

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logical order, employing a numbering system and format that will accommodate future expansion of the law, eliminating repealed, invalid, duplicative, and other ineffective provisions, and improving the draftsmanship of the law if practicable--all toward promoting the stated purpose of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 In 2007 the 80th Legislature repealed many of the archaic and preempted railroad statutes by enacting H.B. 3711 (Chapter 1115, Acts of the 80th Legislature, Regular Session, 2007).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.

1 TRANSPORTATION CODE

2 TITLE 5. RAILROADS

3 SUBTITLE A. GENERAL PROVISIONS

4 CHAPTER 81. GENERAL PROVISIONS

5 Sec. 81.001. DEFINITIONS 2

6 Sec. 81.002. APPLICABILITY 2

7 SUBTITLE A. GENERAL PROVISIONS

8 CHAPTER 81. GENERAL PROVISIONS

9 Revised Law

10 Sec. 81.001. DEFINITIONS. In this title:

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

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

15 Revisor's Note

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

20 Revised Law

21 Sec. 81.002. APPLICABILITY. In this title, a reference to a
22 railroad company includes:

23 (1) a railroad incorporated before September 1, 2007,
24 under former Title 112, Revised Statutes; or

25 (2) any other legal entity operating a railroad,
26 including an entity organized under the Texas Business Corporation
27 Act or the Texas Corporation Law provisions of the Business
28 Organizations Code. (V.A.C.S. Art. 6259a.)

29 Source Law

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

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

34 (2) any other legal entity operating a
35 railroad in this state, including an entity organized
36 under the Texas Business Corporation Act or the Texas
37 Corporation Law provisions of the Business
38 Organizations Code.

1 Revisor's Note

2 V.A.C.S. Article 6259a defines "railroad
3 corporation" to include any legal entity operating a
4 railroad. Throughout the proposed law, the revised
5 law substitutes "railroad company" for "railroad
6 corporation" because "company" is a broader term that
7 encompasses more of the legal entities that may
8 operate a railroad.

9 Revisor's Note
10 (End of Subtitle)

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

17 SUBTITLE C. RAILROADS GENERALLY

18 CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

19 SUBCHAPTER A. GENERAL PROVISIONS

20 Sec. 111.001. DEFINITION OF PERSON 4
21 Sec. 111.002. POWER AND AUTHORITY 4
22 Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY 5
23 Sec. 111.004. REFERENCE TO RAILROAD COMMISSION 6

24 [Sections 111.005-111.050 reserved for expansion]

25 SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

26 Sec. 111.051. INSPECTION OF BOOKS AND PAPERS; PENALTY 7
27 Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT 9
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30 Sec. 111.054. REFUSAL TO ANSWER BY RAILROAD COMPANY;
31 PENALTY 11
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34 Sec. 111.057. PENALTY NOT OTHERWISE PROVIDED 16
35 Sec. 111.058. SUITS FOR PENALTY 17

1 [Sections 111.059-111.100 reserved for expansion]

2 SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

3 Sec. 111.101. IMPLEMENTATION OF FEDERAL SAFETY LAWS;

4 FEES 18

5 Sec. 111.102. HAZARDOUS MATERIALS INSPECTIONS 20

6 SUBTITLE C. RAILROADS GENERALLY

7 CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Revised Law

10 Sec. 111.001. DEFINITION OF PERSON. In this chapter:

11 (1) "person" includes a corporation, as provided by
12 Section 312.011, Government Code; and

13 (2) the definition of "person" assigned by Section
14 311.005, Government Code, does not apply. (New.)

15 Revisor's Note

16 To ensure that no substantive change is made by
17 the revision of the term "person" as used in Title 112,
18 Revised Statutes, the revised law adds a provision
19 stating that the term "person" includes a corporation,
20 as provided by Section 312.011, Government Code, and
21 the definition of "person" in Section 311.005,
22 Government Code, does not apply. Section 312.011(10),
23 Government Code, which applies to Title 112, provides
24 that "person" includes a corporation. Section
25 311.005(2), Government Code (Code Construction Act),
26 which applies to the Transportation Code, defines
27 "person" to include a "corporation, organization,
28 government or governmental subdivision or agency,
29 business trust, estate, trust, partnership,
30 association, and any other legal entity."

31 Revised Law

32 Sec. 111.002. POWER AND AUTHORITY. To the extent not
33 preempted by federal law, the department:

34 (1) has power and authority over:

1 (A) railroads, including suburban, belt, and
2 terminal railroads;

3 (B) public wharves, docks, piers, elevators,
4 warehouses, sheds, tracks, and other property used in connection
5 with railroads; and

6 (C) persons, associations, and private or
7 municipal corporations that own or operate a railroad, or a wharf,
8 dock, pier, elevator, warehouse, shed, track, or other property
9 used in connection with a railroad; and

10 (2) shall govern and regulate those railroads,
11 persons, associations, and corporations and prevent abuses in the
12 conduct of their business. (V.A.C.S. Art. 6445, Subsec. (a).)

13 Source Law

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

16 (1) has power and authority over:

17 (A) railroads, including suburban,
18 belt and terminal railroads;

19 (B) public wharves, docks, piers,
20 elevators, warehouses, sheds, tracks and other
21 property used in connection with railroads; and

22 (C) persons, associations and
23 corporations, private or municipal, owning or
24 operating a railroad, or a wharf, dock, pier,
25 elevator, warehouse, shed, track or other property
26 used in connection with a railroad; and

27 (2) shall govern and regulate those
28 railroads, persons, associations and corporations and
29 prevent abuses in the conduct of their business.

30 Revisor's Note

31 Subsection (a), V.A.C.S. Article 6445, refers to
32 the Texas Department of Transportation. Section
33 81.001, Transportation Code, defines "department" to
34 mean the Texas Department of Transportation for the
35 purposes of Title 5, Transportation Code.

36 Revised Law

37 Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY. On October
38 1, 2005, all powers and duties of the Railroad Commission of Texas
39 that related primarily to railroads and the regulation of railroads
40 and that existed on that date were transferred to the department, as
41 provided by Chapter 281, Acts of the 79th Legislature, Regular
42 Session, 2005. (V.A.C.S. Art. 6445, Subsec. (b).)

1 Natural Resources Code in Subchapters B, C, and D,
2 Chapter 81, Natural Resources Code, are sufficient by
3 their own terms to authorize an agency's actions or to
4 subject persons under the agency's jurisdiction to
5 liability under the appropriate circumstances. The
6 omitted law reads:

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

19 [Sections 111.005-111.050 reserved for expansion]

20 SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

21 Revised Law

22 Sec. 111.051. INSPECTION OF BOOKS AND PAPERS; PENALTY. (a)

23 A member of the commission or a person authorized in writing by a
24 member of the commission under the hand and seal of the department
25 may at any time:

26 (1) inspect the books and papers of a railroad
27 company; and

28 (2) examine under oath a railroad company officer,
29 agent, or employee in relation to the business and affairs of the
30 company.

31 (b) A railroad company that refuses to permit an examination
32 of the company's books and papers under Subsection (a) is liable to
33 the state, for each violation, for a penalty of not less than \$125
34 or more than \$500 for each day the company fails or refuses to
35 permit the examination.

36 (c) An officer, agent, or employee of a railroad company who
37 possesses or controls any book or paper of the company commits an
38 offense if, after proper demand, the officer, agent, or employee
39 fails or refuses to exhibit, to any member of the commission or any
40 person authorized to investigate, the book or paper. An offense

1 under this subsection is a misdemeanor punishable by a fine of not
2 less than \$125 or more than \$500. (V.A.C.S. Arts. 6464, 6465,
3 6559i-1.)

4 Source Law

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

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

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

27 Revisor's Note

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

39 (2) V.A.C.S. Article 6559i-1 provides a penalty
40 for railroad company officers, agents, and employees
41 who refuse to permit the Railroad Commission of Texas
42 to examine the company's books and papers. The revised
43 law clarifies that the conduct is a misdemeanor
44 criminal offense. Article 6559i-1 was transferred to

1 its current designation from Article 1684, Vernon's
2 Annotated Penal Code, by authority of Chapter 399,
3 Acts of the 63rd Legislature, Regular Session, 1973,
4 which enacted the Texas Penal Code. Article 47,
5 Vernon's Annotated Penal Code, which applied to
6 Article 1684 before its transfer, stated that "[an]
7 offense is an act or omission . . . to which is annexed
8 . . . any punishment prescribed by this Code" and that
9 every offense that was not "punishable by death or
10 confinement in the penitentiary" was considered a
11 misdemeanor. Section 5 of Chapter 399 provided that
12 the transfer of articles from the old penal code to new
13 locations in Texas statutes was to be done "without
14 altering the meaning or effect" of the unrepealed
15 statutes. Accordingly, the revised law classifies
16 this conduct as a misdemeanor criminal offense and
17 conforms the language to the way offenses punishable
18 by a fine are described by the Penal Code.

19 Revised Law

20 Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT. (a)
21 The department shall as often as necessary provide each railroad
22 company a questionnaire designed to elicit all information
23 concerning the railroad.

24 (b) A railroad company receiving a questionnaire under
25 Subsection (a) shall properly fill out the questionnaire and answer
26 each question fully and correctly. A railroad company that is
27 unable to answer a question shall give satisfactory reason for the
28 inability to answer.

29 (c) A railroad company shall return the completed
30 questionnaire, sworn to by the proper officer of the company, to the
31 department not later than the 30th day after the date the company
32 received the questionnaire. (V.A.C.S. Art. 6467.)

33 Source Law

34 Art. 6467. The Commission shall as often as
35 necessary furnish each railroad company suitable

1 blanks with questions formed so as to elicit all
2 information concerning such railroads. Any railroad
3 company receiving such blanks shall cause them to be
4 properly filled out so as to answer fully and correctly
5 each question therein propounded, and if they are
6 unable to answer any question therein propounded, they
7 shall give satisfactory reason for their failure; and
8 the answers duly sworn to by the proper officer of the
9 company, shall be returned to the Commission within
10 thirty days from the receipt thereof.

11 Revisor's Note

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

17 Revised Law

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

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

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

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

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

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

34 Source Law

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

1 to so answer.

2 Revisor's Note

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

27 Revised Law

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

31 (1) an officer or employee of the company:

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

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

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

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

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

9 (b) The department may prescribe a system of bookkeeping to
10 be observed by each railroad company that receives a questionnaire
11 under Section 111.052, under the penalties of Subsection (a).
12 (V.A.C.S. Art. 6468.)

13 Source Law

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

29 Revised Law

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

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

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

40 (1) \$1 for each day; and

41 (2) three cents for each mile the witness travels, by

1 the nearest practical route, in going to and returning from that
2 place.

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

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

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

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

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

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

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

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

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

30 Source Law

31 Art. 6471. In any examination or investigation
32 provided in this chapter, the Commission is authorized
33 and empowered to compel the attendance of witnesses,
34 and may issue subpoenas for witnesses by such rules as
35 they may prescribe, and such process shall be served by
36 the officer to whom it may be directed. Each witness
37 who shall appear before the Commission by order of the
38 Commission, at a place outside the county of his

1 residence, shall receive for his attendance one dollar
2 per day and three cents per mile traveled by the
3 nearest practical route, in going to and returning
4 from the place of meeting of the Commission, which
5 shall be paid by the Comptroller upon the presentation
6 of proper vouchers, sworn to by the witness, and
7 approved by the Commission. No witness shall be
8 entitled to fees or mileage who is directly or
9 indirectly interested in a railroad, or who is in
10 anywise interested in any stock, bond, mortgage,
11 security or earnings of such road, or was an officer,
12 agent or employé of such road when summoned at the
13 instance of such railroad. No witness furnished with
14 free transportation shall receive pay for the distance
15 he may travel on such free transportation. The
16 Commission may issue an attachment as in civil cases,
17 for a witness who fails or refuses to obey a subpoena,
18 and compel him to attend before the Commission and give
19 his testimony upon such matter as shall be lawfully
20 required by them. If a witness, after being duly
21 summoned, shall fail or refuse to attend or to answer
22 any question propounded to him, and which he would be
23 required to answer if in court, the Commission may fine
24 and imprison such witness for contempt, in the same
25 manner that a judge of the district court might do
26 under similar circumstances. The claim that any such
27 testimony might tend to criminate the person giving it
28 shall not excuse a witness from testifying, but such
29 evidence or testimony shall not be used against such
30 person on the trial of any criminal proceeding.

31 Revisor's Note

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

46 (2) V.A.C.S. Article 6471 refers to an
47 examination or investigation under "this chapter,"
48 meaning Chapter 11, Title 112, Revised Statutes.
49 Although Article 6471 is not explicitly limited to

1 witnesses participating in an examination and
2 investigation of a railroad, the revised law limits
3 the provision's application to an examination or
4 investigation of a railroad and does not apply the
5 provision to an examination or investigation
6 associated with the railroad commission's regulation
7 of the oil and gas industry. Subsequent to the
8 enactment of the 1891 statute that was revised in 1925
9 as Article 6471, the legislature enacted Section 10,
10 Chapter 14, Acts of the 36th Legislature, 3rd Called
11 Session, 1920, which specifically addressed the
12 appearance of witnesses in an investigation or
13 examination associated with the oil and gas industry,
14 leaving Article 6471 to apply only to the railroad
15 commission's regulation of railroads.

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

27 Revised Law

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

32 (b) An officer executing process issued under a provision of
33 this subtitle or Subtitle D may charge a fee as determined by the
34 department, not to exceed fees prescribed by law for similar

1 services. (V.A.C.S. Art. 6472.)

2 Source Law

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

10 Revisor's Note

11 V.A.C.S. Article 6472 refers to process issued
12 under the provisions of "this title," meaning Title
13 112, Revised Statutes. Throughout this subtitle, the
14 revised law substitutes references to "this subtitle
15 or Subtitle D" for references to Title 112 that relate
16 to railroads because the provisions of that title
17 relating to railroads have been codified in those
18 locations.

19 Revised Law

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

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

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

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

29 Source Law

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

40 Revisor's Note

41 (1) V.A.C.S. Article 6476 provides a penalty for
42 a railway company if the company "shall violate any

1 provision of this title, or shall do any act herein
2 prohibited." The revised law omits "shall do any act
3 herein prohibited" because performing an act
4 prohibited by the title would be a violation of a
5 provision of the title.

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

10 Revised Law

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

15 (1) Travis County; or

16 (2) any county in or through which the railroad runs.

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

19 (1) a fee to be paid by the state of \$50 for each
20 penalty recovered and collected by the attorney; and

21 (2) 10 percent of the amount collected.

22 (c) In all suits arising under this chapter or Section
23 112.003, the rules of evidence shall be the same as in ordinary
24 civil actions, except as otherwise provided by this chapter.
25 (V.A.C.S. Art. 6477 (part).)

26 Source Law

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

1 Revisor's Note

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

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

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

22 [Sections 111.059-111.100 reserved for expansion]

23 SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

24 Revised Law

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

26 (a) The department may perform any act, adopt any rules, and issue
27 any orders as permitted by the Federal Railroad Safety Act of 1970,
28 originally codified as 45 U.S.C. Sections 421, 431 et seq. and
29 recodified in 1994 as 49 U.S.C. Sections 20101-20117, 20131,
30 20133-20141, 20143, 21301, 21302, 21304, 21311, 24902, and 24905
31 and Sections 4(b)(1), (i), and (t) of Pub. L. No. 103-272.

32 (b) The department by rule shall:

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

35 (2) establish the method by which the fees are
36 calculated and assessed.

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

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

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

13 Source Law

14 Art. 6448a

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

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

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

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

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

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

38 Revisor's Note

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

46 (2) V.A.C.S. Article 6448a refers to "the

1 Federal Railroad Safety Act of 1970." That law, along
2 with other federal railroad laws, was recodified in
3 1994 by Pub. L. No. 103-272 in Subtitle 5 of Title 49,
4 United States Code. The revised law cites the
5 recodified sections of the Federal Railroad Safety Act
6 of 1970 as identified in the definition of "Federal
7 railroad safety laws" in 49 C.F.R. Section 209.3.

8 Revised Law

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

19 (b) In performing an inspection under this section, the
20 department may not require a railroad facility owner or operator to
21 alter or cease rail operations.

22 (c) Any inspection, investigation, or surveillance
23 performed on the site of a manufacturing facility shall be
24 performed in compliance with the safety rules of the facility,
25 including a rule regarding security clearance at the front gate if
26 appropriate. (V.A.C.S. Art. 6448b.)

27 Source Law

28 Art. 6448b

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

41 Sec. 2. In performing an inspection under this

1 article, the commission may not require a railroad
2 facility owner or operator to alter or cease rail
3 operations.

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

9 Revisor's Note

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

15 CHAPTER 112. POWERS AND DUTIES OF RAILROADS

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22 CHAPTER 112. POWERS AND DUTIES OF RAILROADS

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Revised Law

25 Sec. 112.001. DEFINITION OF PERSON. In this chapter:

26 (1) "person" includes a corporation, as provided by
27 Section 312.011, Government Code; and

28 (2) the definition of "person" assigned by Section
29 311.005, Government Code, does not apply. (New.)

30 Revisor's Note

31 To ensure that no substantive change is made by
32 the revision of the term "person" as used in Title 112,
33 Revised Statutes, the revised law adds a provision
34 stating that the term "person" includes a corporation,

1 as provided by Section 312.011, Government Code, and
2 the definition of "person" in Section 311.005,
3 Government Code, does not apply. Section 312.011(10),
4 Government Code, which applies to Title 112, provides
5 that "person" includes a corporation. Section
6 311.005(2), Government Code (Code Construction Act),
7 which applies to the Transportation Code, defines
8 "person" to include a "corporation, organization,
9 government or governmental subdivision or agency,
10 business trust, estate, trust, partnership,
11 association, and any other legal entity."

12 Revised Law

13 Sec. 112.002. GENERAL RIGHTS OF RAILROADS. (a) A railroad
14 company has the right to succession.

15 (b) A railroad company may:

16 (1) sue, be sued, plead, and be impleaded in its
17 corporate name;

18 (2) have and use a seal and alter the seal at will;

19 (3) receive and convey persons and property on its
20 railway by any mechanical power, including the use of steam;

21 (4) regulate the time and manner in which, and the
22 compensation for which, passengers and property are transported,
23 subject to the provisions of law;

24 (5) exercise the power of eminent domain for the
25 purposes prescribed by this subtitle or Subtitle D;

26 (6) purchase, hold, and use all property as necessary
27 for the construction and use of its railway, stations, and other
28 accommodations necessary to accomplish company objectives, and
29 convey that property when no longer required for railway use; and

30 (7) take, hold, and use property granted to the
31 company to aid in the construction and use of its railway, and
32 convey that property in a manner consistent with the terms of the
33 grant when the property is no longer required for railway use.

34 (V.A.C.S. Art. 6341.)

1 for the damages sustained in consequence of such
2 violation.

3 Revisor's Note

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

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

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

20 [Sections 112.004-112.050 reserved for expansion]

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

22 RAILROAD

23 Revised Law

24 Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY. (a) A railroad
25 company is entitled to make an examination and survey for the
26 company's proposed railway, to be performed as necessary to select
27 the most advantageous route for the proposed railway, and, subject
28 to Subsection (c), may enter on the lands or waters of any person or
29 corporation for that purpose.

30 (b) A railroad company is responsible for any damages
31 arising from an examination or survey under this section.

32 (c) Except for the purposes of performing a lineal survey, a
33 railroad company may not enter on private real property for the
34 purpose of condemning the property or any material on the property
35 for any purpose until the company agrees with and pays the owner of

1 the property all damages that may be caused to the owner's property
2 by the condemnation of the property and by the construction of the
3 company's road. (V.A.C.S. Arts. 6318, 6337.)

4 Source Law

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

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

22 Revisor's Note

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

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

32 Revised Law

33 Sec. 112.052. ACQUISITION OF PROPERTY FOR CHANGE,
34 RELOCATION, OR ABANDONMENT OF RAILROAD LINE. (a) Subject to
35 Subsection (b), a railroad company or a receiver of a railroad that
36 changes, relocates, or abandons a line of railroad in this state may
37 acquire by condemnation or otherwise land for:

- 38 (1) right-of-way;
- 39 (2) depot grounds;
- 40 (3) shops;
- 41 (4) roundhouses;
- 42 (5) water supply sites;

- 1 (6) sidings;
- 2 (7) switches;
- 3 (8) spurs; or
- 4 (9) any other purpose connected with or necessary to
- 5 the building or operating of the line of railroad, as changed,
- 6 relocated, or abandoned.

7 (b) Property acquired under this section must be declared
8 for and charged with public use. (V.A.C.S. Art. 6351.)

9 Source Law

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

20 Revisor's Note

21 V.A.C.S. Article 6351 refers to the "operating or
22 running" of a railroad. The revised law omits
23 "running" because the meaning of that term is included
24 in the meaning of "operating."

25 Revised Law

26 Sec. 112.053. CONDEMNATION OF PROPERTY: WHEN RAILROAD
27 COMPANY AND OWNER DISAGREE. (a) A railroad company may acquire
28 property by condemnation if the company cannot agree with the owner
29 for the purchase of the property and the property is required for
30 any of the following purposes:

- 31 (1) the incorporation of the railroad;
- 32 (2) the transaction of company business;
- 33 (3) depots, station buildings, and machine and repair
34 shops;
- 35 (4) the construction of reservoirs for the water
36 supply;
- 37 (5) the right-of-way, or new or additional
38 right-of-way;
- 39 (6) a change or relocation;

- 1 (7) a roadbed;
- 2 (8) the shortening of a line;
- 3 (9) the reduction of grades;
- 4 (10) the double tracking of the railroad or the
- 5 construction and operation of tracks; or
- 6 (11) any other purpose connected with or necessary to
- 7 the building, operating, or running of the railroad.

8 (b) A railroad company may not, under this section, condemn
 9 property that is located more than two miles from the company's
 10 right-of-way. (V.A.C.S. Art. 6336.)

11 Source Law

12 Art. 6336. (a) A railroad corporation may
 13 acquire property by condemnation if the corporation
 14 cannot agree with the owner for the purchase of the
 15 property and the property is required for the
 16 following purposes:

- 17 (1) the incorporation of the railroad;
- 18 (2) the transaction of railroad
 19 corporation business;
- 20 (3) depots, station buildings, and machine
 21 and repair shops;
- 22 (4) the construction of reservoirs for the
 23 water supply;
- 24 (5) the right of way, or new or additional
 25 right of way;
- 26 (6) a change or relocation;
- 27 (7) a road bed;
- 28 (8) shortening a line;
- 29 (9) reducing grades;
- 30 (10) double tracking the railroad or
 31 constructing and operating tracks; or
- 32 (11) any other purpose connected with or
 33 necessary to the building, operating, or running of
 34 the railroad.

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

39 Revised Law

40 Sec. 112.054. CONDEMNATION OF PROPERTY: CERTAIN TERMINAL
 41 SWITCHING RAILROADS. (a) This section applies only to the
 42 condemnation of property for a terminal switching railroad that:

- 43 (1) handles fewer than 10,000 but more than 3,000
 44 carloads a year; and
- 45 (2) operates in a single county that:
 - 46 (A) has a population of 110,000 or more;
 - 47 (B) is not adjacent to the Texas border; and

1 (C) does not contain a portion of a national
2 forest.

