

TRANSPORTATION CODE
TITLE 5. RAILROADS
SUBTITLE I. SPECIAL DISTRICTS
CHAPTER 174. COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER B. CREATION

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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
- (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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.105. RULES FOR PROCEEDINGS. The board shall adopt rules for its proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.107. EMPLOYEES. The board may employ and compensate persons to carry out the powers and duties of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.108. EXECUTIVE COMMITTEE. The board shall appoint an executive committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

Sec. 174.109. RETIREMENT BENEFITS. A district is eligible to participate in the Texas County and District Retirement System. Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER D. GENERAL POWERS AND DUTIES

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.155. JOINT OWNERSHIP AGREEMENTS. A district may enter into a joint ownership agreement with any person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.157. AWARDED 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 174.251. FISCAL YEAR. Unless the board changes the fiscal year, the district's fiscal year ends on September 30.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.
Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.255. PURCHASE OF ADDITIONAL INSURED PROVISIONS. A district may purchase an additional insured provision to any liability insurance contract.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.304. LIMIT ON POWER. (a) A revenue bond indenture may limit the exercise of the power granted by Section 174.003, 174.109, 174.151, 174.152, 174.153, 174.154, 174.155, 174.156, 174.158, 174.159, 174.201, 174.202, 174.203, 174.204, 174.205, 174.206, 174.207, 174.208, 174.209, 174.251, 174.252, 174.253, 174.254, or 174.255.

(b) A limit applies while any of the revenue bonds issued under the indenture are outstanding and unpaid.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER H. TAXES

Sec. 174.351. TAX AUTHORIZED. A district may impose any kind of tax except an ad valorem property tax.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

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.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.