility operated by a port terminal railroad.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. [2958](#)), Sec. 1, eff.  
June 17, 2005.

Sec. 171.256. LOCAL GOVERNMENT FINANCING. (a) Section [173.256](#)(d), relating to the limit on payments made by a local government, does not apply to a district to which Section [171.053](#) applies.

(b) A district to which Section [171.053](#) applies may use money paid to the district by a local government outside the territory of the local government if the money is used for a public purpose of the local government.

(c) A district to which Section [171.053](#) applies may pledge money paid to the district by a local government to secure the payment of a district debt.

Added by Acts 2009, 81st Leg., R.S., Ch. 33 (H.B. [2433](#)), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 24.002, eff. September 1, 2011.

SUBCHAPTER G. WITHDRAWAL; DISSOLUTION

Sec. 171.301. WITHDRAWAL. (a) A county or municipality that is a member of the district may petition the board for approval to withdraw from the district. The board may approve the petition only if:

(1) the district has no outstanding bonds; or

(2) the district has debt other than bonds and the board finds that the withdrawal of the county or municipality will not materially affect the ability of the district to repay the debt.

(b) If the board approves the petition, the county or municipality that withdrew from the district is not entitled to appoint directors to the board. The remaining counties or municipality by concurrent order or ordinance shall allocate among themselves the authority of the withdrawing county or municipality to appoint directors to the board.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 6, eff. June 17, 2011.

Sec. 171.302. DISSOLUTION. In addition to the dissolution procedures provided by Chapter 172, 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.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff.

June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 4.08,  
eff. April 1, 2011.