3 (b) The power to condemn property given to a railroad
4 company under this subtitle or Subtitle D, including Section
5 112.052 or 112.053, does not apply to any property used for or
6 designated under local zoning regulations for residential use
7 unless the use of the condemned property is authorized under or in
8 conformity with local zoning or development regulations. (V.A.C.S.
9 Art. 6336a.)

10 Source Law

11 Art. 6336a. (a) This article applies only to
12 the condemnation of property for a terminal switching
13 railroad handling fewer than 10,000 but more than
14 3,000 carloads a year that operates in a single county
15 with a population of 110,000 or more that is not
16 adjacent to the Texas border and does not contain a
17 portion of a national forest.

18 (b) The power to condemn property given to a
19 railroad company under this title, including Articles
20 6316a, 6336, and 6351, does not apply to any property
21 used for or designated under local zoning regulations
22 for residential use unless the use of the condemned
23 property is authorized under or in conformity with
24 local zoning or development regulations.

25 Revisor's Note

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

32 Revised Law

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

37 (b) A right-of-way that a railway company acquires by
38 condemnation is not lost on forfeiture or expiration of the railway
39 company's charter. The right-of-way remains subject to an
40 extension of the charter or the grant of a new charter, and a new
41 condemnation of the way is not required. (V.A.C.S. Art. 6339.)

1 Source Law

2 Art. 6339. The right of way secured by
3 condemnation to any railway company in this State
4 shall not be construed to include the fee simple estate
5 in lands, either public or private, nor shall the same
6 be lost by forfeiture or expiration of the charter, but
7 shall remain subject to an extension of the charter or
8 the grant of a new charter over the same way without a
9 new condemnation.

10 Revised Law

11 Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS.

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

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

22 Source Law

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

34 Revisor's Note

35 V.A.C.S. Article 6550 requires a railroad
36 corporation to "declare itself a public highway and
37 common carrier" before it may condemn certain land.
38 The revised law substitutes "declares itself a common
39 carrier and its railroads public highways" to conform
40 to the language of Section 2, Article X, Texas
41 Constitution, which declares railroads constructed in
42 this state to be public highways and railroad
43 companies common carriers.

1 Revised Law

2 Sec. 112.057. CONSTRUCTION ON OR NEAR CERTAIN WATERWAYS OR
3 ROADS. (a) A railroad company may construct the company's road
4 across, along, or on any stream of water, water course, street,
5 highway, turnpike, or canal where the route of the company's
6 railway intersects or touches the stream, water course, street,
7 highway, turnpike, or canal.

8 (b) The railroad company shall:

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

12 (2) keep the crossing in repair. (V.A.C.S. Art.
13 6320.)

14 Source Law

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

25 Revisor's Note

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

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

38 Revised Law

39 Sec. 112.058. INTERSECTION OF RAIL LINE AND ROAD OR STREET.

1 Sections 112.051, 112.053, 112.054, 112.055, 112.057, 112.059, and
2 112.061 do not affect a law that requires a railroad company to
3 provide a proper crossing at each intersection of a road or street.
4 (V.A.C.S. Art. 6326.)

5 Source Law

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

10 Revised Law

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

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

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

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

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

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

35 (e) A county attorney is entitled to a fee of \$10, taxed as
36 costs, for each suit maintained by the county attorney under this

1 section. If two or more penalties are sought in the same suit only
2 one fee may be recovered under this subsection.

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

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

8 Source Law

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

39 Revisor's Note

40 (1) V.A.C.S. Article 6327 refers to a "section
41 boss" of a "section" of a railroad where work or
42 repairs are needed. Because the term "section boss" is
43 no longer commonly used in the railroad business, the
44 revised law substitutes language generically
45 describing the person referred to in the source law as
46 a "section boss" according to the function performed
47 by that person as "the company's person responsible for
48 maintaining the area" where the work or repairs are
49 needed.

1 purchase price of the converted shipment. (V.A.C.S. Arts. 6366,
2 6367.)

3 Source Law

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

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

31 Revisor's Note

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

46 (2) V.A.C.S. Article 6367 imposes a penalty on a
47 "railway company, or receiver or other common carrier"

1 that violates Article 6366. The revised law
2 substitutes "railroad company or receiver" for the
3 quoted language since Article 6366 prohibits the
4 conversion of shipments only by a railroad company or a
5 railroad company's receiver.

6 Revised Law

7 Sec. 112.061. SUIT INVOLVING RAILROAD COMPANY PROPERTY.

8 (a) If a railroad company is sued for property occupied by the
9 company for railroad purposes or for damages to property occupied
10 by the company for railroad purposes, the court in which the suit is
11 pending may determine all matters in dispute between the parties,
12 including the condemnation of the property, on petition or cross
13 bill by the defendant requesting that remedy.

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

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

17 Source Law

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

27 Revised Law

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

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

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

37 (V.A.C.S. Art. 6420.)

1 damages by filing suit. (V.A.C.S. Art. 6400.)

2 Source Law

3 Art. 6400. Every railroad company whose
4 railroad passes through a field or inclosure, shall
5 place a good and sufficient cattle-guard or stop at the
6 points of entering such field or inclosure, and keep
7 them in good repair. If such field or inclosure shall
8 be enlarged or extended, or the owner of any land over
9 which a railway runs shall clear and open a field so as
10 to embrace the track of a railway, such railroad
11 company shall place good and sufficient cattle-guards
12 or stops at the margins of such extended inclosures or
13 fields or such new fields and keep the same in repair.
14 Such cattle-guards or stops shall be so constructed
15 and kept in repair as to protect such fields and
16 inclosures from the depredations of stock of every
17 description. If such company fails to construct and
18 keep in repair such cattle-guards and stops, the owner
19 of such inclosure or field may have such cattle-guards
20 and stops placed at the proper places and kept in
21 repair, and may recover the costs thereof from such
22 railroad company, unless it be shown that said
23 enlargement or extension was made capriciously and
24 with intent to annoy and molest such company. If any
25 company neglects to construct the proper cattle-guards
26 and stops and keep the same in repair as required in
27 this article, such company shall be liable to the party
28 injured by such neglect for all damages that may result
29 from such neglect, to be recovered by suit.

30 Revised Law

31 Sec. 112.102. LIABILITY FOR DEATH OR INJURY TO STOCK. (a)
32 Subject to Subsection (b), a railroad company is liable to the owner
33 for the value of all stock killed or injured by the company's
34 locomotives and cars operating over the company's railways,
35 regardless of whether the county or subdivision of a county in which
36 the death or injury occurs has, under Subchapter B or D, Chapter
37 143, Agriculture Code, prohibited certain animals from running at
38 large.

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

42 Source Law

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

1 Revisor's Note

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

16 Revised Law

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

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

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

30 (d) A person who violates this section commits an offense.
31 An offense under this subsection is a Class C misdemeanor.
32 (V.A.C.S. Art. 6419b; New.)

33 Source Law

34 Art. 6419b
35 Sec. 1. The person assigned by a railroad

1 corporation to be responsible for the operation of the
2 train who is involved, while operating a locomotive,
3 in an accident resulting in injury to or death of any
4 person or damage to any vehicle that is driven or
5 attended by a person shall immediately stop the
6 locomotive at the scene of the accident.

7 Sec. 2. The person responsible for the
8 operation of the train shall render to any person
9 injured in the accident reasonable assistance,
10 including the carrying, or the making of arrangements
11 for the carrying, of the person to a physician,
12 surgeon, or hospital for medical or surgical treatment
13 if it is apparent that treatment is necessary or if the
14 carrying is requested by the injured person.

15 Sec. 3. A person who violates this article
16 commits an offense. An offense under this article is a
17 Class C misdemeanor.

18 Revisor's Note

19 The definition of "operator" is added to the
20 revised law for drafting convenience and to avoid
21 frequent, unnecessary repetition of the substance of
22 the definition.

23 [Sections 112.104-112.150 reserved for expansion]

24 SUBCHAPTER D. LIABILITY FOR INJURIES TO EMPLOYEES

25 Revised Law

26 Sec. 112.151. APPLICABILITY OF SUBCHAPTER.

27 Notwithstanding any other law, this subchapter does not apply to
28 the portion of a person's, receiver's, or corporation's operations
29 that:

30 (1) consists solely of the fabrication, manufacture,
31 repair, or storage of rail rolling stock; or

32 (2) uses rail cars solely as a part of its own internal
33 manufacturing or production process. (V.A.C.S. Art. 6432A.)

34 Source Law

35 Art. 6432A. Notwithstanding any other law, this
36 chapter applies to any person, receiver, or
37 corporation except for the portion of the operations
38 of the person, receiver, or corporation that:

39 (1) consists solely of the fabrication,
40 manufacture, repair, or storage of rail rolling stock;
41 or

42 (2) uses rail cars solely as a part of its
43 own internal manufacturing or production process.

44 Revised Law

45 Sec. 112.152. LIABILITY GENERALLY FOR INJURY TO OR DEATH OF
46 EMPLOYEE. (a) A corporation, receiver, or other person operating a
47 railroad in this state is liable for damages to a person who, while

1 employed by the railroad operator, is injured as a result of:

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

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

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

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

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

24 Source Law

25 Art. 6439. Every corporation, receiver, or
26 other person, operating any railroad in this State,
27 shall be liable in damages to any person suffering
28 injury while he is employed by such carrier operating
29 such railroad, or in case of death of such employé, to
30 his or her personal representative for the benefit of
31 the surviving widow and children, or husband and
32 children, and mother and father of the deceased, and,
33 if none, then of the next kin dependent upon such
34 employé for such injury or death resulting in whole or
35 in part from the negligence of any of the officers,
36 agents, or employés of such carrier; or by reason of
37 any defect or insufficiency due to its negligence, in
38 its cars, engines, appliances, machinery, track,
39 roadbed, works, boats, wharves, or other equipment.
40 The amount recovered shall not be liable for debts of
41 deceased and shall be divided among the persons
42 entitled to the benefit of the action or such of them
43 as shall be alive, in such shares as the jury, or court
44 trying the case without a jury, shall deem proper. In

1 case of the death of such employé, the action may be
2 brought without administration by all the parties
3 entitled thereto, or by any one or more of them, for
4 the benefit of all, and, if all parties be not before
5 the court, the action may proceed for the benefit of
6 such of said parties as are before the court.

7 Revisor's Note

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

15 Revised Law

16 Sec. 112.153. CONTRIBUTORY NEGLIGENCE. (a) In an action
17 under Section 112.152, the employee's contributory negligence is
18 not a bar to recovery but the fact finder shall reduce the
19 employee's damages in proportion to the amount of contributory
20 negligence attributable to the employee.

21 (b) An employee may not be found contributorily negligent in
22 a case in which the railroad operator's violation of a statute
23 enacted for the safety of employees contributed to the employee's
24 injury or death. (V.A.C.S. Art. 6440.)

25 Source Law

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

41 Revisor's Note

42 (1) V.A.C.S. Article 6440 refers to an action
43 "against any such common carrier or railroad" brought
44 under "the foregoing article [V.A.C.S. Article 6439]

1 and the three succeeding articles [V.A.C.S. Articles
2 6441, 6442, and 6443]." The revised law references
3 only Section 112.152, the section in which Article
4 6439 is revised, because Article 6439 is the only one
5 of the listed provisions under which the action may be
6 brought.

7 (2) V.A.C.S. Article 6440 refers to an action
8 against a "common carrier." Throughout this
9 subchapter, in the context of liability under Article
10 6439, the revised law omits references to "common
11 carrier" and substitutes references to "railroad
12 operator" because under Section 2, Article X, Texas
13 Constitution, railroads (referred to in this
14 subchapter as "railroad operators") are declared to be
15 "common carriers" and the action under Article 6439
16 may be brought only against a railroad operator and not
17 any other type of common carrier.

18 (3) V.A.C.S. Article 6440 refers to a
19 diminishment of damages "by the jury." The revised law
20 substitutes "fact finder" for the reference to the
21 jury for accuracy because, as indicated by Article
22 6439, revised as Section 112.152, under which the
23 action would be brought, the action might not be before
24 a jury, in which case the court would be the fact
25 finder and would determine the measure of damages.

26 Revised Law

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

1 risk resulting from any negligence of the employee's employer,
2 regardless of whether the negligence is known to the employee.

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

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

20 (d) In an action against a railroad operator under Section
21 112.152, an employee may not be held to have assumed the risk of the
22 employee's employment in a case in which the railroad operator's
23 violation of a statute enacted for the safety of employees
24 contributed to the employee's injury or death. (V.A.C.S. Arts.
25 6437, 6438, 6441.)

26 Source Law

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

40 Where, however, in any such suit, it is alleged
41 and proven that such deceased or injured employé was
42 chargeable with negligence in continuing in the

1 service of any such corporation, receiver or person
2 above named in view of the risk, dangers and hazards of
3 which he knew or must necessarily have known, in the
4 ordinary performance of his duties, such fact shall
5 not operate to defeat recovery, but the same shall be
6 treated and considered as constituting contributory
7 negligence, and if proximately causing or contributing
8 to cause the death or injury in question, it shall have
9 the effect of diminishing the amount of damages
10 recoverable by such employé, or his heirs or
11 representatives in case of the employé's death, only in
12 proportion to the amount of negligence so attributable
13 to such employé.

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

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

32 Revisor's Note

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

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

45 Revised Law

46 Sec. 112.155. CERTAIN PROVISIONS VOID. A provision of a
47 contract, rule, or device the purpose of which is to exempt a
48 railroad operator from liability under Section 112.152 is void to
49 the extent of the purported exemption. (V.A.C.S. Art. 6442

1 (part).)

2 Source Law

3 Art. 6442. Any contract, rule, regulation or
4 device whatsoever, the purpose or intent of which
5 shall be to enable any common carrier to exempt itself
6 from any liability created by the three preceding
7 articles shall to that extent be void; provided, that,
8

9 Revisor's Note

10 (1) V.A.C.S. Article 6442 refers to the "purpose
11 or intent" of a "contract, rule, regulation or
12 device." The revised law omits "intent" as
13 unnecessary because the meaning of that term is
14 included in the meaning of "purpose." The revised law
15 also omits "regulation," because under Section
16 311.005(5), Government Code (Code Construction Act),
17 "rule" includes "regulation."

18 (2) V.A.C.S. Article 6442 refers to an exemption
19 from liability created by V.A.C.S. Articles 6439,
20 6440, and 6441. The revised law refers only to Section
21 112.152, the section in which Article 6439 is revised,
22 because Article 6439 is the only one of the listed
23 provisions under which liability is created.

24 Revised Law

25 Sec. 112.156. LIABILITY OFFSET. In an action against a
26 railroad operator under Section 112.152, the railroad operator may
27 offset the railroad operator's liability by the amount of the
28 railroad operator's contribution or payment to any insurance,
29 relief benefit, or indemnity from which benefits have been paid to
30 the injured employee or another person entitled to the benefits as a
31 result of the injury or death that is the subject of the action.
32 (V.A.C.S. Art. 6442 (part).)

33 Source Law

34 Art. 6442. . . . in any action brought against
35 any such common carrier by virtue of said articles,
36 such common carrier may set off therein any sum it has
37 contributed or paid to any insurance, relief benefit
38 or indemnity that may have been paid to the injured
39 employé, or the person entitled thereto, on account of
40 the injury or death for which said action was brought.

1 (c) Persons who are engaged in the common service of an
2 entity described by Subsection (a) are considered fellow servants
3 only if the persons are:

- 4 (1) employed in the same grade of employment;
5 (2) doing the same character of work or service; and
6 (3) working together at the same time and place and at
7 the same piece of work for a common purpose.

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

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

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

21 (g) This section does not impair or diminish the defense of
22 contributory negligence if the injury of the employee is
23 proximately caused by the employee's own contributory negligence.
24 (V.A.C.S. Arts. 6432, 6433, 6434, 6435, 6436.)

25 Source Law

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

38 Art. 6433. All persons engaged in the service of
39 any person, receiver, or corporation controlling or
40 operating a railroad or street railway, the line of
41 which shall be situated in whole or in part in this
42 State, who are intrusted by such person, receiver, or
43 corporation with the authority of superintendence,

1 control or command of the other servants or employés,
2 of such person, receiver, or corporation, with the
3 authority to direct any other employé in the
4 performance of any duty of such employé, are
5 vice-principals of such person, receiver, or
6 corporation, and are not fellow-servants with their
7 co-employés.

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

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

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

31 [Chapters 113-130 reserved for expansion]

32 SUBTITLE D. MISCELLANEOUS RAILROADS

33 CHAPTER 131. MISCELLANEOUS RAILWAYS

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36 [Sections 131.002-131.010 reserved for expansion]

37 SUBCHAPTER B. ELECTRIC RAILWAYS

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27		SUBCHAPTER A. GENERAL PROVISIONS	
28		<u>Revised Law</u>	
29	Sec. 131.001.	DEFINITION OF PERSON. In this chapter:	
30		(1) "person" includes a corporation, as provided by	
31		Section 312.011, Government Code; and	
32		(2) the definition of "person" assigned by Section	
33		311.005, Government Code, does not apply. (New.)	

1 Revisor's Note

2 To ensure that no substantive change is made by
3 the revision of the term "person" as used in Title 112,
4 Revised Statutes, the revised law adds a provision
5 stating that the term "person" includes a corporation,
6 as provided by Section 312.011, Government Code, and
7 the definition of "person" in Section 311.005,
8 Government Code, does not apply. Section 312.011(10),
9 Government Code, which applies to Title 112, provides
10 that "person" includes a corporation. Section
11 311.005(2), Government Code (Code Construction Act),
12 which applies to the Transportation Code, defines
13 "person" to include a "corporation, organization,
14 government or governmental subdivision or agency,
15 business trust, estate, trust, partnership,
16 association, and any other legal entity."

17 [Sections 131.002-131.010 reserved for expansion]

18 SUBCHAPTER B. ELECTRIC RAILWAYS

19 Revised Law

20 Sec. 131.011. DEFINITION. In this subchapter, "interurban
21 electric railway company" means a corporation chartered under the
22 laws of this state to conduct and operate an electric railway
23 between two municipalities in this state. (V.A.C.S. Art. 6540
24 (part).)

25 Source Law

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

33 Revisor's Note

34 V.A.C.S. Article 6540 refers to "cities" and
35 "incorporated towns." Throughout this chapter, the
36 revised law substitutes the term "municipality" for
37 "city," "incorporated town," or "town" because

1 "municipality" is the term used in the Local
2 Government Code to refer to those entities.

3 Revised Law

4 Sec. 131.012. EMINENT DOMAIN. A corporation chartered for
5 the purpose of constructing, acquiring, maintaining, or operating
6 lines of electric railway between municipalities in this state for
7 the transportation of freight, passengers, or both freight and
8 passengers may:

9 (1) exercise the power of eminent domain with all the
10 rights and powers granted by law to a railroad company; and

11 (2) enter, condemn, and appropriate land,
12 right-of-way, easements, or other property of any person or
13 corporation to acquire:

14 (A) right-of-way on which to construct and
15 operate lines of railway for the acquiring corporation; or

16 (B) sites for depots or power plants. (V.A.C.S.
17 Art. 6535.)

18 Source Law

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

33 Revisor's Note

34 (1) V.A.C.S. Article 6535 provides that
35 electric railways "have the right of eminent domain."
36 Throughout this chapter, the revised law substitutes
37 for the quoted language and for similar phrases with
38 the same meaning "may exercise the power of eminent
39 domain" because the latter phrase is consistent with
40 modern usage in laws relating to eminent domain,
41 including Chapter 21, Property Code.

1 railways not to exceed two hundred feet in width, and
2 to construct their railways and appurtenances thereon,
3 and for the purpose of cuttings and embankments to take
4 as much more land as may be necessary for the proper
5 construction and security of their said railways, and
6 to cut down any standing trees or remove any other
7 structure that may be in danger of falling upon or
8 obstructing such railway, compensation being made
9 therefor in accordance with law. Such corporation may
10 have such examination and survey of their proposed
11 railways made as may be necessary to the selection of
12 the most advantageous route, and for such purposes may
13 enter upon the lands or waters of any person or
14 corporation subject to responsibility for all damages
15 that may be occasioned thereby.

16 Revised Law

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

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

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

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

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

39 Source Law

40 Art. 6537. They may construct their railways
41 along, across and over any stream of water, water
42 course, bay, navigable water, arm of the sea, street,
43 highway, steam railway, plank road, turnpike or canal
44 which the route of such railway shall touch, and erect

1 and operate bridges, trams, trestles, or causeways
2 over, along or across any such stream, water course,
3 navigable water, bay, arm of the sea, street, highway,
4 plank road, turnpike, or canal. Such bridge or other
5 structure shall be so erected as to not unnecessarily
6 or unreasonably prevent the navigation of such stream,
7 water course, bay, arm of the sea or navigable water
8 and nothing herein shall authorize the construction of
9 any such railway upon or across any street, alley,
10 square or property of any incorporated city or town
11 without the assent of said corporation of said city or
12 town, and before constructing an electric railway
13 along and upon highways, plank roads, turnpikes or
14 canals, such interurban electric railway company shall
15 first obtain the consent of the lawful authorities
16 having the jurisdiction of the same.

17 Revisor's Note

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

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

31 Revised Law

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

41 (b) Condemnation under Subsection (a) may be used only to
42 secure an entrance into and an outlet from a municipality on a route

1 designated by the governing body of the municipality.

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

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

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

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

19 Source Law

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

31 Art. 6539. Any interurban electric railway
32 company, seeking to avail itself of the benefits of
33 this chapter shall have the right to condemn an
34 easement along and upon the track or tracks of any
35 electric street railway company for the purpose only
36 of securing an entrance into and an outlet from a town
37 or city upon a route to be designated by the governing
38 body of the city or town. In any proceeding to condemn
39 an easement or right of way for the purposes above
40 mentioned, the court, or the jury trying the case shall
41 define and fix the terms and conditions upon which such
42 easement or right of way shall be used. The court
43 rendering such judgment shall be authorized upon a
44 subsequent application or applications by either of
45 the parties to the original proceedings, or any one
46 claiming through or under them, to review and reform
47 the terms and conditions of such grant and the
48 provisions of such judgment, and the hearing upon such
49 application shall be in the nature of a retrial of said

1 cause with respect to the terms and conditions upon
2 which said easement shall be used; but the court shall
3 not have power upon any such rehearing to declare such
4 easement forfeited or to impair the exercise thereof,
5 and no application for a rehearing shall be made until
6 two years after the final judgment on the last
7 preceding application.

8 Revisor's Note

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

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

17 Revised Law

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

25 Source Law

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

34 Revisor's Note

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

39 Revised Law

40 Sec. 131.017. USE OF CONDEMNED TRACK. (a) Unless the
41 company whose track is condemned under this subchapter consents, an

1 interurban electric railway company exercising the powers granted
2 under this chapter may not receive for transportation freight or
3 passengers at any location on the condemned track destined to
4 another location on the condemned track.

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

8 Source Law

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

20 Revisor's Note
21 (End of Subchapter)

22 V.A.C.S. Article 6542 provides that the
23 provisions of the chapter (meaning Chapter 13, Title
24 112, Revised Statutes) granting eminent domain or
25 other powers do not authorize the condemnation of any
26 land or ground that is occupied by a line or track of an
27 interurban electric railway, or of any land or ground
28 that will be used to relocate a line or track of an
29 interurban railroad, if the line or track was
30 constructed on or before March 5, 1907. The revised
31 law omits this article as obsolete because the
32 likelihood is remote that an entity that existed in
33 1907 would want to condemn land on which 100-year-old
34 tracks are located or would want to relocate
35 100-year-old tracks. The omitted law reads:

36 Art. 6542. No provision in this
37 chapter shall be construed to have the
38 effect to confer the power of eminent
39 domain, or any power herein conferred,
40 except that conferred in the preceding
41 article, upon any interurban railroad or
42 interurban railroad company, or upon any
43 person, firm, association, or corporation
44 or to add to the powers already possessed by

1 any such railroad or railroad company,
2 person, firm, association or corporation so
3 as to enable or authorize it to condemn any
4 land or ground occupied by any portion of
5 its line or track, already constructed
6 March 5, 1907, or to condemn any land or
7 ground for the purpose of changing the
8 location of any track or line already
9 constructed at said date. Nothing in this
10 article shall be construed to take from any
11 interurban railroad company, person, firm,
12 association or corporation, any power of
13 eminent domain already possessed by it.

14 [Sections 131.018-131.030 reserved for expansion]

15 SUBCHAPTER C. MERGER OF INTERURBAN RAILWAY

16 Revised Law

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

20 Source Law

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

25 Revised Law

26 Sec. 131.032. ACQUISITION OF RAILWAY PROPERTY AUTHORIZED.

27 (a) A corporation organized under the laws of this state that is
28 authorized to construct, acquire, and operate an interurban railway
29 may:

30 (1) acquire, lease, or purchase the physical property,
31 rights, and franchise of any other railway corporation with similar
32 powers; or

33 (2) lease or purchase physical property, rights, and
34 franchises of any suburban or street railway corporation the
35 railway lines of which are to be operated in connection with the
36 interurban railway.

37 (b) The owner of physical property or a right or franchise
38 described by Subsection (a)(1) or (2) may sell or dispose of the
39 property, right, or franchise to the corporation making an
40 acquisition, lease, or purchase under Subsection (a).

41 (c) An acquisition or purchase under this section may be on
42 the terms:

1 (1) agreed to by the board of directors of each
2 corporation; and

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

5 Source Law

6 Art. 6543. Any corporation organized under the
7 laws of this State authorized to construct, acquire
8 and operate . . . interurban railways, may acquire,
9 lease or purchase the physical properties, rights and
10 franchise of any other railway corporation having and
11 possessing like power, or may lease or purchase
12 physical properties, rights and franchises of any
13 suburban or street railway corporation, the lines of
14 whose railway are to be operated in connection with the
15 lines of the interurban railway, and may sell or
16 dispose of the physical properties, rights and
17 franchise by such corporation or person owning the
18 same, to such corporation, acquiring, leasing or
19 purchasing same hereunder. Such acquisition or
20 purchase may be made upon such terms as may be agreed
21 upon by the respective boards of directors and
22 authorized or approved by a majority of the
23 stockholders of such corporations,
24 respectively. . . .

25 Revised Law

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

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

35 Source Law

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

45 Revised Law

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

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

5 Source Law

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

18 Revised Law

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

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

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

28 Source Law

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

39 [Sections 131.036-131.060 reserved for expansion]

40 SUBCHAPTER D. PROVISION OF UTILITIES

41 Revised Law

42 Sec. 131.061. INTERURBAN ELECTRIC RAILWAYS. An interurban
43 electric railway company, as defined by Section 131.011, is
44 entitled to produce, supply, and sell electric light and power to

1 the public and to municipalities. (V.A.C.S. Art. 6541.)

2 Source Law

3 Art. 6541. Interurban electric railway
4 companies shall also have the right to produce, supply
5 and sell electric light and power to the public and to
6 municipalities.

7 Revised Law

8 Sec. 131.062. SUPPLY AND SALE OF ELECTRICITY BY STREET,
9 SUBURBAN, OR BELT LINE RAILWAY. A corporation organized under the
10 general laws of this state that owns or operates with electric power
11 any street or suburban railway or belt line of railways in and near
12 a municipality for the transportation of freight and passengers
13 within this state may:

14 (1) supply and sell electric light and power to the
15 public or a municipality;

16 (2) acquire or otherwise provide appliances necessary
17 for an activity authorized by Subdivision (1); and

18 (3) in the manner provided by law, amend its articles
19 of incorporation to expressly include the authority under this
20 section. (V.A.C.S. Art. 6545 (part).)

21 Source Law

22 Art. 6545. . . . Any corporation heretofore or
23 hereafter organized under the general laws of this
24 State, and which owns or operates with electric power
25 any street or suburban railway or belt line of railways
26 within and near cities and towns for the
27 transportation of freight and passengers within Texas
28 shall be authorized to supply and sell electric light
29 and power to the public or municipalities, and to
30 acquire or otherwise provide the necessary appliances
31 therefore [therefor], and may, by proceeding in the
32 manner provided by law, amend its articles of
33 incorporation so as to expressly include such
34 authority. . . .

35 [Sections 131.063-131.100 reserved for expansion]

36 SUBCHAPTER E. REDUCED STREET RAILWAY FARES

37 Revised Law

38 Sec. 131.101. APPLICABILITY. This subchapter applies only
39 to a person or corporation owning or operating a street railway in
40 or on the public streets of a municipality with a population of
41 40,000 or more. (V.A.C.S. Art. 6544 (part).)

1 to students younger than 18 years of age who attend academic,
2 public, or private school in a grade not higher than the highest
3 grade of the public high schools located in or adjacent to the
4 municipality in which the railway is located.

5 (b) Tickets under this section must be sold in lots of 20,
6 with each ticket valid for one trip over the railway lines.

7 (c) Tickets under this section are not required to be sold
8 unless the student making the purchase presents the written
9 certificate of the principal of the school the student attends
10 stating that the student:

11 (1) is younger than 18 years of age; and

12 (2) is in regular attendance at a school in a grade
13 that qualifies under Subsection (a).

14 (d) Tickets under this section are not required to be sold
15 and may not be used except during the months when a school
16 qualifying under Subsection (a) is in session.

17 (e) A student described by Subsection (a) shall be
18 transported at half fare only when the student presents a ticket
19 issued under this section. (V.A.C.S. Art. 6544 (part).)

20 Source Law

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

25 . . .
26 2. To sell or provide for the sale of tickets in
27 lots of twenty, each good for one trip over the line or
28 lines owned or operated by such person or corporation,
29 for one-half of the regular fare collected for the
30 transportation of adults, to students not more than
31 seventeen years of age in actual attendance upon any
32 academic, public or private school of grades not
33 higher than the grades of the public high schools
34 situated within or adjacent to the town or city in
35 which such railway is located. Such tickets are
36 required to be sold only upon the presentation by the
37 student desiring to purchase them of the written
38 certificate of the principal of the school which he
39 attends showing that he is not more than seventeen
40 years old, is in regular attendance upon such school
41 and is within the grades herein provided. Such tickets
42 are not required to be sold to such students and shall
43 not be used except during the months when such school
44 is in actual session and such students shall be
45 transported at half fare only when they present such
46 tickets.

47 . . .

1 Revisor's Note

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

7 Revised Law

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

12 Source Law

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

17 . . .
18 3. To transport free of charge children of the
19 age of five years or less when attended by a passenger
20 of above said age.

21 . . .

22 Revised Law

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

29 Source Law

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

34 . . .
35 4. To accord to all passengers referred to in
36 this article the same rights as to the use of transfers
37 issued by their own or other lines as are or may be
38 accorded to passengers paying full fare.

39 [Sections 131.106-131.900 reserved for expansion]

40 SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

41 Revised Law

42 Sec. 131.901. STREET AND SUBURBAN RAILWAYS. (a) Street and

1 suburban railways engaged in the transportation of freight in and
2 near a municipality are subject to the control of the department.

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

6 Source Law

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

14 Revisor's Note

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

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

34 Art. 6545. . . . When the Railroad
35 Commission shall decide that any
36 corporation created under chapter one of
37 this title for the purpose of operating a
38 local suburban railway not exceeding ten
39 miles from the corporate limits of any city
40 or town in addition to such mileage as it
41 may have within the same, is not for any

1 reason subject to the control of said
2 Commission in reference to the issuance of
3 stocks and bonds or either under the
4 provisions of Chapter 50, Acts 1893, after
5 such decision of the Commission, said
6 corporation shall have the right to issue
7 its stocks and bonds or either and also to
8 increase its stocks and bonds or either
9 without the control of the Commission and
10 without complying with the Act aforesaid in
11 reference thereto, and when so issued said
12 stocks and bonds shall in all respects be
13 valid and binding.

14 Revised Law

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

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

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

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

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

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

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

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

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

38 (2) no other route is possible or practicable.

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

40 Source Law

41 Art. 6546. All electric, gas or gasoline,

1 denatured alcohol or naphtha interurban or motor
2 railways incorporated as such, which shall engage in
3 transporting freight, shall be subject to the control
4 of the Railroad Commission. No such corporation shall
5 ever be exempt from the payment of assessments that may
6 be legally levied or assessed against it for street
7 improvements. Such interurban railways shall have the
8 same right of eminent domain as are now given by law to
9 steam railroads, and may exercise such right for the
10 purpose of acquiring right of way upon which to
11 construct their railway lines, and sites for depots
12 and power plants, and shall have the same rights,
13 powers and privileges as are now granted by law to
14 interurban electric railways companies. Any such
15 interurban company shall have the right and authority
16 to acquire, hold and operate other public utilities in
17 and adjacent to the cities or towns within or through
18 which said company operates. No property upon which is
19 located a cemetery shall ever be condemned by any such
20 interurban railway, unless it shall affirmatively be
21 shown, and so found by the court trying such
22 condemnation suit, that it is necessary to take such
23 property, and no other route is possible or
24 practicable.

25 Revisor's Note

26 (1) V.A.C.S. Article 6546 refers to assessments
27 that are "legally levied or assessed." The revised law
28 omits the reference to "legally" and substitutes the
29 term "imposed" for "levied or assessed" for the
30 reasons stated in Revisor's Note (1) to Section
31 131.901.

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

39 Revised Law

40 Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN
41 RAILWAYS. A corporation organized before September 1, 1925, under
42 any law of this state, that operates a line of electric, gas or
43 gasoline, denatured alcohol, or naphtha motor railway in and
44 between municipalities in this state, may:

45 (1) own and operate union depots and office buildings;
46 and

1 Revised Law

2 Sec. 131.904. MOTOR BUS LINES. (a) This section applies
3 only to a corporation authorized to operate a street or suburban
4 railway or an interurban railway and to carry passengers for hire.

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

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

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

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

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

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

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

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

31 Source Law

32 Art. 6548. Any corporation authorized to
33 operate a street or suburban railway or interurban
34 railway and to carry passengers for hire, is hereby
35 authorized subject in every case to the approval and
36 consent of the governing body of the city or town where
37 said street, suburban or interurban railway company is

1 operated to substitute for such railway automobile
2 motor bus lines, in whole or in part, and to maintain
3 and operate motor buses for the purpose of carrying
4 passengers for hire on the public roads, streets,
5 plazas, alleys, and highways within the corporate
6 limits of any incorporated cities or towns, under such
7 regulations as may be prescribed by any such cities or
8 towns, and on the public roads and highways within five
9 (5) miles of the corporate limits of any such
10 incorporated cities or towns, under such regulations,
11 in territory outside of city limits, as the
12 Commissioners Court of the county may prescribe; and
13 such substitution of motor buses for street cars and
14 street or interurban railway and the discontinuance of
15 such street or interurban railways shall not in any way
16 impair any of the corporate powers of corporations
17 heretofore incorporated as street or interurban
18 railways with respect to the operation of other public
19 utilities authorized by their charters and by statutes
20 now in force.

21 Provided, however, companies taking advantage of
22 this Act shall amend their charters and pay the fees
23 provided by law for the filing of such amendments; and,
24 provided that . . . nothing herein contained shall be
25 so construed as to impair the rights of any city under
26 any franchise it may heretofore have granted to the
27 corporation in question, or its predecessor.

28 Revisor's Note

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

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

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

46 [Chapters 132-170 reserved for expansion]

47 CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

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12 CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

13 SUBCHAPTER A. GENERAL PROVISIONS

14 Revised Law

15 Sec. 172.001. DEFINITIONS. In this chapter:

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

17 (2) "Bonds" means:

18 (A) bonds;

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

21 (C) warrants;

22 (D) certificates of obligation;

23 (E) interest-bearing contracts;

24 (F) interest-bearing leases of property;

25 (G) equipment trust certificates;

26 (H) commercial paper; and

27 (I) any obligation issued to refund any type of
28 bond.

29 (3) "Director" means a board member.

30 (4) "District" means a rural rail transportation
31 district created under this chapter or under Chapter 623, Acts of
32 the 67th Legislature, Regular Session, 1981 (Article 6550c,
33 Vernon's Texas Civil Statutes), as that chapter existed before
34 April 1, 2011.

1 (5) "Maintenance facility" includes a workshop, a
2 service, storage, security, or personnel facility, temporary or
3 transient lodging for district employees, and equipment for any
4 type of facility.

5 (6) "Maintenance and operating expenses" means all
6 expenses of operating and maintaining a district and its rail
7 facilities, including:

8 (A) all compensation, labor, materials, repairs,
9 and extensions necessary, required, or convenient in the board's
10 discretion to render efficient service or to maintain and operate
11 the district; and

12 (B) taxes or other amounts paid, payable, or to
13 be paid to the United States under Section 148(f), Internal Revenue
14 Code of 1986, or any similar law.

15 (7) "Rail facilities" means:

16 (A) property, or an interest in that property,
17 that the board determines is necessary or convenient to provide a
18 rural rail transportation system; and

19 (B) property or an interest necessary or
20 convenient to acquire, provide, construct, enlarge, remodel,
21 renovate, improve, furnish, use, or equip the system, including:

22 (i) a right-of-way;

23 (ii) an earthwork or structure, including
24 clearing and grubbing of right-of-way, demolition of a structure,
25 relocation of utilities, a pipeline, or any other obstacle in a
26 right-of-way, stripping and stockpiling, removal of subsoil for
27 embankment or spoil, a borrow pit, dressing and seeding of a slope,
28 construction of a culvert, a road crossing, a bridge, restoration
29 of a roadway, drainage within a right-of-way or along a road
30 network, and restoration of a hydrologic system;

31 (iii) trackwork;

32 (iv) a train control, including signalling,
33 interlocking equipment, speed monitoring equipment, an emergency
34 braking system, a central traffic control facility, and a

1 communication system;

2 (v) a passenger or freight service
3 building, terminal, or station, a ticketing facility, a waiting
4 area, a platform, a concession, an elevator, an escalator, a
5 facility for handicapped access, an access road, a parking facility
6 for passengers, a baggage handling facility, a local maintenance
7 facility, and offices for district purposes and includes an
8 interest in real property necessary or convenient for an item
9 listed under this subparagraph;

10 (vi) rolling stock; and

11 (vii) a maintenance facility.

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

16 (9) "Right-of-way" means:

17 (A) a right of passage over property;

18 (B) a strip of land in length and width
19 determined required, necessary, or convenient by the board over,
20 on, or under which trackwork is or is to be constructed or acquired;
21 or

22 (C) a right of precedential passing.

23 (10) "Rolling stock" means a locomotive, an engine, a
24 rail car, a repair construction car, or another car designed to
25 operate on trackwork.

26 (11) "Trackwork" means track, a track bed, track bed
27 preparation, a tie, a rail fastener, a slab, a rail, an emergency
28 crossover, a setout track, storage track, and a switch. (V.A.C.S.
29 Art. 6550c, Secs. 2(1), (2), (4), (5), (8), (9), (11), (12), (13),
30 (14), (15), (16), (17); New.)

31 Source Law

32 Sec. 2. In this Act:

33 (1) "Board" means the board of directors
34 of a rural rail transportation district.

35 (2) "Bonds" means bonds; notes, including
36 bond anticipation notes, revenue anticipation notes,
37 and grant anticipation notes; warrants; certificates

1 of obligation; interest-bearing contracts;
2 interest-bearing leases of property; equipment trust
3 certificates; commercial paper; and any obligation
4 issued to refund any type of bond.

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

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

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

28 (9) "Maintenance facility" includes a
29 workshop, a service, storage, security, or personnel
30 facility, temporary or transient lodging for district
31 employees, and equipment for any type of facility.

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

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

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

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

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

66 (16) "Trackwork" means track, track beds,

1 track bed preparation, ties, rail fasteners, slabs,
2 rails, emergency crossovers, setout tracks, storage
3 track, and switches.

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

8 Revisor's Note

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

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

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

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

26 Revised Law

27 Sec. 172.002. NATURE OF DISTRICT. (a) A district is a
28 public body and a political subdivision of this state exercising
29 public and essential governmental functions.

30 (b) A district, in the exercise of powers under this
31 chapter, is performing only governmental functions and is a
32 governmental unit under Chapter 101, Civil Practice and Remedies
33 Code. (V.A.C.S. Art. 6550c, Sec. 5(a) (part).)

34 Source Law

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

1 Revised Law

2 Sec. 172.003. FINDINGS. The legislature finds that:

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

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

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

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

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

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

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

31 Source Law

32 Art. 6550c

33 Sec. 1. The legislature finds that:

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

37 (2) transportation of agricultural and

1 industrial products is essential to the continued
2 economic vitality of rural areas;

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

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

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

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

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

31 [Sections 172.004-172.050 reserved for expansion]

32 SUBCHAPTER B. CREATION

33 Revised Law

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

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

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

42 Source Law

43 [Sec. 2]
44 (6) "Eligible counties" means [two or
45 more] counties that meet the requirements of Sections
46 3[(a) and] (b) of this Act.

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

54 Sec. 3A. (a) In addition to eligible counties,

1 . . . a county that meets the requirements of Section
2 3(b) of this Act . . . may create a rural rail
3 transportation district

4 Revisor's Note

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

14 Revised Law

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

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

18 (1) create a district; or

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

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

23 (c) Each concurrent order must:

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

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

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

30 (4) designate the district's name; and

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

34 (d) The commissioners court of each county included in a
35 district by order may provide for the district's dissolution if
36 each commissioners court determines that the dissolution will not

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

6 Source Law

7 [Sec. 2]

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

12 (6) ["Eligible counties" means] two or
13 more counties that meet the requirements of Sections
14 3(a) and [(b)] of this Act.

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

21 (c) The commissioners courts of two or more
22 eligible counties that create a district or provide
23 for the re-creation of a district by the addition of
24 one or more counties shall by concurrent order at the
25 time of creation or re-creation:

26 (1) declare the boundaries of the district
27 as the boundaries of the counties included;

28 (2) designate the name of the district;
29 and

30 (3) designate the number of board members,
31 which may not be less than four, and the manner of
32 their appointment by a commissioners court.

33 (d) The commissioners courts of all counties
34 included within a district by order may provide for the
35 dissolution of the district if:

36 (1) the commissioners courts determine
37 that the dissolution will not impair an obligation of
38 any contract of the district; and

39 (2) the dissolution order will become
40 effective only on the creation or re-creation of
41 another district in which each county included within
42 the dissolving district is included.

43 Revised Law

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

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

50 (c) At the time the district is created, the commissioners

1 court shall:

2 (1) designate the district's name; and

3 (2) appoint at least four residents of the county to
4 serve as directors.

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

12 Source Law

13 (a) . . . the commissioners court of a county
14 . . . by order may create a rural rail transportation
15 district for purposes of developing, financing,
16 maintaining, and operating a new rail system under
17 this Act and for other purposes of this Act.

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

21 (c) At the time the district is created, the
22 commissioners court shall:

23 (1) designate the name of the district;
24 and

25 (2) appoint at least four residents of the
26 county to serve as directors of the district.

27 (f) The commissioners court of the county by
28 order may provide for the dissolution of the district
29 if:

30 (1) the commissioners court determines
31 that the dissolution will not impair an obligation of
32 any contract of the district; and

33 (2) the dissolution order will become
34 effective only on the creation of another district
35 under this Act that includes the county and meets the
36 requirements of Sections 3(a) and (b) of this Act.

37 Revised Law

38 Sec. 172.054. NOTICE OF CREATION. (a) The board of each
39 newly created district shall provide notice to the Texas
40 Transportation Institute of the district's creation.

41 (b) On being notified by the board, the Texas Transportation
42 Institute shall make available to the board a guide to the services
43 and information that the institute provides. (V.A.C.S. Art. 6550c,
44 Sec. 3(f).)

1 Revised Law

2 Sec. 172.102. TERMS. (a) A director serves a two-year
3 term.

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

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

8 (2) an order creating the district under Section
9 172.053 was adopted. (V.A.C.S. Art. 6550c, Secs. 3A(d), 4(b)
10 (part).)

11 Source Law

12 [Sec. 3A]

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

17 [Sec. 4]

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

22 Revised Law

23 Sec. 172.103. QUALIFICATIONS FOR OFFICE. (a) To be
24 eligible for appointment as a director, a person must be a resident
25 of the county governed by the commissioners court that appoints the
26 person.

27 (b) An elected officer of this state or a political
28 subdivision of this state who is not prohibited by the Texas
29 Constitution from serving on the board is eligible to serve on the
30 board. (V.A.C.S. Art. 6550c, Secs. 3A(c) (part), (e), 4(b) (part),
31 (g).)

32 Source Law

33 [Sec. 3A]

34 (c) . . . [the commissioners court shall:]

35 . . .

36 (2) [appoint at least four] residents of
37 the county to serve as directors of the district.

38 (e) Section 4 of this Act applies to a board
39 member appointed under this section.

40 [Sec. 4]

41 (b) To be eligible for appointment to the board,
42 a person must be a resident of the county governed by

1 the commissioners court that appoints the person.
2 . . .

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

7 Revised Law

8 Sec. 172.104. VACANCY. The commissioners court that
9 appointed a director who vacates the position shall appoint a
10 director for the unexpired term. (V.A.C.S. Art. 6550c, Secs. 3A(e),
11 4(b) (part).)

12 Source Law

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

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

21 Revised Law

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

- 25 (1) at least 10 days' written notice to the director;
26 and
27 (2) a hearing before the commissioners court.

28 (b) At the hearing on the question of removal of a director,
29 the director is entitled to be heard in person or through counsel.
30 (V.A.C.S. Art. 6550c, Secs. 3A(e), 4(b) (part).)

31 Source Law

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

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

44 Revised Law

45 Sec. 172.106. OFFICERS. The board shall select a

1 president, vice president, treasurer, and secretary. The secretary
2 is not required to be a director. (V.A.C.S. Art. 6550c, Secs. 3A(e),
3 4(c) (part).)

4 Source Law

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

8 [Sec. 4]
9 (c) Members of the board shall select a
10 president, vice-president, treasurer, and secretary.
11 The secretary is not required to be a board member.
12 . . .

13 Revised Law

14 Sec. 172.107. MEETINGS; NOTICE. (a) The board shall hold
15 at least one regular meeting each month to conduct district
16 business.

17 (b) The president may call a special board meeting.

18 (c) Chapter 551, Government Code, applies to board
19 meetings, except that notice of a board meeting shall be posted at
20 the administrative office of the district and at the courthouse in
21 the county in which that office is located. (V.A.C.S. Art. 6550c,
22 Secs. 3A(e), 4(c) (part), (f).)

23 Source Law

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

27 [Sec. 4]
28 (c) . . . The board shall hold at least one
29 regular meeting each month for the purpose of
30 transacting business of the district. The president
31 may call special meetings of the board. . . .

32 (f) Notice of a meeting of the board shall be
33 posted at the administrative office of the district
34 and at the courthouse in the county in which that
35 office is located. In all other respects Chapter 271,
36 Acts of the 60th Legislature, Regular Session, 1967
37 (Article 6252-17, Vernon's Texas Civil Statutes),
38 applies to meetings of the board.

39 Revisor's Note

40 (1) Section 4(c), V.A.C.S. Article 6550c,
41 states that "[a] majority of the members [of the board]
42 is a quorum." The revised law omits that provision
43 because it duplicates Section 311.013, Government Code

1 (Code Construction Act), which provides that a quorum
2 of a public body is a majority of the number of members
3 fixed by statute. The omitted law reads:

4 (c) . . . A majority of the members
5 is a quorum.

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

12 Revised Law

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

15 Source Law

16 (d) The board shall adopt rules for its
17 proceedings and

18 Revised Law

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

22 Source Law

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

26 Revised Law

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

31 Source Law

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

36 Revisor's Note

37 Section 4(e), V.A.C.S. Article 6550c, states that
38 a "board member or employee of a district may not be

1 pecuniarily interested" in a contract or agreement to
2 which the district is a party. The revised law omits
3 the reference to a "board member" because the language
4 in Section 4(e) regarding a board member was impliedly
5 repealed by the subsequent enactment of Chapter 640,
6 Acts of the 68th Legislature, Regular Session, 1983
7 (Article 988b, Vernon's Texas Civil Statutes),
8 codified in 1987 as Chapter 171, Local Government
9 Code. Chapter 171, Local Government Code, regulates
10 conflicts of interest for members of the governing
11 body of certain local governments, including a
12 district.

13 [Sections 172.111-172.150 reserved for expansion]

14 SUBCHAPTER D. GENERAL POWERS AND DUTIES

15 Revised Law

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

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

22 Source Law

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

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

31 Revisor's Note

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

1 chapter) are included in the powers necessary or
2 convenient to carry out the purposes of the article.

3 Revised Law

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

11 Source Law

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

20 Revised Law

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

26 Source Law

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

32 Revisor's Note

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

1 Revised Law

2 Sec. 172.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE.

3 A district may:

4 (1) enter into agreements with a public utility,
5 private utility, communication system, common carrier, or
6 transportation system for the joint use of its facilities,
7 installations, or property inside or outside the district; and

8 (2) establish:

9 (A) through routes;

10 (B) joint fares; and

11 (C) divisions of tariffs, subject to approval of
12 a tariff-regulating body that has jurisdiction. (V.A.C.S. Art.
13 6550c, Sec. 5(g).)

14 Source Law

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

24 Revised Law

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

28 Source Law

29 (i) A district may enter into joint ownership
30 agreements with any person.

31 Revised Law

32 Sec. 172.156. AWARDED CONSTRUCTION OR PURCHASE CONTRACTS.

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

39 (b) A board may adopt rules governing the taking of bids and

1 the awarding of contracts.

2 (c) This section does not apply to:

3 (1) personal or professional services; or

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

6 Source Law

7 Sec. 7. A contract in the amount of more than
8 \$15,000 for the construction of improvements or the
9 purchase of material, machinery, equipment, supplies,
10 or any other property except real property may only be
11 let on competitive bids after notice published, at
12 least 15 days before the date set for receiving bids,
13 in a newspaper of general circulation in the district.
14 A board may adopt rules governing the taking of bids
15 and the awarding of contracts. This section does not
16 apply to personal or professional services or the
17 acquisition of existing rail transportation systems.

18 Revisor's Note

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

25 Revised Law

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

28 (1) land in fee simple; or

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

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

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

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

1 (1) is a public necessity; and

2 (2) is necessary and proper for the construction,
3 extension, improvement, or development of rail facilities and is in
4 the public interest.

5 (e) The resolution is conclusive evidence of the public
6 necessity of the proposed acquisition and that the real property or
7 interest in property is necessary for public use. (V.A.C.S.
8 Art. 6550c, Sec. 5(f).)

9 Source Law

10 (f) A district has the right of eminent domain
11 to acquire lands in fee simple and any interest less
12 than fee simple in, on, under, or above lands,
13 including, without limitation, easements,
14 rights-of-way, rights of use of airspace or subsurface
15 space. The right may not be exercised in a manner that
16 would unduly interfere with interstate commerce.
17 Eminent domain proceedings brought by a district are
18 governed by Title 52, Revised Statutes, except as it is
19 inconsistent with this Act. Proceedings for the
20 exercise of the power of eminent domain are commenced
21 by the adoption by the board of a resolution declaring
22 the public necessity for the acquisition by the
23 district of the property or interest described in the
24 resolution, and that the acquisition is necessary and
25 proper for the construction, extension, improvement,
26 or development of rail facilities and is in the public
27 interest. The resolution of the district is
28 conclusive evidence of the public necessity of the
29 proposed acquisition and that the real or personal
30 property or interest in property is necessary for
31 public use.

32 Revisor's Note

33 (1) Section 5(f), V.A.C.S. Article 6550c,
34 provides that the district has the "right of eminent
35 domain" to acquire property. The revised law
36 substitutes for the quoted language "[a] district may
37 exercise the power of eminent domain" because the
38 phrases have the same meaning and the latter phrase is
39 consistent with modern usage in laws relating to
40 eminent domain, including Chapter 21, Property Code.

41 (2) Section 5(f), V.A.C.S. Article 6550c,
42 refers to the acquisition of land, "including, without
43 limitation" certain specific interests in land. The
44 revised law omits "without limitation" because Section
45 311.005(13), Government Code (Code Construction Act),

1 provides that "including" is a term of enlargement and
2 not of limitation and does not create a presumption
3 that components not expressed are excluded.

4 (3) Section 5(f), V.A.C.S. Article 6550c,
5 states that eminent domain proceedings are governed by
6 Title 52, Revised Statutes. Title 52 was repealed in
7 1983 and its provisions codified as Chapter 21,
8 Property Code. The revised law is drafted
9 accordingly.

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

18 Revised Law

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

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

28 Source Law

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

1 Revisor's Note

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

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

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

18 Revised Law

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

20 (1) sue and be sued;

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

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

25 (b) An action at law or in equity against the district must
26 be brought in the county in which the principal office of the
27 district is located, except that a suit in eminent domain must be
28 brought in the county in which the land is located. (V.A.C.S. Art.
29 6550c, Sec. 5(c).)

30 Source Law

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

1 brought in the county in which the land is located.

2 Revisor's Note

3 Section 5(c), V.A.C.S. Article 6550c, provides
4 that a district may sue and be sued "in all courts of
5 competent jurisdiction." The revised law omits the
6 quoted language as unnecessary because a suit may be
7 brought only in a court, and the general laws of civil
8 jurisdiction determine which courts have jurisdiction
9 over the matter. For example, see Sections
10 24.007-24.011, Government Code, for the general
11 jurisdiction of district courts.

12 Revised Law

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

15 Source Law

16 (b) A district has perpetual succession.

17 [Sections 172.161-172.200 reserved for expansion]

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

20 Revised Law

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

25 Source Law

26 (e) A district may plan, acquire, construct,
27 complete, develop, own, operate, and maintain rail
28 facilities inside or outside the district, and

29 Revised Law

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

36 (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).)

8 Source Law

9 (e) [A district may plan, acquire, construct,
10 complete, develop, own, operate, and maintain rail
11 facilities inside or outside the district, and] for
12 those purposes subject to a grant previously secured
13 or with the consent of any municipality, county, or
14 other political subdivision may use streets, alleys,
15 roads, highways, and other public ways of any
16 municipality, county, or other political subdivision
17 and may relocate, raise, reroute, change the grade of,
18 or alter, at the expense of the district, the
19 construction of any street, alley, highway, road,
20 railroad, electric lines and facilities, telegraph and
21 telephone properties and facilities, pipelines and
22 facilities, conduits and facilities, and other
23 properties, whether publicly or privately owned, as
24 necessary or useful in the construction,
25 reconstruction, repair, maintenance, and operation of
26 rail facilities. . . .

27 Revised Law

28 Sec. 172.203. RULES GOVERNING SYSTEM; ROUTINGS. A district
29 by resolution may adopt rules governing the use, operation, and
30 maintenance of the system and shall determine all routings and
31 change them when the board considers it advisable. (V.A.C.S. Art.
32 6550c, Sec. 5(m).)

33 Source Law

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

39 Revisor's Note

40 Section 5(m), V.A.C.S. Article 6550c, refers to
41 "rules and regulations." The revised law omits the
42 reference to "regulations" because under Section
43 311.005(5), Government Code (Code Construction Act), a
44 rule is defined to include a regulation.

1 Revised Law

2 Sec. 172.204. ACQUISITION OF PROPERTY. (a) A district may
3 purchase, whenever the district considers the purchase expedient,
4 land, property rights, right-of-way, franchises, easements, and
5 other interests in land the district considers necessary to
6 acquire, construct, or operate a rail facility on terms and at a
7 price to which the district and the owner agree.

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

10 (c) The governing body of a municipality, a county, any
11 other political subdivision, or a public agency may convey without
12 advertisement the title or the rights and easements to property
13 needed by the district for its purposes in connection with the
14 acquisition, construction, or operation of rail facilities.

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

16 Source Law

17 (e) . . . A district may acquire by purchase,
18 whenever it considers the purchase expedient, any
19 land, property rights, right-of-way, franchises,
20 easements, and other interests in land as it considers
21 necessary for the acquisition, construction, or
22 operation of any rail facility on such terms and at
23 such price as agreed to between the district and the
24 owner and may take title in the name of the district.
25 The governing body of every municipality, county,
26 other political subdivision, or public agency is
27 authorized without any form of advertisement to make
28 conveyance of title or rights and easements to any
29 property needed by the district to effect its purposes
30 in connection with the acquisition, construction, or
31 operation of rail facilities.

32 Revised Law

33 Sec. 172.205. POWERS RELATING TO DISTRICT PROPERTY. A
34 district may acquire by grant, purchase, gift, devise, lease, or
35 otherwise and may hold, use, sell, lease, or dispose of property,
36 including a license, a patent, a right, or an interest, necessary,
37 convenient, or useful for the full exercise of its powers under this
38 chapter. (V.A.C.S. Art. 6550c, Sec. 5(d).)

39 Source Law

40 (d) A district may acquire by grant, purchase,
41 gift, devise, lease, or otherwise and may hold, use,
42 sell, lease, or dispose of real and personal property,
43 licenses, patents, rights, and interests necessary,

1 convenient, or useful for the full exercise of any of
2 its powers under this Act.

3 Revisor's Note

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

9 Revised Law

10 Sec. 172.206. ACQUISITION OF ROLLING STOCK AND OTHER
11 PROPERTY. A district may acquire rolling stock or other property,
12 under a conditional sales contract, lease, equipment trust
13 certificate, or other form of contract or trust agreement.
14 (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

15 Source Law

16 (k) . . . A district may acquire rolling stock
17 or other property under conditional sales contracts,
18 leases, equipment trust certificates, or any other
19 form of contract or trust agreement. . . .

20 Revised Law

21 Sec. 172.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

22 (a) A district shall establish and maintain reasonable and
23 nondiscriminatory rents or other compensation for the use of the
24 facilities of the system acquired, constructed, operated,
25 regulated, or maintained by the district.

26 (b) Together with grants received by the district, the rents
27 or other compensation must be sufficient to produce revenue
28 adequate to:

29 (1) pay all expenses necessary for the operation and
30 maintenance of the district's property and facilities;

31 (2) pay the principal of and interest on all bonds
32 issued by the district payable wholly or partly from the revenue, as
33 they become due and payable; and

34 (3) fulfill the terms of agreements made with the
35 holders of bonds or with any person on their behalf. (V.A.C.S. Art.
36 6550c, Sec. 5(j).)

1 Source Law

2 (j) A district shall establish and maintain
3 rents or other compensation for the use of the
4 facilities of the system acquired, constructed,
5 operated, regulated, or maintained by the district
6 that are reasonable and nondiscriminatory and,
7 together with grants received by the district, are
8 sufficient to produce revenues adequate:

9 (1) to pay all expenses necessary to the
10 operation and maintenance of the properties and
11 facilities of the district;

12 (2) to pay the interest on and principal of
13 all bonds issued by the district under this Act payable
14 in whole or in part from the revenues, as they become
15 due and payable; and

16 (3) to fulfill the terms of any agreements
17 made with the holders of bonds or with any person in
18 their behalf.

19 Revised Law

20 Sec. 172.208. OPERATION OR USE CONTRACTS. (a) A district
21 may:

22 (1) lease all or part of the rail facilities to any
23 operator; or

24 (2) contract for the use or operation of all or part of
25 the rail facilities by any operator.

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

29 (c) The term of an operating contract under this section may
30 not exceed 20 years. In this subsection, "operating contract"
31 means a professional services contract executed by a district and
32 another person under which the person agrees to provide all or part
33 of the:

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

37 (2) personnel required for the operation of the
38 rolling stock owned or leased by the district or for the operation
39 of the rail facilities of the district. (V.A.C.S. Art. 6550c, Secs.
40 2(7), 5(n).)

41 Source Law

42 [Sec. 2]

43 (7) "Operating contract" means a

1 professional services contract executed by a district
2 and another person under which the person agrees to
3 provide:

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

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

11 [Sec. 5]

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

20 Revised Law

21 Sec. 172.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
22 OTHER POLITICAL SUBDIVISIONS. A district may contract with a
23 county or other political subdivision of this state for the
24 district to provide rail transportation services to an area outside
25 the district on terms to which the parties agree. (V.A.C.S. Art.
26 6550c, Sec. 5(o).)

27 Source Law

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

34 Revisor's Note

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

39 Revised Law

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

44 (b) The commission by rule shall adopt procedures for
45 applying for and obtaining approval for abandonment under this
46 section. (V.A.C.S. Art. 6550c, Sec. 5(r).)

1 Notice of each hearing must be published at least seven
2 days before the date of the hearing in a newspaper of
3 general circulation in the district. A budget may be
4 amended at any time if notice of the proposed amendment
5 is given in the notice of meeting. An expenditure that
6 is not budgeted may not be made.

7 Revised Law

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

12 Source Law

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

18 Revisor's Note

19 Section 5(k), V.A.C.S. Article 6550c, refers to
20 the United States of America and "its departments and
21 agencies." The revised law omits the quoted language
22 for the reason stated in the revisor's note to Section
23 172.153.

24 Revised Law

25 Sec. 172.254. DEPOSITORY. (a) The board by resolution
26 shall name one or more banks for the deposit of district funds.

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

29 (c) To the extent district funds are not insured by the
30 Federal Deposit Insurance Corporation or its successor, the funds
31 shall be collateralized in the manner provided for county funds.
32 (V.A.C.S. Art. 6550c, Sec. 5(q).)

33 Source Law

34 (q) The board of a district shall by resolution
35 name one or more banks for the deposit of district
36 funds. District funds are public funds and may be
37 invested in securities permitted by the Public Funds
38 Investment Act of 1987 (Article 842a-2, Vernon's Texas
39 Civil Statutes). To the extent funds of the district
40 are not insured by the Federal Deposit Insurance
41 Corporation or its successor, they shall be
42 collateralized in the manner provided for county
43 funds.

1 Revisor's Note

2 Section 5(q), V.A.C.S. Article 6550c, refers to
3 the Public Funds Investment Act of 1987 (Article
4 842a-2, Vernon's Texas Civil Statutes). That act was
5 codified in 1993 as Chapter 2256, Government Code. The
6 revised law is drafted accordingly.

7 Revised Law

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

14 Source Law

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

20 Revisor's Note

21 Section 6A(a), V.A.C.S. Article 6550c, refers to
22 the district's authority to "levy or collect" ad
23 valorem taxes. The revised law substitutes "impose"
24 for "levy or collect" because "impose" is the term
25 generally used in Title 1, Tax Code, and includes the
26 levy and collection of an ad valorem tax.

27 Revised Law

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

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

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

35 (b) A district may covenant with the purchaser of bond
36 anticipation notes that the proceeds of one or more particular

1 series of bonds will be used for the ultimate payment of the
2 purchase money notes or bond anticipation notes. (V.A.C.S.
3 Art. 6550c, Sec. 6A(b).)

4 Source Law

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

16 Revised Law

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

21 Source Law

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

26 Revisor's Note

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

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

40 [Sections 172.258-172.300 reserved for expansion]

41 SUBCHAPTER G. BONDS

1 Revised Law

2 Sec. 172.301. REVENUE BONDS. A district, by board
3 resolution, may issue revenue bonds in amounts that the board
4 considers necessary or appropriate for the acquisition, purchase,
5 construction, reconstruction, repair, equipping, improvement, or
6 extension of its rail facilities. (V.A.C.S. Art. 6550c, Secs. 6(a)
7 (part), (e).)

8 Source Law

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

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

17 Revisor's Note

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

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

37 (a) . . . All bonds and notes are
38 fully negotiable and may be made redeemable

1 before maturity, at the option of the
2 issuing district, at such price or prices
3 and under such terms and conditions as may
4 be fixed by the issuing district in the
5 resolution authorizing the bonds or notes,
6 and

7 (3) Section 6(a), V.A.C.S. Article 6550c,
8 provides that district bonds and notes may be sold at a
9 public or private sale. The revised law omits the
10 provision because it duplicates Section
11 1201.022(a)(3)(A), Government Code. Chapter 1201,
12 Government Code, applies to district bonds and notes
13 by application of Section 1201.002, Government Code.
14 The omitted law reads:

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

18 Revised Law

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

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

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

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

29 Source Law

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

40 Revisor's Note

41 (1) Section 6(c), V.A.C.S. Article 6550c,
42 refers to a district's power to "mortgage and encumber"
43 its property. The revised law omits "mortgage"

1 because "mortgage" is included within the meaning of
2 "encumber."

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

9 Revised Law

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

- 13 (1) a bank;
14 (2) a trust company;
15 (3) a savings and loan association; and
16 (4) an insurance company.

17 (b) The bonds are:

18 (1) eligible to secure the deposit of public funds of
19 this state or a municipality, a county, a school district, or any
20 other political corporation or subdivision of this state; and

21 (2) lawful and sufficient security for the deposit to
22 the extent of the principal amount or market value of the bonds,
23 whichever is less. (V.A.C.S. Art. 6550c, Sec. 6(d).)

24 Source Law

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

35 Revisor's Note

36 Section 6(d), V.A.C.S. Article 6550c, refers to
37 "cities, towns, [and] villages." The revised law
38 substitutes "a municipality" for "cities, towns, [and]
39 villages" because "municipality" is the term used for

1 those entities in the Local Government Code.

2 Revised Law

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

5 (1) a district is an issuer; and

6 (2) the acquisition, improvement, or repair of rail
7 facilities by a district is an eligible project. (V.A.C.S. Art.
8 6550c, Sec. 5(a) (part).)

9 Source Law

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

18 Revisor's Note

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

25 Revised Law

26 Sec. 172.305. LIMIT ON POWER. A revenue bond indenture may
27 limit the exercise of the power granted by Section 172.002,
28 172.151, 172.152, 172.153, 172.154, 172.155, 172.157, 172.158,
29 172.159, 172.160, 172.201, 172.202, 172.203, 172.204, 172.205,
30 172.206, 172.207, 172.208, 172.209, 172.210, 172.251, 172.252,
31 172.253, 172.254, or 172.304. The limitation applies while any of
32 the revenue bonds issued under the indenture are outstanding and
33 unpaid. (V.A.C.S. Art. 6550c, Sec. 5(k) (part).)

34 Source Law

35 (k) . . . Any revenue bond indenture may provide
36 limitations on the exercise of the powers granted by
37 this section, and the limitations apply so long as any
38 of the revenue bonds issued pursuant to the indenture
39 are outstanding and unpaid.

1 Revisor's Note

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

7 Revised Law

8 Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY ATTORNEY
9 GENERAL. District notes authorized to be issued to an agency of the
10 federal or state government, and related records, are not required
11 to be submitted to the attorney general for examination under
12 Chapter 1202, Government Code. (V.A.C.S. Art. 6550c, Sec. 6(b)
13 (part).)

14 Source Law

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

20 Revisor's Note

21 Section 6(b), V.A.C.S. Article 6550c, requires
22 district bonds and notes to be approved by the attorney
23 general and registered by the comptroller. Section
24 6(b) also provides that after approval, registration,
25 and sale and delivery, the bonds and notes are
26 incontestable. The revised law omits those provisions
27 because they duplicate, in substance, parts of Chapter
28 1202, Government Code. Section 1202.003(a),
29 Government Code, requires that public securities,
30 including bonds and notes, be submitted to the
31 attorney general. Section 1202.003(b), Government
32 Code, provides for approval of the public securities
33 by the attorney general and requires the attorney
34 general to submit the approved public securities to
35 the comptroller for registration. Section 1202.005,
36 Government Code, requires registration of the public

1 securities by the comptroller. Section 1202.006,
2 Government Code, provides that after approval and
3 registration the public securities are incontestable
4 and binding obligations. In addition, for the
5 convenience of the reader, the revised law adds a
6 cross-reference to Chapter 1202. Chapter 1202,
7 Government Code, applies to district bonds by
8 application of Section 1202.001, Government Code. The
9 omitted law reads:

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

25 Revisor's Note
26 (End of Subchapter)

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

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

42 Revisor's Note
43 (End of Chapter)

44 (1) Section 5(a), V.A.C.S. Article 6550c,

1 refers to various laws that have been codified.
2 Section 5(a) provides that a district is a "local
3 government" under Chapter 1084, Acts of the 70th
4 Legislature, Regular Session, 1987 (Article 715c,
5 Vernon's Texas Civil Statutes), an "issuer" under
6 Chapter 503, Acts of the 54th Legislature, 1955
7 (Article 717k, Vernon's Texas Civil Statutes), Chapter
8 784, Acts of the 61st Legislature, Regular Session,
9 1969 (Article 717k-3, Vernon's Texas Civil Statutes),
10 the Bond Procedures Act of 1981 (Article 717k-6,
11 Vernon's Texas Civil Statutes), Chapter 53, Acts of the
12 70th Legislature, 2nd Called Session, 1987 (Article
13 717k-8, Vernon's Texas Civil Statutes), and a "public
14 agency" under Chapter 3, Acts of the 61st Legislature,
15 Regular Session, 1969 (Article 717k-2, Vernon's Texas
16 Civil Statutes), and Chapter 400, Acts of the 66th
17 Legislature, 1979 (Article 717m-1, Vernon's Texas
18 Civil Statutes).

19 Article 715c was codified in 1999 as Chapter
20 2259, Government Code. Articles 717k and 717k-3 were
21 codified in 1999 as Chapter 1207, Government Code.
22 Article 717k-6 was codified in 1999 as Chapters 1201,
23 1202, and 1206, Government Code. Article 717k-8 was
24 codified in 1999 as Chapter 1202, Government Code.
25 Article 717k-2 was codified in 1999 as Chapter 1204,
26 Government Code. Article 717m-1 was codified in 1999
27 as Chapter 1205, Government Code. The revised law
28 omits the references to the Government Code chapters
29 because they apply to rural rail transportation
30 districts by their own terms. The omitted law reads:

31 (a) . . . A district is a "local
32 government" under Chapter 1084, Acts of the
33 70th Legislature, Regular Session, 1987
34 (Article 715c, Vernon's Texas Civil
35 Statutes); [an "issuer"] under Chapter 503,
36 Acts of the 54th Legislature, 1955 (Article
37 717k, Vernon's Texas Civil Statutes),
38 Chapter 784, Acts of the 61st Legislature,

1 Regular Session, 1969 (Article 717k-3,
 2 Vernon's Texas Civil Statutes), the Bond
 3 Procedures Act of 1981 (Article 717k-6,
 4 Vernon's Texas Civil Statutes), Chapter 53,
 5 Acts of the 70th Legislature, 2nd Called
 6 Session, 1987 (Article 717k-8, Vernon's
 7 Texas Civil Statutes), and . . . a "public
 8 agency" under Chapter 3, Acts of the 61st
 9 Legislature, Regular Session, 1969 (Article
 10 717k-2, Vernon's Texas Civil Statutes), and
 11 Chapter 400, Acts of the 66th Legislature,
 12 1979 (Article 717m-1, Vernon's Texas Civil
 13 Statutes). . . .

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

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

27 CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

28 SUBCHAPTER A. GENERAL PROVISIONS

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5 CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS
6 SUBCHAPTER A. GENERAL PROVISIONS

7 Revised Law

8 Sec. 173.001. DEFINITION OF PERSON. In this chapter:

9 (1) "person" includes a corporation, as provided by
10 Section 312.011, Government Code; and

11 (2) the definition of "person" assigned by Section
12 311.005, Government Code, does not apply. (New.)

13 Revisor's Note

14 To ensure that no substantive change is made by
15 the revision of the term "person" as used in Title 112,
16 Revised Statutes, the revised law adds a provision
17 stating that the term "person" includes a corporation,
18 as provided by Section 312.011, Government Code, and
19 the definition of "person" in Section 311.005,
20 Government Code, does not apply. Section 312.011(10),
21 Government Code, which applies to Title 112, provides
22 that "person" includes a corporation. Section
23 311.005(2), Government Code (Code Construction Act),
24 which applies to the Transportation Code, defines
25 "person" to include a "corporation, organization,
26 government or governmental subdivision or agency,
27 business trust, estate, trust, partnership,
28 association, and any other legal entity."

29 Revised Law

30 Sec. 173.002. DEFINITIONS. In this chapter:

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

32 (2) "Commuter rail facility" means any property
33 necessary for the transportation of passengers and baggage between
34 locations in a district. The term includes rolling stock,

1 locomotives, stations, parking areas, and rail lines.

2 (3) "Creating municipality" means a municipality
3 described by Section 173.051(a).

4 (4) "Director" means a board member.

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

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

10 (7) "System" means all of the commuter rail and
11 intermodal facilities leased or owned by or operated on behalf of a
12 district. (V.A.C.S. Art. 6550c-1, Secs. 1(2), (3), (5), (6), (7);
13 New.)

14 Source Law

15 Sec. 1. In this article:

16 (2) "Commuter rail facility" means any
17 property necessary for the transportation of
18 passengers and baggage between points in a district.
19 The term includes rolling stock, locomotives,
20 stations, parking areas, and rail lines.

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

24 (5) "District" means an intermunicipal
25 commuter rail district created under this article.

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

28 (7) "System" means all of the commuter
29 rail and intermodal facilities leased or owned by or
30 operated on behalf of a district created under this
31 article.

32 Revisor's Note

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

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

1 omitted law reads:

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

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

6 Revised Law

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

11 Source Law

12 (d) For purposes of this article, a municipality
13 is located in a county only if 90 percent or more of the
14 population of the municipality resides in that county
15 according to the most recent federal census.

16 Revisor's Note

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

25 Revised Law

26 Sec. 173.004. NATURE OF DISTRICT. (a) A district is a
27 public body and a political subdivision of this state exercising
28 public and essential governmental functions.

29 (b) A district, in the exercise of powers under this
30 chapter, is performing only governmental functions and is a
31 governmental unit under Chapter 101, Civil Practice and Remedies
32 Code. (V.A.C.S. Art. 6550c-1, Sec. 4(a) (part).)

33 Source Law

34 Sec. 4. (a) A district created under this
35 article is a public body and a political subdivision of
36 the state exercising public and essential governmental
37 functions and A district, in the exercise of
38 powers under this article, is performing only
39 governmental functions and is a governmental unit
40 within the meaning of Chapter 101, Civil Practice and

1 Remedies Code.

2 Revised Law

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

6 Source Law

7 (b) A district is subject every 12th year to
8 review under Chapter 325, Government Code (Texas
9 Sunset Act).

10 [Sections 173.006-173.050 reserved for expansion]

11 SUBCHAPTER B. CREATION

12 Revised Law

13 Sec. 173.051. CREATION OF DISTRICT. (a) A district may be
14 created to provide commuter rail service between two
15 municipalities:

16 (1) each of which has a population of more than
17 450,000; and

18 (2) that are located not farther than 100 miles apart
19 as determined by the department.

20 (b) The creating municipalities and the counties in which
21 the creating municipalities are located may create a district on
22 passage of a resolution favoring creation by the governing body of
23 each municipality or county. (V.A.C.S. Art. 6550c-1, Secs. 2(a),
24 (b).)

25 Source Law

26 Sec. 2. (a) A district may be created to
27 provide commuter rail service between two
28 municipalities:

29 (1) each of which has a population of more
30 than 450,000; and

31 (2) that are located not farther than 100
32 miles apart as determined by the department.

33 (b) A district is created on passage of a
34 resolution favoring the creation of the district by
35 the governing body of each creating municipality and
36 the governing body of each county in which a creating
37 municipality is located.

38 Revised Law

39 Sec. 173.052. ADDITION OF POLITICAL SUBDIVISION TO
40 DISTRICT. The following political subdivisions may become a part
41 of a district with the approval of the governing body of the

1 political subdivision:

2 (1) a county located adjacent to the county in which a
3 creating municipality is located; and

4 (2) a municipality with a population of more than
5 18,000 located in a county described by Subdivision (1). (V.A.C.S.
6 Art. 6550c-1, Sec. 2(c).)

7 Source Law

8 (c) The following political subdivisions may
9 become a part of a district created under Subsection
10 (b) of this section with the approval of the governing
11 body of the political subdivision:

12 (1) a county located adjacent to a county
13 in which a creating municipality is located; and

14 (2) a municipality with a population of
15 more than 18,000 located in a county described by
16 Subdivision (1) of this subsection.

17 [Sections 173.053-173.100 reserved for expansion]

18 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

19 Revised Law

20 Sec. 173.101. CONTROL OF DISTRICT. A district is governed
21 by a board of directors. The board is responsible for the
22 management, operation, and control of the district. (V.A.C.S. Art.
23 6550c-1, Sec. 3(a).)

24 Source Law

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

28 Revised Law

29 Sec. 173.102. COMPOSITION OF BOARD; TERMS. (a) The board
30 is composed of:

31 (1) two public directors appointed by the commission;

32 (2) one elected member of the governing body of each
33 political subdivision that has become a part of the district under
34 Subchapter B;

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

37 (4) one director appointed by each creating
38 municipality to represent the business community of the
39 municipality;

1 Revised Law

2 Sec. 173.103. VACANCY. A vacancy on the board shall be
3 filled in the same manner as the original appointment or election.
4 (V.A.C.S. Art. 6550c-1, Sec. 3(c) (part).)

5 Source Law

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

9 Revised Law

10 Sec. 173.104. PRESIDING OFFICER. (a) The directors shall
11 elect one member as presiding officer.

12 (b) The presiding officer may select another director to
13 preside in the absence of the presiding officer. (V.A.C.S. Art.
14 6550c-1, Sec. 3(d).)

15 Source Law

16 (d) The members of the board shall elect one
17 member as presiding officer. The presiding officer
18 may select another member to preside in the absence of
19 the presiding officer.

20 Revised Law

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

25 Source Law

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

30 Revised Law

31 Sec. 173.106. BOARD MEETINGS BY TELEPHONE OR
32 VIDEOCONFERENCE. (a) Chapter 551, Government Code, does not
33 prohibit the board from holding an open or closed meeting by
34 telephone conference call or videoconference.

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

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

1 (d) The notice of a telephone conference call or
2 videoconference meeting must specify each location of the meeting
3 where a director will participate and the physical location where
4 the presiding officer of the board will preside. Each of those
5 locations must be open to the public during the open portion of the
6 meeting.

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

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

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

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

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

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

24 Source Law

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

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

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

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

42 (e) Each part of a telephone conference call
43 meeting that is required to be open to the public shall
44 be audible to the public at the location specified in

1 the notice of the meeting as the location of the
2 meeting and shall be tape recorded. The tape recording
3 shall be made available to the public.

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

6 (1) be visible and audible to the public at
7 all locations specified in the notice of the meeting as
8 the locations of the meeting; and

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

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

19 Revised Law

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

23 Source Law

24 (g) The board shall adopt rules for its
25 proceedings and

26 Revised Law

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

31 Source Law

32 (f) A member of the board is not entitled to
33 compensation for serving as a member but is entitled to
34 reimbursement for reasonable expenses incurred while
35 serving as a member.

36 Revised Law

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

40 Source Law

41 (g) The board . . . may employ and compensate
42 persons to carry out the powers and duties of the
43 district.

44 Revised Law

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

1 Revised Law

2 Sec. 173.152. RULES. To protect district residents'
3 health, safety, and general welfare, a district may adopt rules to
4 govern the operation of the district, its employees, the system,
5 service provided by the district, and any other necessary matter
6 concerning its purposes, including rules regarding health, safety,
7 alcohol or beverage service, food service, or telephone or utility
8 service. (V.A.C.S. Art. 6550c-1, Sec. 4(h).)

9 Source Law

10 (h) A district may adopt rules to govern the
11 operation of the district, its employees, the system,
12 service provided by the district, and any other
13 necessary matter concerning its purposes, including
14 rules regarding health, safety, alcohol or beverage
15 service, food service, and telephone and utility
16 services, to protect the health, safety, and general
17 welfare of residents of the district.

18 Revised Law

19 Sec. 173.153. AGREEMENTS GENERALLY. A district may make
20 contracts, leases, and agreements with the United States, this
21 state and its agencies and political subdivisions, public or
22 private corporations, and any other person. (V.A.C.S. Art.
23 6550c-1, Sec. 4(k) (part).)

24 Source Law

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

30 Revisor's Note

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

38 Revised Law

39 Sec. 173.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE.
40 A district may:

1 (1) make agreements with a public utility, private
2 utility, communication system, common carrier, state agency, or
3 transportation system for the joint use of facilities,
4 installations, or property inside or outside the district; and

5 (2) establish:

6 (A) through routes;

7 (B) joint fares; and

8 (C) divisions of tariffs, subject to approval of
9 a tariff-regulating body that has jurisdiction. (V.A.C.S. Art.
10 6550c-1, Sec. 4(g).)

11 Source Law

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

20 Revised Law

21 Sec. 173.155. JOINT OWNERSHIP AGREEMENTS. A district may
22 make a joint ownership agreement with any person. (V.A.C.S. Art.
23 6550c-1, Sec. 4(i).)

24 Source Law

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

27 Revised Law

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

31 (b) The exclusive development agreement:

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

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

36 (c) The board may adopt rules governing an agreement under
37 this section. (V.A.C.S. Art. 6550c-1, Sec. 6A.)

1 owned by the carrier; or

2 (4) an agreement with a private entity under Section
3 173.156. (V.A.C.S. Art. 6550c-1, Sec. 6.)

4 Source Law

5 Sec. 6. A contract in the amount of more than
6 \$15,000 for the construction of improvements or the
7 purchase of material, machinery, equipment, supplies,
8 or any other property except real property may be let
9 only on competitive bids after notice published, at
10 least 15 days before the date set for receiving bids,
11 in a newspaper of general circulation in the district.
12 A board may adopt rules governing the taking of bids
13 and the awarding of contracts. This section does not
14 apply to:

- 15 (1) personal or professional services;
16 (2) the acquisition of existing rail
17 transportation systems;
18 (3) a contract with a common carrier to
19 construct lines and to operate commuter rail service
20 on lines owned in whole or in part by the carrier; or
21 (4) an agreement with a private entity
22 under Section 6A of this Article.

23 Revisor's Note

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

30 Revised Law

31 Sec. 173.159. EMINENT DOMAIN. (a) A district may exercise
32 the power of eminent domain to acquire:

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

37 (b) The power of eminent domain under this section does not
38 apply to:

- 39 (1) land under the jurisdiction of the department or a
40 metropolitan transit authority; or

- 41 (2) a rail line owned by a common carrier or
42 municipality.

43 (c) To the extent possible, the district shall use existing

1 rail or intermodal transportation corridors for the alignment of
2 its system.

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

6 (1) is a public necessity; and

7 (2) is necessary and proper for the construction,
8 extension, improvement, or development of commuter rail facilities
9 and is in the public interest.

10 (e) The resolution is conclusive evidence of the public
11 necessity of the proposed acquisition and that the real property or
12 interest in property is necessary for public use. (V.A.C.S. Art.
13 6550c-1, Sec. 4(f).)

14 Source Law

15 (f) A district has the right of eminent domain
16 to acquire lands in fee simple and any interest less
17 than fee simple in, on, under, or above lands,
18 including easements, rights-of-way, and rights of use
19 of airspace or subsurface space. The power of eminent
20 domain under this section does not apply, however, to
21 land under the jurisdiction of the department or a
22 metropolitan transit authority or a rail line owned by
23 a common carrier or municipality. The district shall,
24 to the extent possible, use existing rail or
25 intermodal transportation corridors for the alignment
26 of its system. Proceedings for the exercise of the
27 power of eminent domain are begun by the adoption by
28 the board of a resolution declaring the public
29 necessity for the acquisition by the district of the
30 property or interest described in the resolution and
31 that the acquisition is necessary and proper for the
32 construction, extension, improvement, or development
33 of commuter rail facilities and is in the public
34 interest. The resolution of the district is
35 conclusive evidence of the public necessity of the
36 proposed acquisition and that the real or personal
37 property or interest in property is necessary for
38 public use.

39 Revisor's Note

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

1 eminent domain, including Chapter 21, Property Code.

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

10 Revised Law

11 Sec. 173.160. SUITS. (a) A district may:

12 (1) sue and be sued;

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

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

17 (b) An action at law or in equity against the district must
18 be brought in the county in which a principal office of the district
19 is located, except that a suit in eminent domain must be brought in
20 the county in which the land is located. (V.A.C.S. Art. 6550c-1,
21 Sec. 4(c).)

22 Source Law

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

32 Revisor's Note

33 Section 4(c), V.A.C.S. Article 6550c-1, provides
34 that a district may sue and be sued "in all courts of
35 competent jurisdiction." The revised law omits the
36 quoted language as unnecessary because a suit may be
37 brought only in a court, and the general laws of civil
38 jurisdiction determine which courts have jurisdiction

1 over the matter. For example, see Sections
2 24.007-24.011, Government Code, for the general
3 jurisdiction of district courts.

4 [Sections 173.161-173.200 reserved for expansion]

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

7 Revised Law

8 Sec. 173.201. GENERAL AUTHORITY OVER COMMUTER RAIL
9 FACILITIES. A district may acquire, construct, develop, own,
10 operate, and maintain intermodal and commuter rail facilities
11 inside, or connect political subdivisions in, the district.
12 (V.A.C.S. Art. 6550c-1, Sec. 4(e) (part).)

13 Source Law

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

18 Revised Law

19 Sec. 173.202. POWERS RELATING TO DISTRICT PROPERTY. A
20 district may acquire by grant, purchase, gift, devise, lease, or
21 otherwise and may hold, use, sell, lease, or dispose of property,
22 including a license, a patent, a right, or an interest, necessary,
23 convenient, or useful for the full exercise of its powers under this
24 chapter. (V.A.C.S. Art. 6550c-1, Sec. 4(d).)

25 Source Law

26 (d) A district may acquire by grant, purchase,
27 gift, devise, lease, or otherwise and may hold, use,
28 sell, lease, or dispose of real and personal property,
29 licenses, patents, rights, and interests necessary,
30 convenient, or useful for the full exercise of any of
31 its powers under this article.

32 Revisor's Note

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

1 Revised Law

2 Sec. 173.203. USE AND ALTERATION OF PROPERTY OF ANOTHER
3 POLITICAL SUBDIVISION. (a) For a purpose described by Section
4 173.201, as necessary or useful in the construction,
5 reconstruction, repair, maintenance, and operation of the system,
6 and with the consent of a municipality, county, or other political
7 subdivision, a district may:

8 (1) use streets, alleys, roads, highways, and other
9 public ways of the political subdivision; and

10 (2) relocate, raise, reroute, change the grade of, or
11 alter, at the district's expense, the construction of a publicly
12 owned or privately owned street, alley, highway, road, railroad,
13 electric line or facility, telegraph or telephone property or
14 facility, pipeline or facility, conduit or facility, and other
15 property.

16 (b) A district may not use or alter:

17 (1) a road or highway in the state highway system
18 without the permission of the commission; or

19 (2) a railroad without permission of the railroad.
20 (V.A.C.S. Art. 6550c-1, Sec. 4(e) (part).)

21 Source Law

22 (e) . . . For these purposes and with the
23 consent of any municipality, county, or other
24 political subdivision, the district may use streets,
25 alleys, roads, highways, and other public ways of any
26 municipality, county, or other political subdivision
27 and may relocate, raise, reroute, change the grade of,
28 or alter, at the expense of the district, the
29 construction of any street, alley, highway, road,
30 railroad, electric lines and facilities, telegraph and
31 telephone properties and facilities, pipelines and
32 facilities, conduits and facilities, and other
33 properties, whether publicly or privately owned, as
34 necessary or useful in the construction,
35 reconstruction, repair, maintenance, and operation of
36 the system. A district may not use or alter a road or
37 highway in the state highway system without the
38 permission of the commission or a railroad without
39 permission of the railroad. . . .

40 Revised Law

41 Sec. 173.204. RULES GOVERNING SYSTEM AND ROUTINGS. A
42 district by resolution may adopt rules governing the use,
43 operation, and maintenance of the system and shall determine all

1 routings and change them when the board considers it advisable.
2 (V.A.C.S. Art. 6550c-1, Sec. 4(1).)

3 Source Law

4 (1) A district by resolution may adopt rules
5 governing the use, operation, and maintenance of the
6 system and shall determine all routings and change
7 them when the board considers it advisable.

8 Revised Law

9 Sec. 173.205. ACQUISITION OF PROPERTY. (a) A district may
10 purchase any interest in real property to acquire, construct, or
11 operate a commuter rail facility on terms and at a price to which
12 the district and the owner agree.

13 (b) The governing body of a municipality, a county, any
14 other political subdivision, or a public agency may convey the
15 title or the rights and easements to property needed by the district
16 for its purposes in connection with the acquisition, construction,
17 or operation of the system. (V.A.C.S. Art. 6550c-1, Sec. 4(e)
18 (part).)

19 Source Law

20 (e) . . . A district may at its discretion
21 acquire by purchase any interest in real property for
22 the acquisition, construction, or operation of any
23 commuter rail facility on terms and at a price as
24 agreed to between the district and the owner. The
25 governing body of any municipality, county, other
26 political subdivision, or public agency may make
27 conveyance of title or rights and easements to any
28 property needed by the district to effect its purposes
29 in connection with the acquisition, construction, or
30 operation of the system.

31 Revised Law

32 Sec. 173.206. ACQUISITION OF ROLLING STOCK AND OTHER
33 PROPERTY. A district may acquire rolling stock or other property
34 under a conditional sales contract, lease, equipment trust
35 certificate, or other form of contract or trust agreement.
36 (V.A.C.S. Art. 6550c-1, Sec. 4(k) (part).)

37 Source Law

38 (k) . . . A district may acquire rolling stock
39 or other property under conditional sales contracts,
40 leases, equipment trust certificates, or any other
41 form of contract or trust agreement. . . .

1 Revised Law

2 Sec. 173.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

3 (a) A district shall establish and maintain reasonable and
4 nondiscriminatory rates or other compensation for the use of the
5 facilities of the system acquired, constructed, operated,
6 regulated, or maintained by the district.

7 (b) Together with grants received by the district, the rates
8 or other compensation must be sufficient to produce revenue
9 adequate to:

10 (1) pay all expenses necessary for the operation and
11 maintenance of the district's property and facilities;

12 (2) pay the principal of and interest on all bonds
13 issued by the district under this chapter payable wholly or partly
14 from the revenue, as they become due and payable; and

15 (3) fulfill the terms of agreements made with the
16 holders of bonds or with any person on their behalf. (V.A.C.S. Art.
17 6550c-1, Sec. 4(j).)

18 Source Law

19 (j) A district shall establish and maintain
20 rates or other compensation for the use of the
21 facilities of the system acquired, constructed,
22 operated, regulated, or maintained by the district
23 that is reasonable and nondiscriminatory and, together
24 with grants received by the district, is sufficient to
25 produce revenues adequate:

26 (1) to pay all expenses necessary to the
27 operation and maintenance of the properties and
28 facilities of the district;

29 (2) to pay the interest on and principal of
30 all bonds issued by the district under this article and
31 payable in whole or in part from the revenues, as they
32 become due and payable; and

33 (3) to fulfill the terms of any agreements
34 made with the holders of bonds or with any person in
35 their behalf.

36 Revised Law

37 Sec. 173.208. OPERATION OR USE CONTRACTS. (a) A district
38 may:

39 (1) lease all or part of the commuter rail facilities
40 to any operator; or

41 (2) contract for the use or operation of all or part of
42 the commuter rail facilities by any operator.

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

4 (c) The term of an operating contract under this section may
5 not exceed 20 years. (V.A.C.S. Art. 6550c-1, Sec. 4(m).)

6 Source Law

7 (m) A district may lease the commuter rail
8 facilities or any part to, or contract for the use or
9 operation of the commuter rail facilities or any part
10 by, any operator. A district shall encourage to the
11 maximum extent practicable the participation of
12 private enterprise in the operation of commuter rail
13 facilities. The term of an operating contract under
14 this subsection may not exceed 20 years.

15 Revised Law

16 Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
17 OTHER POLITICAL SUBDIVISIONS. A district may contract with a county
18 or other political subdivision of this state for the district to
19 provide commuter rail transportation services to an area outside
20 the district on terms to which the parties agree. (V.A.C.S. Art.
21 6550c-1, Sec. 4(n).)

22 Source Law

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

29 Revisor's Note

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

34 [Sections 173.210-173.250 reserved for expansion]

35 SUBCHAPTER F. FINANCIAL PROVISIONS

36 Revised Law

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

1 persons and

2 Revisor's Note

3 Section 4(k), V.A.C.S. Article 6550c-1, refers to
4 the United States of America and "its departments and
5 agencies." The revised law omits the quoted language
6 for the reason stated in the revisor's note to Section
7 173.153.

8 Revised Law

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

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

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

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

17 Source Law

18 (r) The board of a district shall by resolution
19 name one or more banks for the deposit of district
20 funds. District funds are public funds and may be
21 invested in securities permitted by Chapter 2256,
22 Government Code. To the extent funds of the district
23 are not insured by the Federal Deposit Insurance
24 Corporation or its successor, they shall be
25 collateralized in the manner provided for county
26 funds.

27 Revised Law

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

31 Source Law

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

34 Revised Law

35 Sec. 173.256. FINANCING OF CERTAIN TRANSPORTATION
36 INFRASTRUCTURE. (a) This section applies only to a local
37 government, other than a school district, that is a member of a
38 district and that is authorized to impose ad valorem taxes on real
39 property.

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

5 (c) The agreement must include:

6 (1) the duration of the agreement;

7 (2) a description of each transportation
8 infrastructure project or proposed project;

9 (3) a map showing the location of each project; and

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

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

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

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

24 (2) for design, construction, operation, or
25 maintenance of transportation facilities in the territory of the
26 local government. (V.A.C.S. Art. 6550c-1, Sec. 8.)

27 Source Law

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

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

37 (c) The agreement must include:

38 (1) the duration of the agreement;

39 (2) a description of each transportation
40 infrastructure project or proposed project;

41 (3) a map showing the location of each

1 project; and
2 (4) an estimate of the cost of each
3 project.

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

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

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

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

23 Revised Law

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

29 Source Law

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

35 [Sections 173.258-173.300 reserved for expansion]

36 SUBCHAPTER G. BONDS

37 Revised Law

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

44 Source Law

45 Sec. 5. (a) A district may issue revenue bonds
46 and notes from time to time and in such amounts as its
47 board considers necessary or appropriate for the
48 acquisition, purchase, construction, reconstruction,
49 repair, equipping, improvement, or extension of its
50 commuter rail facilities. . . .

1 Revisor's Note

2 (1) Section 5(a), V.A.C.S. Article 6550c-1,
3 provides that a district may issue revenue bonds and
4 notes "from time to time." The revised law omits the
5 quoted language because the authority to issue revenue
6 bonds and notes implies the authority to do so at any
7 time.

8 (2) Section 5(a), V.A.C.S. Article 6550c-1,
9 provides that district bonds and notes are fully
10 negotiable and may be redeemed before maturity under
11 terms fixed by the district's board. The revised law
12 omits that provision because it duplicates, in
13 substance, parts of Sections 1201.021 and 1201.022,
14 Government Code, which provide that public securities,
15 including bonds and notes, may be redeemed before
16 maturity and be payable in specified amounts and at
17 specified times, and Section 1201.041, Government
18 Code, which provides that public securities are
19 negotiable. Chapter 1201, Government Code, applies to
20 district bonds and notes by application of Section
21 1201.002, Government Code. The omitted law reads:

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

29 (3) Section 5(a), V.A.C.S. Article 6550c-1,
30 provides that district bonds and notes may be sold at a
31 public or private sale. The revised law omits the
32 provision because it duplicates Section
33 1201.022(a)(3)(A), Government Code. Chapter 1201,
34 Government Code, applies to district bonds and notes
35 by application of Section 1201.002, Government Code.
36 The omitted law reads:

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

1 the board determines.

2 Revised Law

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

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

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

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

14 Source Law

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

25 Revisor's Note

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

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

37 Revised Law

38 Sec. 173.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY
39 FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are

1 legal and authorized investments for:

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

6 (b) The bonds and notes are:

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

13 Source Law

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

24 Revisor's Note

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

30 Revised Law

31 Sec. 173.304. LIMIT ON POWER. (a) A revenue bond indenture
32 may limit the exercise of a power granted by Section 173.004,
33 173.005, 173.111, 173.151, 173.152, 173.153, 173.154, 173.155,
34 173.157, 173.159, 173.160, 173.201, 173.202, 173.203, 173.204,
35 173.205, 173.206, 173.207, 173.208, 173.209, 173.251, 173.252,
36 173.253, 173.254, or 173.255.

37 (b) The limitation applies while any of the revenue bonds
38 issued under the indenture are outstanding and unpaid. (V.A.C.S.
39 Art. 6550c-1, Sec. 4(k) (part).)

1 (b) A district shall submit all bonds
2 and notes authorized to be issued and the
3 records relating to their issuance to the
4 attorney general for examination before
5 delivery. If the attorney general
6 determines that they have been issued in
7 accordance with the constitution and this
8 article and that they will be binding
9 obligations of the district issuing them,
10 the attorney general shall approve them,
11 and the comptroller shall register them.
12 Bonds and notes issued under this article
13 are incontestable after approval,
14 registration, and sale and delivery of the
15 bonds to the purchaser.

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

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

30 [Sections 173.305-173.350 reserved for expansion]

31 SUBCHAPTER H. SALES AND USE TAXES

32 Revised Law

33 Sec. 173.351. TAX AUTHORIZED. A sales and use tax is
34 imposed on items sold on district property. (V.A.C.S. Art.
35 6550c-1, Sec. 9(a) (part).)

36 Source Law

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

39 Revised Law

40 Sec. 173.352. TAX RATE. The sales and use tax shall be
41 imposed at the rate of the highest combination of local sales and
42 use taxes imposed at the time of the district's creation in any
43 local governmental jurisdiction that is part of the district.

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

2 Source Law

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

8 Revised Law

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

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

13 Source Law

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

17 Revised Law

18 Sec. 173.354. APPLICABILITY OF TAX CODE. Chapter 321, Tax
19 Code, governs the computation, administration, governance, and use
20 of the tax except as inconsistent with this chapter. (V.A.C.S. Art.

21 6550c-1, Sec. 9(b) (part).)

22 Source Law

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

26 Revised Law

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

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

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

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

37 (3) certified copies of the resolutions of the
38 governing bodies of the creating municipalities and of the

1 commissioners courts of the counties in which the municipalities
2 are located.

3 (c) Not later than the 30th day after the date the
4 comptroller receives the notice, map, and other information, the
5 comptroller shall inform the district whether the comptroller is
6 prepared to administer the tax. (V.A.C.S. Art. 6550c-1, Secs.
7 9(c), (d).)

8 Source Law

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

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

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

28 Revised Law

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

32 (1) notify each affected local governmental
33 jurisdiction of the district's creation; and

34 (2) provide each jurisdiction with an adequate map
35 showing the property boundaries of the district. (V.A.C.S. Art.
36 6550c-1, Sec. 9(e).)

37 Source Law

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

44 Revised Law

45 Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT
46 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 (b) The district must include with each notification:

5 (1) an adequate map showing the new property
6 boundaries of the district; and

7 (2) the date the additional territory was acquired.

8 (c) Not later than the 30th day after the date the
9 comptroller receives the notice under this section, the comptroller
10 shall inform the district whether the comptroller is prepared to
11 administer the tax in the additional territory. (V.A.C.S. Art.
12 6550c-1, Sec. 9(f).)

13 Source Law

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

26 Revised Law

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

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

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

33 Source Law

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

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

39 Revised Law

40 Sec. 173.359. EFFECTIVE DATE OF TAX. A tax imposed under
41 this chapter or the repeal of a tax imposed under this chapter takes
42 effect on the first day of the first calendar quarter that begins

1 after the expiration of the first complete calendar quarter that
2 occurs after the date the comptroller receives a notice of the
3 action as required by this subchapter. (V.A.C.S. Art. 6550c-1,
4 Sec. 9(g).)

5 Source Law

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

13 CHAPTER 174. COMMUTER RAIL DISTRICTS

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21 SUBCHAPTER B. CREATION

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17 CHAPTER 174. COMMUTER RAIL DISTRICTS
18 SUBCHAPTER A. GENERAL PROVISIONS
19 Revised Law
20 Sec. 174.001. DEFINITION OF PERSON. In this chapter:
21 (1) "person" includes a corporation, as provided by
22 Section 312.011, Government Code; and
23 (2) the definition of "person" assigned by Section
24 311.005, Government Code, does not apply. (New.)
25 Revisor's Note
26 To ensure that no substantive change is made by
27 the revision of the term "person" as used in Title 112,
28 Revised Statutes, the revised law adds a provision
29 stating that the term "person" includes a corporation,
30 as provided by Section 312.011, Government Code, and
31 the definition of "person" in Section 311.005,
32 Government Code, does not apply. Section 312.011(10),
33 Government Code, which applies to Title 112, provides
34 that "person" includes a corporation. Section

1 311.005(2), Government Code (Code Construction Act),
2 which applies to the Transportation Code, defines
3 "person" to include a "corporation, organization,
4 government or governmental subdivision or agency,
5 business trust, estate, trust, partnership,
6 association, and any other legal entity."

7 Revised Law

8 Sec. 174.002. DEFINITIONS. In this chapter:

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

10 (2) "Commuter rail facility" means any property
11 necessary for the transportation of passengers and baggage between
12 locations in a district. The term includes rolling stock,
13 locomotives, stations, parking areas, and rail lines.

14 (3) "Director" means a board member.

15 (4) "District" means a commuter rail district created
16 under this chapter or under Article 6550c-3, Revised Statutes, as
17 that article existed before April 1, 2011.

18 (5) "System" means all of the commuter rail and
19 intermodal facilities leased or owned by or operated on behalf of a
20 district. (V.A.C.S. Art. 6550c-3, Secs. 1(2), (5), (7); New.)

21 Source Law

22 Sec. 1. In this article:

23 (2) "Commuter rail facility" means any
24 property necessary for the transportation of
25 passengers and baggage between points in a district.
26 The term includes rolling stock, locomotives,
27 stations, parking areas, and rail lines.

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

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

33 Revisor's Note

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

36 (2) Section 1(1), V.A.C.S. Article 6550c-3,
37 defines "[c]ommission" as the Texas Transportation
38 Commission and Section 1(4) of that article defines

1 "[d]epartment" as the Texas Department of
2 Transportation. The revised law omits the definitions
3 because they duplicate the definitions of those terms
4 in Section 81.001, which apply to Chapter 174. The
5 omitted law reads:

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

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

10 (3) Sections 1(3) and (6), V.A.C.S. Article
11 6550c-3, define "[c]reating county" and "[d]istrict
12 property." The revised law omits the definitions
13 because the defined terms are not used elsewhere in
14 Article 6550c-3, revised as this chapter. The omitted
15 law reads:

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

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

22 Revised Law

23 Sec. 174.003. NATURE OF DISTRICT. (a) A district is a
24 public body and a political subdivision of this state exercising
25 public and essential governmental functions.

26 (b) A district, in the exercise of powers under this
27 chapter, is performing only governmental functions and is a
28 governmental unit under Chapter 101, Civil Practice and Remedies
29 Code. (V.A.C.S. Art. 6550c-3, Sec. 4(a) (part).)

30 Source Law

31 Sec. 4. (a) A district created under this
32 article is a public body and a political subdivision of
33 the state exercising public and essential governmental
34 functions and A district, in the exercise of
35 powers under this article, is performing only
36 governmental functions and is a governmental unit
37 within the meaning of Chapter 101, Civil Practice and
38 Remedies Code.

39 Revised Law

40 Sec. 174.004. REQUIREMENT FOR SERVICE TO MUNICIPALITIES IN
41 DISTRICT. A municipality located in a district that wishes to be

1 served by commuter rail facilities of the district must pay for
2 construction of a commuter rail station. (V.A.C.S. Art. 6550c-3,
3 Sec. 9.)

4 Source Law

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

9 [Sections 174.005-174.050 reserved for expansion]

10 SUBCHAPTER B. CREATION

11 Revised Law

12 Sec. 174.051. CREATION OF DISTRICT. (a) A district may be
13 created to provide commuter rail service to counties along the
14 Texas-Mexico border.

15 (b) The commissioners court of a county may create a
16 commuter rail district on adoption of an order favoring the
17 creation. (V.A.C.S. Art. 6550c-3, Sec. 2.)

18 Source Law

19 Sec. 2. (a) A commuter rail district may be
20 created to provide commuter rail service to counties
21 along the Texas-Mexico border.

22 (b) The commissioners court of a county may
23 create a commuter rail district on adoption of an order
24 favoring the creation.

25 [Sections 174.052-174.100 reserved for expansion]

26 SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

27 Revised Law

28 Sec. 174.101. CONTROL OF DISTRICT. A district is governed
29 by a board of directors. The board is responsible for the
30 management, operation, and control of the district. (V.A.C.S. Art.
31 6550c-3, Sec. 3(a).)

32 Source Law

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

36 Revised Law

37 Sec. 174.102. COMPOSITION OF BOARD; TERMS. (a) The board
38 is composed of five directors appointed as follows:

39 (1) one director appointed by the county judge; and

1 Revised Law

2 Sec. 174.106. COMPENSATION; REIMBURSEMENT. A director is
3 not entitled to compensation for serving as a director but is
4 entitled to reimbursement for reasonable expenses incurred while
5 serving as a director. (V.A.C.S. Art. 6550c-3, Sec. 3(e).)

6 Source Law

7 (e) A member of the board is not entitled to
8 compensation for serving as a member but is entitled to
9 reimbursement for reasonable expenses incurred while
10 serving as a member.

11 Revised Law

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

15 Source Law

16 (f) . . . The board may employ and compensate
17 persons to carry out the powers and duties of the
18 district.

19 Revised Law

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

22 Source Law

23 (f) [The board shall] . . . appoint an executive
24 committee. . . .

25 Revised Law

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

29 Source Law

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

32 [Sections 174.110-174.150 reserved for expansion]

33 SUBCHAPTER D. GENERAL POWERS AND DUTIES

34 Revised Law

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

38 (b) A district may perform any act necessary for the full

1 exercise of the district's powers. (V.A.C.S. Art. 6550c-3, Secs.
2 4(a) (part), (j) (part).)

3 Source Law

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

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

10 Revised Law

11 Sec. 174.152. RULES. To protect the health, safety, and
12 general welfare of district residents and people who use district
13 services, a district may adopt rules to govern the operation of the
14 district, its employees, the system, service provided by the
15 district, and any other necessary matter concerning its purposes,
16 including rules regarding health, safety, alcohol or beverage
17 service, food service, or telephone or utility service. (V.A.C.S.
18 Art. 6550c-3, Sec. 4(g).)

19 Source Law

20 (g) A district may adopt rules to govern the
21 operation of the district, its employees, the system,
22 service provided by the district, and any other
23 necessary matter concerning its purposes, including
24 rules relating to health, safety, alcohol or beverage
25 service, food service, and telephone and utility
26 services, to protect the health, safety, and general
27 welfare of residents of the district and people who use
28 the district's services.

29 Revised Law

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

34 Source Law

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

40 Revisor's Note

41 Section 4(j), V.A.C.S. Article 6550c-3, refers to
42 the United States of America and "its departments and

1 agencies." The revised law omits the quoted language
2 because under Section 311.005, Government Code (Code
3 Construction Act), "United States" includes a
4 department, bureau, or other agency of the United
5 States of America.

6 Revised Law

7 Sec. 174.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE.

8 A district may:

9 (1) make agreements with a public utility, private
10 utility, communication system, common carrier, state agency, or
11 transportation system for the joint use of facilities,
12 installations, or property inside or outside the district; and

13 (2) establish:

14 (A) through routes; and

15 (B) joint fares. (V.A.C.S. Art. 6550c-3, Sec.
16 4(f).)

17 Source Law

18 (f) A district may make agreements with a public
19 utility, private utility, communication system,
20 common carrier, state agency, or transportation system
21 for the joint use of facilities, installations, or
22 properties inside or outside the district and
23 establish through routes and joint fares.

24 Revised Law

25 Sec. 174.155. JOINT OWNERSHIP AGREEMENTS. A district may
26 enter into a joint ownership agreement with any person. (V.A.C.S.
27 Art. 6550c-3, Sec. 4(h).)

28 Source Law

29 (h) A district may enter into a joint ownership
30 agreement with any person.

31 Revised Law

32 Sec. 174.156. INTERLOCAL AGREEMENTS WITH COMMISSION. The
33 commission may enter into an interlocal agreement with the district
34 under which the district may exercise a power or duty of the
35 commission for the development and efficient operation of an
36 intermodal corridor in the district. (V.A.C.S. Art. 6550c-3, Sec.
37 4(j) (part).)

1 are synonymous and "awarded" conforms to the modern
2 usage found in competitive bidding statutes in the
3 Local Government Code.

4 Revised Law

5 Sec. 174.158. EMINENT DOMAIN. (a) A district may exercise
6 the power of eminent domain to acquire:

7 (1) real property in fee simple; or

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

11 (b) The power of eminent domain under this section does not
12 apply to:

13 (1) land under the jurisdiction of the department; or

14 (2) a rail line owned by a common carrier or
15 municipality.

16 (c) To the extent possible, the district shall use existing
17 rail or intermodal transportation corridors for the alignment of
18 its system.

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

22 (1) is a public necessity; and

23 (2) is necessary and proper for the construction,
24 extension, improvement, or development of commuter rail facilities
25 and is in the public interest.

26 (e) The resolution is conclusive evidence of the public
27 necessity of the proposed acquisition and that the real property or
28 interest in property is necessary for public use. (V.A.C.S. Art.
29 6550c-3, Sec. 4(e).)

30 Source Law

31 (e) A district has the right of eminent domain
32 to acquire real property in fee simple or an interest
33 in real property less than fee simple in, on, under, or
34 above land, including an easement, right-of-way, or
35 right of use of airspace or subsurface space. The
36 power of eminent domain under this section does not
37 apply to land under the jurisdiction of the department
38 or a rail line owned by a common carrier or

1 municipality. The district shall, to the extent
2 possible, use existing rail or intermodal
3 transportation corridors for the alignment of its
4 system. A proceeding for the exercise of the power of
5 eminent domain is begun by the adoption by the board of
6 a resolution declaring the public necessity for the
7 acquisition by the district of the property or
8 interest described in the resolution and that the
9 acquisition is necessary and proper for the
10 construction, extension, improvement, or development
11 of commuter rail facilities and is in the public
12 interest. The resolution of the district is
13 conclusive evidence of the public necessity of the
14 proposed acquisition and that the real or personal
15 property or interest in property is necessary for
16 public use.

17 Revisor's Note

18 (1) Section 4(e), V.A.C.S. Article 6550c-3,
19 provides that the district has the "right of eminent
20 domain" to acquire property. The revised law
21 substitutes for the quoted language "[a] district may
22 exercise the power of eminent domain" because the
23 phrases have the same meaning and the latter phrase is
24 consistent with modern usage in laws relating to
25 eminent domain, including Chapter 21, Property Code.

26 (2) Section 4(e), V.A.C.S. Article 6550c-3,
27 states that a resolution initiating an eminent domain
28 proceeding is conclusive evidence that the "real or
29 personal property or interest in property" is
30 necessary for public use. The revised law omits the
31 reference to personal property because Section 4(e)
32 does not authorize a district to acquire personal
33 property by eminent domain.

34 Revised Law

35 Sec. 174.159. SUITS. (a) A district may:

36 (1) sue and be sued;

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

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

41 (b) An action at law or in equity against the district must
42 be brought in the county in which a principal office of the district

1 is located, except that a suit in eminent domain involving an
2 interest in land must be brought in the county in which the land is
3 located. (V.A.C.S. Art. 6550c-3, Sec. 4(b).)

4 Source Law

5 (b) A district may sue and be sued in all courts,
6 may institute and prosecute suits without giving
7 security for costs, and may appeal from a judgment
8 without giving a supersedeas or cost bond. An action
9 at law or in equity against the district must be
10 brought in the county in which a principal office of
11 the district is located, except that in an eminent
12 domain proceeding involving an interest in land, suit
13 must be brought in the county in which the land is
14 located.

15 Revisor's Note

16 Section 4(b), V.A.C.S. Article 6550c-3, allows a
17 district to sue and be sued "in all courts." The
18 revised law omits the quoted language as unnecessary
19 because a suit may only be brought in a court, and the
20 general laws of civil jurisdiction determine which
21 courts have jurisdiction over the matter. For
22 example, see Sections 24.007-24.011, Government Code,
23 for the general jurisdiction of district courts.

24 [Sections 174.160-174.200 reserved for expansion]

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

27 Revised Law

28 Sec. 174.201. GENERAL AUTHORITY OVER COMMUTER RAIL
29 FACILITIES. A district may acquire, construct, develop, own,
30 operate, and maintain intermodal and commuter rail facilities to
31 connect political subdivisions in the district. (V.A.C.S. Art.
32 6550c-3, Sec. 4(d) (part).)

33 Source Law

34 (d) A district may acquire, construct, develop,
35 own, operate, and maintain intermodal and commuter
36 rail facilities to connect political subdivisions in
37 the district. . . .

38 Revised Law

39 Sec. 174.202. POWERS RELATING TO DISTRICT PROPERTY. A
40 district may acquire by grant, purchase, gift, devise, lease, or

1 otherwise and may hold, use, sell, lease, or dispose of property,
2 including a license, a patent, a right, or an interest, necessary,
3 convenient, or useful for the full exercise of its powers.
4 (V.A.C.S. Art. 6550c-3, Sec. 4(c).)

5 Source Law

6 (c) A district may acquire by grant, purchase,
7 gift, devise, lease, or otherwise and may hold, use,
8 sell, lease, or dispose of real and personal property,
9 licenses, patents, rights, and interests necessary,
10 convenient, or useful for the full exercise of its
11 powers.

12 Revisor's Note

13 Section 4(c), V.A.C.S. Article 6550c-3, refers to
14 "real and personal" property. The revised law omits
15 the quoted language because under Section 311.005,
16 Government Code (Code Construction Act), "property"
17 means "real and personal property."

18 Revised Law

19 Sec. 174.203. USE AND ALTERATION OF PROPERTY OF ANOTHER
20 POLITICAL SUBDIVISION. (a) For a purpose described by Section
21 174.201, as necessary or useful in the construction,
22 reconstruction, repair, maintenance, and operation of the system,
23 and with the consent of a municipality, county, or other political
24 subdivision, a district may:

25 (1) use streets, alleys, roads, highways, and other
26 public ways of the political subdivision; and

27 (2) relocate, raise, reroute, change the grade of, or
28 alter, at the district's expense, the construction of a publicly
29 owned or privately owned street, alley, highway, road, railroad,
30 electric line or facility, telegraph or telephone property or
31 facility, pipeline or facility, conduit or facility, and other
32 property.

33 (b) A district may not use or alter:

34 (1) a road or highway in the state highway system
35 without the permission of the commission; or

36 (2) a railroad without permission of the railroad.

37 (V.A.C.S. Art. 6550c-3, Sec. 4(d) (part).)

1 district and the owner. The governing body of a
2 municipality, county, other political subdivision, or
3 public agency may convey title or rights and easements
4 to any property needed by the district to effect its
5 purposes in connection with the acquisition,
6 construction, or operation of the system.

7 Revised Law

8 Sec. 174.206. ACQUISITION OF ROLLING STOCK AND OTHER
9 PROPERTY. A district may acquire rolling stock or other property
10 under a conditional sales contract, lease, equipment trust
11 certificate, or other form of contract or trust agreement.
12 (V.A.C.S. Art. 6550c-3, Sec. 4(j) (part).)

13 Source Law

14 (j) . . . A district may acquire rolling stock
15 or other property under conditional sales contracts,
16 leases, equipment trust certificates, or any other
17 form of contract or trust agreement. . . .

18 Revised Law

19 Sec. 174.207. COMPENSATION FOR USE OF SYSTEM FACILITIES.

20 (a) A district shall establish and maintain reasonable and
21 nondiscriminatory rates or other compensation for the use of the
22 facilities of the system acquired, constructed, operated,
23 regulated, or maintained by the district.

24 (b) Together with grants received by the district, the rates
25 or other compensation must be sufficient to produce revenue
26 adequate to:

27 (1) pay all expenses necessary for the operation and
28 maintenance of the district's property and facilities;

29 (2) pay the principal of and interest on bonds issued
30 by the district payable wholly or partly from the revenue, as they
31 become due and payable; and

32 (3) fulfill the terms of agreements made with the
33 holders of bonds or with any person on their behalf. (V.A.C.S. Art.
34 6550c-3, Sec. 4(i).)

35 Source Law

36 (i) A district shall establish and maintain
37 rates or other compensation for the use of the
38 facilities of the system acquired, constructed,
39 operated, regulated, or maintained by the district
40 that is reasonable and nondiscriminatory and, together
41 with grants received by the district, is sufficient to
42 produce revenues adequate:

1 (1) to pay all expenses necessary for the
2 operation and maintenance of the properties and
3 facilities of the district;

4 (2) to pay the interest on and principal of
5 bonds issued by the district and payable in whole or in
6 part from the revenues, as they become due and payable;
7 and

8 (3) to fulfill the terms of an agreement
9 made with the holders of bonds or with any person in
10 their behalf.

11 Revised Law

12 Sec. 174.208. OPERATION OR USE CONTRACTS. (a) A district
13 may:

14 (1) lease all or part of the commuter rail facilities
15 to an operator; or

16 (2) contract for the use or operation of all or part of
17 the commuter rail facilities by an operator.

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

21 (c) The term of an operating contract under this section may
22 not exceed 20 years. (V.A.C.S. Art. 6550c-3, Sec. 4(1).)

23 Source Law

24 (1) A district may lease all or part of the
25 commuter rail facilities to, or contract for the use or
26 operation of all or part of the commuter rail
27 facilities by, an operator. A district shall
28 encourage to the maximum extent practicable the
29 participation of private enterprise in the operation
30 of commuter rail facilities. The term of an operating
31 contract under this subsection may not exceed 20
32 years.

33 Revised Law

34 Sec. 174.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH
35 OTHER POLITICAL SUBDIVISIONS. A district may contract with a
36 county or other political subdivision of this state for the
37 district to provide commuter rail transportation services to an
38 area outside the district on terms to which the parties agree.
39 (V.A.C.S. Art. 6550c-3, Sec. 4(m).)

40 Source Law

41 (m) A district may contract with a county or
42 other political subdivision of this state for the
43 district to provide commuter rail transportation
44 services to an area outside the boundaries of the
45 district on such terms and conditions as the parties
46 agree to.

1 Revisor's Note

2 Section 4(m), V.A.C.S. Article 6550c-3, refers to
3 "terms and conditions" of a contract. The revised law
4 omits the reference to "conditions" because
5 "conditions" is included in the meaning of "terms."

6 [Sections 174.210-174.250 reserved for expansion]

7 SUBCHAPTER F. FINANCIAL PROVISIONS

8 Revised Law

9 Sec. 174.251. FISCAL YEAR. Unless the board changes the
10 fiscal year, the district's fiscal year ends on September 30.
11 (V.A.C.S. Art. 6550c-3, Sec. 4(o) (part).)

12 Source Law

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

15 Revised Law

16 Sec. 174.252. ANNUAL BUDGET. (a) Before beginning the
17 operation of commuter rail facilities, the board shall adopt an
18 annual operating budget specifying the district's anticipated
19 revenue and expenses for the remainder of the fiscal year. The
20 district shall adopt an operating budget for each succeeding fiscal
21 year.

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

26 (c) A budget may be amended at any time if notice of the
27 proposed amendment is given in the notice of the meeting at which
28 the amendment will be considered.

29 (d) An expenditure that is not budgeted may not be made.
30 (V.A.C.S. Art. 6550c-3, Sec. 4(o) (part).)

31 Source Law

32 (o) Before beginning the operation of commuter
33 rail facilities, the board shall adopt an annual
34 operating budget specifying the anticipated revenues
35 and expenses of the district for the remainder of the
36 fiscal year. Each year the board shall adopt an
37 operating budget for the district. . . . The board
38 shall hold a public hearing before adopting a budget

1 other than the initial budget. Notice of each hearing
2 must be published at least seven days before the date
3 of the hearing in a newspaper of general circulation in
4 the district. A budget may be amended at any time if
5 notice of the proposed amendment is given in the notice
6 of the meeting at which the amendment will be
7 considered. An expenditure that is not budgeted may
8 not be made.

9 Revised Law

10 Sec. 174.253. GRANTS AND LOANS. A district may accept
11 grants and loans from the United States, this state and its agencies
12 and political subdivisions, and other persons and entities.
13 (V.A.C.S. Art. 6550c-3, Sec. 4(j) (part).)

14 Source Law

15 (j) A district may . . . accept grants and loans
16 from, the United States of America, its departments
17 and agencies, this state, agencies and political
18 subdivisions of this state, and other persons and
19 entities and

20 Revisor's Note

21 Section 4(j), V.A.C.S. Article 6550c-3, refers to
22 the United States of America and "its departments and
23 agencies." The revised law omits the quoted language
24 for the reason stated in the revisor's note following
25 Section 174.153.

26 Revised Law

27 Sec. 174.254. DEPOSITORY. (a) The board by resolution
28 shall name one or more banks for the deposit of district funds.

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

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

34 (V.A.C.S. Art. 6550c-3, Sec. 4(q).)

35 Source Law

36 (q) The board of a district shall by resolution
37 name one or more banks for the deposit of district
38 funds. District funds are public funds and may be
39 invested in securities permitted by Chapter 2256,
40 Government Code. To the extent funds of the district
41 are not insured by the Federal Deposit Insurance
42 Corporation or its successor, they shall be
43 collateralized in the manner provided for county
44 funds.

1 terms fixed by the district's board. The revised law
2 omits that provision because it duplicates, in
3 substance, parts of Sections 1201.021 and 1201.022,
4 Government Code, which provide that public securities,
5 including bonds and notes, may be redeemed before
6 maturity and be payable in specified amounts and at
7 specified times, and Section 1201.041, Government
8 Code, which provides that public securities are
9 negotiable. Chapter 1201, Government Code, applies to
10 district bonds and notes by application of Section
11 1201.002, Government Code. The omitted law reads:

12 (a) . . . A bond or note is fully
13 negotiable and may be made redeemable
14 before maturity, at the option of the
15 district and at the price and under the
16 terms the board determines in the
17 resolution authorizing the bond or note and
18

19 (2) Section 5(a), V.A.C.S. Article 6550c-3,
20 provides that district bonds and notes may be sold at a
21 public or private sale. The revised law omits the
22 provision because it duplicates Section
23 1201.022(a)(3)(A), Government Code. Chapter 1201,
24 Government Code, applies to district bonds and notes
25 by application of Section 1201.002, Government Code.
26 The omitted law reads:

27 (a) . . . [A bond or note] . . . may
28 be sold at public or private sale, as the
29 board determines.

30 Revised Law

31 Sec. 174.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure
32 payment of district bonds or notes, the district may:

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

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

38 (b) Unless prohibited by the resolution or indenture

1 relating to outstanding bonds or notes, a district may encumber
2 separately any item of property. (V.A.C.S. Art. 6550c-3, Sec. 5(c)
3 (part).)

4 Source Law

5 (c) To secure the payment of the bond or note,
6 the district may encumber and pledge all or any part of
7 the revenues of its commuter rail facilities, may
8 mortgage and encumber all or part of the property of
9 the commuter rail facilities and everything pertaining
10 to them that is acquired or to be acquired, and
11 If not prohibited by the resolution or indenture
12 relating to outstanding bonds or notes, a district may
13 encumber separately any item of real or personal
14 property.

15 Revisor's Note

16 (1) Section 5(c), V.A.C.S. Article 6550c-3,
17 refers to a district's power to "mortgage and encumber"
18 its property. The revised law omits "mortgage"
19 because "mortgage" is included within the meaning of
20 "encumber."

21 (2) Section 5(c), V.A.C.S. Article 6550c-3,
22 refers to "real or personal property." The revised law
23 substitutes "property" for "real or personal property"
24 because under Section 311.005, Government Code (Code
25 Construction Act), "property" means "real and personal
26 property."

27 Revised Law

28 Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY
29 FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are
30 legal and authorized investments for:

- 31 (1) a bank;
- 32 (2) a trust company;
- 33 (3) a savings and loan association; and
- 34 (4) an insurance company.

35 (b) The bonds and notes are:

- 36 (1) eligible to secure the deposit of public funds of
37 this state or a municipality, a county, a school district, or any
38 other political corporation or subdivision of this state; and

- 39 (2) lawful and sufficient security for the deposit to

1 the extent of the principal amount or market value of the bonds or
2 notes, whichever is less. (V.A.C.S. Art. 6550c-3, Sec. 5(d).)

3 Source Law

4 (d) A bond or note is a legal and authorized
5 investment for banks, trust companies, savings and
6 loan associations, and insurance companies. The bond
7 or note is eligible to secure the deposit of public
8 funds of this state or a municipality, county, school
9 district, or other political corporation or
10 subdivision of this state. The bond or note is lawful
11 and sufficient security for the deposits to the extent
12 of the principal amount or market value of the bond or
13 note, whichever is less.

14 Revised Law

15 Sec. 174.304. LIMIT ON POWER. (a) A revenue bond indenture
16 may limit the exercise of the power granted by Section 174.003,
17 174.109, 174.151, 174.152, 174.153, 174.154, 174.155, 174.156,
18 174.158, 174.159, 174.201, 174.202, 174.203, 174.204, 174.205,
19 174.206, 174.207, 174.208, 174.209, 174.251, 174.252, 174.253,
20 174.254, or 174.255.

21 (b) A limit applies while any of the revenue bonds issued
22 under the indenture are outstanding and unpaid. (V.A.C.S. Art.
23 6550c-3, Sec. 4(j) (part).)

24 Source Law

25 (j) . . . A revenue bond indenture may limit the
26 exercise of the powers granted by this section, and a
27 limit applies as long as the revenue bonds issued under
28 the indenture are outstanding and unpaid.

29 Revisor's Note

30 Section 4(j), V.A.C.S. Article 6550c-3, provides
31 that any revenue bond indenture may limit the exercise
32 of powers granted by "this section." The powers in
33 Section 4 are revised in certain sections of this
34 chapter. The revised law is drafted accordingly.

35 Revisor's Note
36 (End of Subchapter)

37 (1) Section 5(b), V.A.C.S. Article 6550c-3,
38 requires district bonds and notes to be approved by the
39 attorney general and registered by the comptroller.
40 Section 5(b) also provides that after approval,
41 registration, and sale and delivery the bonds and

1 notes are incontestable. The revised law omits these
2 provisions because they duplicate, in substance, parts
3 of Chapter 1202, Government Code. Section
4 1202.003(a), Government Code, requires that public
5 securities, including bonds and notes, be submitted to
6 the attorney general. Section 1202.003(b), Government
7 Code, provides for approval of the public securities
8 by the attorney general and requires the attorney
9 general to submit the approved public securities to
10 the comptroller for registration. Section 1202.005,
11 Government Code, requires registration of the public
12 securities by the comptroller. Section 1202.006,
13 Government Code, provides that after approval and
14 registration the public securities are incontestable
15 and binding obligations. Chapter 1202, Government
16 Code, applies to district bonds and notes by
17 application of Section 1202.001, Government Code. The
18 omitted law reads:

19 (b) A district shall submit all bonds
20 and notes and the record of proceedings
21 relating to their issuance to the attorney
22 general for examination before
23 delivery. If the attorney general
24 determines that they have been issued in
25 accordance with the constitution and this
26 article and that they will be binding
27 obligations of the district issuing them,
28 the attorney general shall approve them,
29 and the comptroller shall register them. A
30 bond or note issued under this article is
31 incontestable after approval,
32 registration, and sale and delivery of the
33 bond or note to the purchaser.

34 (2) Section 5(c), V.A.C.S. Article 6550c-3,
35 provides that the district may prescribe the terms of
36 district bonds and notes. The revised law omits that
37 provision because it duplicates, in substance,
38 provisions of general law. Sections 1201.005 and
39 1201.022, Government Code, provide that an issuer may
40 specify the terms under which public securities,
41 including bonds and notes, are issued. Chapter 1201,

1 Government Code, applies to district bonds and notes
2 by application of Section 1201.002, Government Code.

3 The omitted law reads:

4 (c) . . . may prescribe the terms and
5 provisions of the bond or note in any manner
6 not inconsistent with this article. . . .

7 [Sections 174.305-174.350 reserved for expansion]

8 SUBCHAPTER H. TAXES

9 Revised Law

10 Sec. 174.351. TAX AUTHORIZED. A district may impose any
11 kind of tax except an ad valorem property tax. (V.A.C.S. Art.
12 6550c-3, Sec. 8(a).)

13 Source Law

14 Sec. 8. (a) A district may impose any kind of
15 tax except an ad valorem property tax.

16 Revised Law

17 Sec. 174.352. IMPOSITION OF TAX. (a) A district may not
18 impose a tax or increase the rate of an existing tax unless a
19 proposition proposing the imposition or rate increase is approved
20 by a majority of the votes received at an election held for that
21 purpose.

22 (b) Each new tax or rate increase must be expressed in a
23 separate proposition consisting of a brief statement of the nature
24 of the proposed tax.

25 (c) The notice of the election must contain a statement of
26 the base or rate of the proposed tax. (V.A.C.S. Art. 6550c-3, Secs.
27 8(b), (c), (d).)

28 Source Law

29 (b) A district may not impose a tax or increase
30 the rate of an existing tax unless a proposition
31 proposing the imposition or rate increase is approved
32 by a majority of the votes received at an election held
33 for that purpose.

34 (c) Each new tax or rate increase must be
35 expressed in a separate proposition consisting of a
36 brief statement of the nature of the proposed tax.

37 (d) The notice of the election must contain a
38 statement of the base or rate of the proposed tax.

39 Revised Law

40 Sec. 174.353. TAX RATE. (a) The board, subject to Section

1 174.352(a), may impose for a district a sales and use tax at the
2 rate of:

- 3 (1) one-quarter of one percent;
- 4 (2) one-half of one percent;
- 5 (3) three-quarters of one percent; or
- 6 (4) one percent.

7 (b) A district may not adopt a sales and use tax rate,
8 including a rate increase, that when combined with the rates of all
9 sales and use taxes imposed by other political subdivisions of this
10 state having territory in the district exceeds two percent in any
11 location in the district. (V.A.C.S. Art. 6550c-3, Secs. 8(e),
12 (f).)

13 Source Law

14 (e) The board, subject to Subsection (b) of this
15 section, may impose for an authority a sales and use
16 tax at the rate of:

- 17 (1) one-quarter of one percent;
- 18 (2) one-half of one percent;
- 19 (3) three-quarters of one percent; or
- 20 (4) one percent.

21 (f) A district may not adopt a sales and use tax
22 rate, including a rate increase, that when combined
23 with the rates of all sales and use taxes imposed by
24 other political subdivisions of the state having
25 territory in the district exceeds two percent in any
26 location in the district.

27 Revisor's Note

28 Section 8(e), V.A.C.S. Article 6550c-3, allows a
29 board of a district to impose a sales and use tax "for
30 an authority." The revised law substitutes "district"
31 for "authority" because it is clear from the context of
32 Article 6550c-3 that the commuter rail district that
33 the board governs is the entity for which the board
34 will impose the tax.

35 Revised Law

36 Sec. 174.354. EFFECTIVE DATE OF TAX. A district's sales and
37 use tax takes effect on the first day of the second calendar quarter
38 beginning after the election approving the tax. (V.A.C.S. Art.
39 6550c-3, Sec. 8(g).)

1 by the department in applying pavement markings or a stop bar at a
2 grade crossing if the cost of the markings or stop bar is paid
3 either entirely or partly from state or federal funds. In
4 developing its standards, the department shall follow the standards
5 in the Manual on Uniform Traffic Control Devices issued by the
6 United States Department of Transportation Federal Highway
7 Administration and, where appropriate, require the use of
8 reflecting materials. (V.A.C.S. Art. 6370c.)

9 Source Law

10 Art. 6370c

11 Sec. 1. In this Act:

12 (1) "Department" means the Texas
13 Department of Transportation.

14 (2) "Grade crossing" and
15 "retroreflectorized material" have the meanings
16 assigned by Section 1, Chapter 269, Acts of the 71st
17 Legislature, Regular Session, 1989 (Article 6370b,
18 Vernon's Texas Civil Statutes).

19 (3) "Pavement markings" means markings
20 applied or attached to the surface of a roadway for the
21 purpose of regulating, warning, or guiding traffic.

22 (4) "Stop bar" means the marking that is
23 applied or attached to the surface of a roadway on
24 either side of a grade crossing and that indicates that
25 a vehicle must stop at the grade crossing.

26 Sec. 2. A county or municipality shall use
27 standards developed by the department in applying
28 pavement markings or a stop bar at a grade crossing if
29 the cost of the markings or stop bar is paid either
30 entirely or partly from state or federal funds. In
31 developing its standards, the department shall follow
32 the standards in the Manual of Uniform Traffic Control
33 Devices issued by the United States Department of
34 Transportation Federal Highway Administration and,
35 where appropriate, require the use of
36 retroreflectorized materials.

37 Revisor's Note

38 (1) Section 1, V.A.C.S. Article 6370c, defines
39 "department" as the Texas Department of
40 Transportation. The revised law omits the definition
41 because the title-wide definition of "department" as
42 the Texas Department of Transportation contained in
43 Section 201.001, Transportation Code, applies to the
44 revised law.

45 (2) Section 1, V.A.C.S. Article 6370c, refers to
46 definitions of "grade crossing" and
47 "retroreflectorized material" in Section 1, Chapter

1 269, Acts of the 71st Legislature, Regular Session,
2 1989 (Article 6370b, Vernon's Texas Civil Statutes).
3 That section was codified in 1995 as part of Section
4 471.004, Transportation Code, and the term "reflecting
5 material" was substituted for the term
6 "retroreflectorized material" in that codification.
7 The revised law is drafted accordingly.

8 (3) Section 2, V.A.C.S. Article 6370c, refers to
9 the "Manual of Uniform Traffic Control Devices issued
10 by the United States Department of Transportation
11 Federal Highway Administration." The revised law
12 substitutes "on" for "of" in the manual's title because
13 "Manual on Uniform Traffic Control Devices" is the
14 proper title of the manual.

15 REVISED STATUTES

16 TITLE 66. FREE PASSES, FRANKS AND TRANSPORTATION

17 Revised Law

18 Art. 4015g. SUITS FOR PENALTY. (a) A suit brought under
19 this title for recovery of penalties may be brought in any county in
20 which:

21 (1) a violation of this title is committed;

22 (2) the company or receiver has an agent or
23 representative; or

24 (3) the principal office of the company is located, or
25 in which a receiver resides.

26 (b) Of money collected from a penalty in this title:

27 (1) half, less the commission and expenses allowed by
28 law, shall be deposited in the state treasury; and

29 (2) the remainder shall be paid into the jury fund of
30 the county in which the suit may be maintained. (V.A.C.S. Art. 6477
31 (part).)

32 Source Law

33 Art. 6477. . . . suits brought under Title 66
34 for recovery of penalties, may be brought in any
35 county:

36 1. Where an act violative of any provision

1 SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

2 Sec. 81.0591. COMPLAINTS 194
3 Sec. 81.0592. CONSUMER INTEREST INFORMATION 195
4 Sec. 81.062. PUBLIC PARTICIPATION 196
5 Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF
6 LICENSE, PERMIT, OR CERTIFICATE 196
7 Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED
8 EMPLOYEE IN CASES BEFORE COMMISSION 197

9 [Sections 81.065-81.090 reserved for expansion]

10 SUBCHAPTER D. WITNESSES

11 Sec. 81.093. DEPOSITIONS 199

12 [Sections 81.094-81.110 reserved for expansion]

13 CHAPTER 81. RAILROAD COMMISSION OF TEXAS

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Revised Law

16 Sec. 81.002. DEFINITION OF PERSON FOR CERTAIN PROVISIONS.

17 In this chapter:

- 18 (1) "person" includes a corporation, as provided by
19 Section 312.011, Government Code; and
20 (2) the definition of "person" assigned by Section
21 311.005, Government Code, does not apply. (New.)

22 Revisor's Note

23 To ensure that no substantive change is made by
24 the revision of the term "person" as used in Title 112,
25 Revised Statutes, the revised law adds a provision
26 stating that the term "person" includes a corporation,
27 as provided by Section 312.011, Government Code, and
28 the definition of "person" in Section 311.005,
29 Government Code, does not apply. Section 312.011(10),
30 Government Code, which applies to Title 112, provides
31 that "person" includes a corporation. Section
32 311.005(2), Government Code (Code Construction Act),
33 which applies to the Natural Resources Code, defines
34 "person" to include a "corporation, organization,

1 government or governmental subdivision or agency,
2 business trust, estate, trust, partnership,
3 association, and any other legal entity."

4 [Sections 81.003-81.01000 reserved for expansion]

5 SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

6 Revised Law

7 Sec. 81.01001. SUNSET PROVISION. The Railroad Commission
8 of Texas is subject to Chapter 325, Government Code (Texas Sunset
9 Act). Unless continued in existence as provided by that chapter,
10 the commission is abolished September 1, 2013. (V.A.C.S. Art.
11 6445a.)

12 Source Law

13 Art. 6445a. The Railroad Commission of Texas is
14 subject to Chapter 325, Government Code (Texas Sunset
15 Act). Unless continued in existence as provided by
16 that chapter, the commission is abolished September 1,
17 2013.

18 Revised Law

19 Sec. 81.01002. CHAIRMAN. The commissioners shall elect one
20 commissioner as the chairman. (V.A.C.S. Art. 6447 (part).)

21 Source Law

22 Organization.--The commissioners shall elect one
23 of their number chairman. . . .

24 Revised Law

25 Sec. 81.01003. QUALIFICATIONS FOR OFFICE. A commissioner
26 must be:

- 27 (1) a qualified voter under the constitution and laws;
28 and
29 (2) at least 25 years of age. (V.A.C.S. Art. 6447
30 (part).)

31 Source Law

32 Qualifications.--The members shall be resident
33 citizens of this State, and qualified voters under the
34 Constitution and laws, and not less than twenty-five
35 years of age. . . .

36 Revisor's Note

37 (1) V.A.C.S. Article 6447 requires
38 commissioners to be "resident citizens of this State"

1 and "qualified voters under the Constitution and
2 laws." The revised law omits the requirement that a
3 commissioner be a resident citizen of this state
4 because it duplicates portions of Section 11.002,
5 Election Code, and Section 2, Article VI, Texas
6 Constitution, both of which require a qualified voter
7 to be a citizen of the United States and a resident of
8 this state. The policy of the legislative council's
9 statutory revision program is to omit from the revised
10 codes the duplicating statutory provisions because a
11 statute that tracks the language of the constitution
12 not only is superfluous but may foster the erroneous
13 belief that a constitutional requirement is merely
14 statutory and subject to amendment through the
15 ordinary legislative process.

16 (2) V.A.C.S. Article 6447 in part specifies the
17 composition of the commission and the manner of
18 election and terms of the commissioners. The revised
19 law omits that provision, which is substantively
20 identical to Section 30(b), Article XVI, Texas
21 Constitution, to conform to the policy of the
22 legislative council's statutory revision program as
23 described in Revisor's Note (1). The omitted law
24 reads:

25 Art. 6447. Election.--The Railroad
26 Commission of Texas shall be composed of
27 three members, one of whom shall be elected
28 biennially at each general election for a
29 term of six years.

30 Revised Law

31 Sec. 81.01004. PERSONAL FINANCIAL DISCLOSURE, STANDARDS OF
32 CONDUCT, AND CONFLICT OF INTEREST. A commissioner is subject to the
33 provisions of Chapter 572, Government Code, that apply to elected
34 officers, including the requirements governing personal financial
35 statements, standards of conduct, and conflicts of interest.
36 (V.A.C.S. Art. 6447 (part).)

1 (V.A.C.S. Art. 3922.)

2 Source Law

3 Art. 3922. The Railroad Commission of Texas
4 shall be authorized to charge fees for copies of all
5 papers furnished by it, except such as may be furnished
6 to some department of the State government, as
7 follows:

8 For copies of any paper, document or record in its
9 office, including certificate and seal, to be applied
10 by the secretary, for each one hundred words, fifteen
11 cents; provided, that this article shall not be
12 construed to authorize the charging of such fees for
13 railroad companies or other persons for tariff sheets
14 for their own use, which such tariff sheets are in
15 force.

16 The fees so charged and collected shall be
17 accounted for by the secretary of the Railroad
18 Commission and paid into the Treasury as provided in
19 Article 3913.

20 Revisor's Note

21 (1) V.A.C.S. Article 3922 refers to "railroad
22 companies or other persons." The revised law omits the
23 reference to "railroad companies" as obsolete because
24 Chapter 281, Acts of the 79th Legislature, Regular
25 Session, 2005, transferred the powers and duties of
26 the commission that relate primarily to railroads and
27 the regulation of railroads to the Texas Department of
28 Transportation.

29 (2) V.A.C.S. Article 3922 refers to V.A.C.S.
30 Article 3913, which was codified in 1993 as Chapter
31 603, Government Code. The revised law reflects that
32 change.

33 Revised Law

34 Sec. 81.01011. METHOD OF MAKING PAYMENTS TO COMMISSION.

35 (a) The commission may authorize payment, as prescribed by the
36 commission, of a regulatory fee, fine, penalty, or charge for goods
37 and services by means of an electronic payment method or a credit
38 card issued by a financial institution chartered by a state or the
39 United States or issued by a nationally recognized credit
40 organization approved by the commission. A payment by the
41 authorized method may be made in person, by telephone, or through
42 the Internet.

1 (b) The commission may require a person who makes a payment
2 to the commission by means of an electronic payment method or credit
3 card to pay a discount or service charge in an amount reasonable and
4 necessary to reimburse the commission for the costs involved in
5 processing the payment.

6 (c) The commission may adopt rules as necessary to implement
7 this section. (V.A.C.S. Art. 6447n.)

8 Source Law

9 Art. 6447n. (a) The commission may authorize
10 payment, as prescribed by the commission, of
11 regulatory fees, fines, penalties, and charges for
12 goods and services by means of an electronic payment
13 method or a credit card issued by a financial
14 institution chartered by a state or the United States
15 or issued by a nationally recognized credit
16 organization approved by the commission. A payment by
17 the authorized method may be made in person, by
18 telephone, or through the Internet.

19 (b) The commission may require a person who
20 makes a payment to the commission by means of an
21 electronic payment method or credit card to pay a
22 discount or service charge in an amount reasonable and
23 necessary to reimburse the commission for the costs
24 involved in processing the payment.

25 (c) The commission may adopt rules as necessary
26 to implement this article.

27 Revised Law

28 Sec. 81.01012. GIFTS, GRANTS, AND DONATIONS. (a) In this
29 section, "contested case" has the meaning assigned by Section
30 2001.003, Government Code.

31 (b) The commission may apply for, request, solicit,
32 contract for, receive, accept, and administer gifts, grants, and
33 donations of money or other assistance from any source to carry out
34 any commission purpose or power.

35 (c) The commission may not, under Subsection (b), accept a
36 gift or donation of money or of property from a party in a contested
37 case during the period from the inception of the contested case
38 until the 30th day after the date a final order is signed in the
39 contested case. (V.A.C.S. Art. 6447i.)

40 Source Law

41 Art. 6447i. (a) The commission may apply for,
42 request, solicit, contract for, receive, accept, and
43 administer gifts, grants, and donations of money or
44 other assistance from any source to carry out any
45 commission purpose or power authorized by law.

1 (b) The commission may not, under Subsection (a)
2 of this section, accept a gift or donation of money or
3 of property from a party in a contested case, as
4 defined in Section 2001.003(1), Government Code,
5 during the period from the inception of the contested
6 case until 30 days after a final order is signed in the
7 contested case.

8 Revisor's Note

9 Subsection (a), V.A.C.S. Article 6447i,
10 authorizes the commission to apply for, request,
11 solicit, contract for, receive, accept, and administer
12 gifts, grants, and donations to carry out any
13 commission purpose or power "authorized by law." The
14 revised law omits "authorized by law" as unnecessary
15 because the commission may carry out only those
16 purposes or powers that the law authorizes the
17 commission to carry out.

18 Revised Law

19 Sec. 81.01013. CONFLICT OF INTEREST. (a) In this section,
20 "Texas trade association" means a cooperative and voluntarily
21 joined association of business or professional competitors in this
22 state designed to assist its members and its industry or profession
23 in dealing with mutual business or professional problems and in
24 promoting their common interest.

25 (b) A person may not be an employee of the commission
26 employed in a "bona fide executive, administrative, or professional
27 capacity," as that phrase is used for purposes of establishing an
28 exemption to the overtime provisions of the federal Fair Labor
29 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

30 (1) the person is an officer, employee, or paid
31 consultant of a Texas trade association in a business or industry
32 regulated by the commission; or

33 (2) the person's spouse is an officer, manager, or paid
34 consultant of a Texas trade association in a business or industry
35 regulated by the commission.

36 (c) A person who is required to register as a lobbyist under
37 Chapter 305, Government Code, may not act as the general counsel to
38 the commission.

1 (d) The commission shall provide to commissioners and to
2 agency employees, as often as necessary, information regarding the
3 requirements for office or employment under this chapter, including
4 information regarding a person's responsibilities under applicable
5 laws relating to standards of conduct for state officers or
6 employees. (V.A.C.S. Art. 6447c.)

7 Source Law

8 Art. 6447c. (a) In this section, "Texas trade
9 association" means a cooperative and voluntarily
10 joined association of business or professional
11 competitors in this state designed to assist its
12 members and its industry or profession in dealing with
13 mutual business or professional problems and in
14 promoting their common interest.

15 (b) A person may not be an employee of the
16 commission employed in a "bona fide executive,
17 administrative, or professional capacity," as that
18 phrase is used for purposes of establishing an
19 exemption to the overtime provisions of the federal
20 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201
21 et seq.) and its subsequent amendments, if:

22 (1) the person is an officer, employee, or
23 paid consultant of a Texas trade association in a
24 business or industry regulated by the commission; or

25 (2) the person's spouse is an officer,
26 manager, or paid consultant of a Texas trade
27 association in a business or industry regulated by the
28 commission.

29 (c) A person who is required to register as a
30 lobbyist under Chapter 305, Government Code, may not
31 act as the general counsel to the commission.

32 (d) The commission shall provide to members of
33 the commission and to agency employees, as often as
34 necessary, information regarding the requirements for
35 office or employment under this chapter, including
36 information regarding a person's responsibilities
37 under applicable laws relating to standards of conduct
38 for state officers or employees.

39 Revisor's Note

40 Subsection (b), V.A.C.S. Article 6447c, refers to
41 the federal Fair Labor Standards Act of 1938 (29 U.S.C.
42 Section 201 et seq.) "and its subsequent amendments."
43 The revised law omits "and its subsequent amendments"
44 because under Section 311.027, Government Code (Code
45 Construction Act), unless expressly provided
46 otherwise, a reference to a statute or rule applies to
47 all reenactments, revisions, or amendments of the
48 statute or rule.

1 Revised Law

2 Sec. 81.01014. EQUAL EMPLOYMENT OPPORTUNITY. (a) The
3 commission shall prepare and maintain a written policy statement
4 that implements a program of equal employment opportunity to ensure
5 that all personnel decisions are made without regard to race,
6 color, disability, sex, religion, age, or national origin.

7 (b) The policy statement must include:

8 (1) personnel policies, including policies relating
9 to recruitment, evaluation, selection, training, and promotion of
10 personnel, that show the intent of the commission to avoid the
11 unlawful employment practices described by Chapter 21, Labor Code;
12 and

13 (2) an analysis of the extent to which the composition
14 of the commission's personnel is in accordance with state and
15 federal law and a description of reasonable methods to achieve
16 compliance with state and federal law.

17 (c) The policy statement must:

18 (1) be updated annually;

19 (2) be reviewed by the Texas Workforce Commission
20 civil rights division for compliance with Subsection (b); and

21 (3) be filed with the governor's office. (V.A.C.S.
22 Art. 6447b.)

23 Source Law

24 Art. 6447b. (a) The commission shall prepare and
25 maintain a written policy statement that implements a
26 program of equal employment opportunity to ensure that
27 all personnel decisions are made without regard to
28 race, color, disability, sex, religion, age, or
29 national origin.

30 (b) The policy statement must include:

31 (1) personnel policies, including
32 policies relating to recruitment, evaluation,
33 selection, training, and promotion of personnel, that
34 show the intent of the commission to avoid the unlawful
35 employment practices described by Chapter 21, Labor
36 Code; and

37 (2) an analysis of the extent to which the
38 composition of the commission's personnel is in
39 accordance with state and federal law and a
40 description of reasonable methods to achieve
41 compliance with state and federal law.

42 (c) The policy statement must:

43 (1) be updated annually;

44 (2) be reviewed by the state Commission on
45 Human Rights for compliance with Subsection (b) of

1 this article; and
2 (3) be filed with the governor's office.

3 Revisor's Note

4 Subsection (c)(2), V.A.C.S. Article 6447b,
5 refers to the "state Commission on Human Rights." The
6 revised law substitutes a reference to the "Texas
7 Workforce Commission civil rights division" because
8 Chapter 302, Acts of the 78th Legislature, Regular
9 Session, 2003, abolished the Commission on Human
10 Rights and transferred its powers and duties to the
11 Texas Workforce Commission civil rights division.

12 Revised Law

13 Sec. 81.01015. EMPLOYEE INCENTIVE PROGRAM. The commission
14 shall provide to commission employees information and training on
15 the benefits and methods of participation in the state employee
16 incentive program. (V.A.C.S. Art. 6447m.)

17 Source Law

18 Art. 6447m. The commission shall provide to
19 commission employees information and training on the
20 benefits and methods of participation in the state
21 employee incentive program.

22 Revised Law

23 Sec. 81.01016. SEPARATION OF RESPONSIBILITIES. The
24 commission shall develop and implement policies that clearly
25 separate the policy-making responsibilities of the commissioners
26 and the management responsibilities of the staff of the commission.
27 (V.A.C.S. Art. 6447k.)

28 Source Law

29 Art. 6447k. The commission shall develop and
30 implement policies that clearly separate the
31 policy-making responsibilities of the members of the
32 commission and the management responsibilities of the
33 staff of the commission.

34 Revised Law

35 Sec. 81.0165. SALARY OF SECRETARY. The salary of the
36 secretary of the commission shall be the amount appropriated for
37 that purpose by the legislature. (V.A.C.S. Art. 6447a.)

38 Source Law

39 Art. 6447a. That the salary of the Secretary of

1 the Railroad Commission of Texas shall be such sum as
2 may be appropriated therefor by the Legislature from
3 time to time.

4 Revisor's Note
5 (End of Subchapter)

6 (1) V.A.C.S. Article 6447 requires that, before
7 assuming the duties of office, each commissioner take
8 and subscribe to the official oath. The revised law
9 omits that provision, which is substantively identical
10 to Section 1, Article XVI, Texas Constitution, to
11 conform to the policy of the legislative council's
12 statutory revision program as described in Revisor's
13 Note (1) to Section 81.01003. Article 6447 also
14 requires that each commissioner swear to enforce state
15 laws concerning railroads. The revised law omits that
16 provision as obsolete since, as noted in Revisor's Note
17 (1) to Section 81.01010, the powers and duties of the
18 commission that relate primarily to railroads and the
19 regulation of railroads were transferred to the Texas
20 Department of Transportation. The revised law does not
21 require members of the Texas Transportation Commission
22 to take such an oath because the requirement to take
23 the oath is the responsibility of an individual
24 commissioner and not an agency power or duty. The
25 omitted law reads:

26 Oath, etc.--Before entering upon the
27 duties of his office, each commissioner
28 shall take and subscribe to the official
29 oath and shall in addition thereto swear
30 that he will to the best of his ability
31 faithfully and justly execute and enforce
32 the provisions of this title and all laws of
33 this State concerning railroads, which oath
34 shall be filed with the Secretary of State.

35 (2) V.A.C.S. Article 6447, which was enacted in
36 1891 and amended in pertinent part in 1983, provides in
37 part for the reimbursement of commissioners and
38 employees of the commission for travel expenses. That
39 provision is omitted from the revised law because it
40 was impliedly repealed by a 1997 amendment to Chapter

1 660, Government Code, and by V.A.C.S. Article 6823b.
2 Section 660.003(a), Government Code, provides that
3 Chapter 660, the General Appropriations Act, and the
4 rules adopted by the comptroller under Chapter 660
5 govern the procedures, amounts, timing, limits,
6 required documentation, permissible payees,
7 distinctions among different types of state employees,
8 and all other details concerning travel expense
9 payments or reimbursements by a state agency.
10 V.A.C.S. Article 6823b, which was enacted in 1991, was
11 codified in 1993 as Chapter 611, Government Code. That
12 chapter also governs reimbursement of state officers
13 and employees for lodging, meals, and travel. The
14 omitted law reads:

15 Expenses.--The Commissioners shall
16 receive from the State their necessary
17 traveling expenses while traveling on the
18 business of the Commission, which shall
19 include the cost only of transportation
20 while traveling on business for the
21 Commission, upon an itemized statement
22 thereof, sworn to by the party who incurred
23 the expense, and approved by the
24 Commission. Employees of the Commission
25 are entitled to reimbursement for expenses
26 incurred in traveling on the business of the
27 Commission as provided by the General
28 Appropriations Act.

29 (3) V.A.C.S. Article 6447d provides that the
30 financial transactions of the commission are subject
31 to audit by the state auditor in accordance with
32 Chapter 321, Government Code. The revised law omits
33 that article because Section 321.013, Government Code,
34 requires the state auditor to conduct audits of all
35 departments as specified in the audit plan as defined
36 in Section 321.001 of that code, and it is unnecessary
37 to repeat that provision in this chapter. The omitted
38 law reads:

39 Art. 6447d. The financial
40 transactions of the commission are subject
41 to audit by the state auditor in accordance
42 with Chapter 321, Government Code.

1 (4) V.A.C.S. Article 6447e provides that the
2 commission is subject to the open meetings law,
3 codified as Chapter 551, Government Code, and the
4 Administrative Procedure and Texas Register Act,
5 codified as Chapters 2001 and 2002, Government Code.
6 The revised law omits that article as unnecessary
7 because Chapter 551, Government Code, applies to the
8 commission under Section 551.001 of that code and
9 Chapters 2001 and 2002, Government Code, apply to the
10 commission under Sections 2001.003 and 2002.001 of
11 that code, respectively. The omitted law reads:

12 Art. 6447e. The commission is
13 subject to the open meetings law, Chapter
14 271, Acts of the 60th Legislature, Regular
15 Session, 1967 (Article 6252-17, Vernon's
16 Texas Civil Statutes), and the
17 Administrative Procedure and Texas Register
18 Act (Article 6252-13a, Vernon's Texas Civil
19 Statutes).

20 [Sections 81.021-81.050 reserved for expansion]

21 SUBCHAPTER C. JURISDICTION, POWERS, AND DUTIES

22 Revised Law

23 Sec. 81.0591. COMPLAINTS. (a) The commission shall
24 maintain a file on each written complaint filed with the
25 commission. The file must include:

- 26 (1) the name of the person who filed the complaint;
27 (2) the date the complaint is received by the
28 commission;
29 (3) the subject matter of the complaint;
30 (4) the name of each person contacted in relation to
31 the complaint;
32 (5) a summary of the results of the review or
33 investigation of the complaint; and
34 (6) an explanation of the reason the file was closed,
35 if the commission closed the file without taking action other than
36 to investigate the complaint.

37 (b) The commission shall provide to the person filing the
38 complaint and to each person who is a subject of the complaint a

1 copy of the commission's policies and procedures relating to
2 complaint investigation and resolution.

3 (c) The commission, at least quarterly until final
4 disposition of the complaint, shall notify the person filing the
5 complaint and each person who is a subject of the complaint of the
6 status of the investigation unless the notice would jeopardize an
7 undercover investigation. (V.A.C.S. Art. 6447h.)

8 Source Law

9 Art. 6447h. (a) The commission shall maintain a
10 file on each written complaint filed with the
11 commission. The file must include:

- 12 (1) the name of the person who filed the
13 complaint;
14 (2) the date the complaint is received by
15 the commission;
16 (3) the subject matter of the complaint;
17 (4) the name of each person contacted in
18 relation to the complaint;
19 (5) a summary of the results of the review
20 or investigation of the complaint; and
21 (6) an explanation of the reason the file
22 was closed, if the commission closed the file without
23 taking action other than to investigate the complaint.

24 (b) The commission shall provide to the person
25 filing the complaint and to each person who is a
26 subject of the complaint a copy of the commission's
27 policies and procedures relating to complaint
28 investigation and resolution.

29 (c) The commission, at least quarterly until
30 final disposition of the complaint, shall notify the
31 person filing the complaint and each person who is a
32 subject of the complaint of the status of the
33 investigation unless the notice would jeopardize an
34 undercover investigation.

35 Revised Law

36 Sec. 81.0592. CONSUMER INTEREST INFORMATION. (a) The
37 commission shall prepare information of consumer interest
38 describing the regulatory functions of the commission and the
39 procedures by which consumer complaints are filed with and resolved
40 by the commission.

41 (b) The commission shall make the information available to
42 the public and appropriate state agencies. (V.A.C.S. Art. 6447g.)

43 Source Law

44 Art. 6447g. The commission shall prepare
45 information of consumer interest describing the
46 regulatory functions of the commission and describing
47 the commission's procedures by which consumer
48 complaints are filed with and resolved by the
49 commission. The commission shall make the information
50 available to the general public and appropriate state

1 agencies.

2 Revised Law

3 Sec. 81.062. PUBLIC PARTICIPATION. The commission shall
4 develop and implement policies that provide the public with a
5 reasonable opportunity to appear before the commission and to speak
6 on any issue under the jurisdiction of the commission. (V.A.C.S.
7 Art. 64471.)

8 Source Law

9 Art. 64471. The commission shall develop and
10 implement policies that provide the public with a
11 reasonable opportunity to appear before the commission
12 and to speak on any issue under the jurisdiction of the
13 commission.

14 Revised Law

15 Sec. 81.063. ISSUANCE, SUSPENSION, OR REVOCATION OF
16 LICENSE, PERMIT, OR CERTIFICATE. (a) If the commission proposes to
17 suspend or revoke a person's license, permit, or certificate of
18 public convenience and necessity, the person is entitled to a
19 hearing before the commission.

20 (b) The commission may not:

21 (1) refuse to issue a license, permit, or certificate
22 to a person because of the person's race, religion, color, sex, or
23 national origin; or

24 (2) revoke or suspend the license, permit, or
25 certificate of a person because of the person's race, religion,
26 color, sex, or national origin. (V.A.C.S. Arts. 6447f(a), (c).)

27 Source Law

28 Art. 6447f. (a) If the commission proposes to
29 suspend or revoke a person's license, permit, or
30 certificate of public convenience and necessity, the
31 person is entitled to a hearing before the commission.

32 (c) The commission may not:

33 (1) refuse to issue a license, permit, or
34 certificate to a person because of the person's race,
35 religion, color, sex, or national origin; or

36 (2) revoke or suspend the license, permit,
37 or certificate of a person because of the person's
38 race, religion, color, sex, or national origin.

39 Revisor's Note

40 Subsection (b), V.A.C.S. Article 6447f, provides
41 that proceedings for the suspension or revocation of a

1 license, permit, or certificate of public convenience
2 and necessity are governed by the Administrative
3 Procedure and Texas Register Act. The revised law
4 omits that provision because the Administrative
5 Procedure and Texas Register Act, the pertinent part
6 of which was codified in 1993 as Chapter 2001,
7 Government Code, applies to those proceedings by its
8 own terms. The omitted law reads:

9 (b) Proceedings for the suspension or
10 revocation of a license, permit, or
11 certificate of public convenience and
12 necessity are governed by the
13 Administrative Procedure and Texas Register
14 Act (Article 6252-13a, Vernon's Texas Civil
15 Statutes).

16 Revised Law

17 Sec. 81.064. POWERS OF COMMISSIONER OR DESIGNATED EMPLOYEE
18 IN CASES BEFORE COMMISSION. (a) In a case before the commission, a
19 commissioner, or an authorized commission employee, designated by
20 the commission for that purpose, in the same manner as if the entire
21 commission were present, may:

- 22 (1) hold a hearing;
23 (2) conduct an investigation;
24 (3) make a record of a hearing or investigation for the
25 use and benefit of the commission;
26 (4) administer an oath;
27 (5) certify to an official act; and
28 (6) compel the attendance of a witness and the
29 production of papers, books, accounts, and other pertinent
30 documents and testimony.

31 (b) The record of a hearing or investigation made under this
32 section that is certified to by the commissioner or employee has the
33 same effect as if made before the commission. The commission shall
34 determine a case in which the record is made under this section in
35 the same manner as if the record had been made before the
36 commission.

37 (c) The commission may punish for contempt a person who:

- 1 (1) refuses to comply with this section; or
2 (2) obstructs or attempts to obstruct a proceeding
3 under this section. (V.A.C.S. Art. 6519a (part).)

4 Source Law

5 Art. 6519a. Any member of the Railroad
6 Commission of Texas (or any authorized employee
7 thereof) designated by the Commission for that
8 purpose, shall have power in all cases coming before
9 the Commission to hold hearings and conduct
10 investigations and to make a record thereof for the use
11 and benefit of the Commission, the same as if the
12 entire Commission were present, and such commissioner
13 or designated employee is hereby given the authority
14 to administer oaths, certify to all official acts, and
15 compel the attendance of witnesses and the production
16 of papers, waybills, books, accounts and all other
17 pertinent documents and testimony, and said record
18 when so made and properly certified to by such
19 commissioner or employee, shall have the same force
20 and effect as if made before the Commission, and cases
21 in which such records are made shall be determined by
22 the Commission as if the record had been made before
23 the Commission itself.

24 Any person who shall in any way, refuse to comply
25 with any provision of this Act or any person who shall
26 in any way undertake to obstruct or interfere with any
27 proceeding under this Act, shall be subject to
28 punishment for contempt by the Commission.
29 . . .

30 Revisor's Note

31 (1) V.A.C.S. Article 6519a states that a
32 commissioner or an authorized commission employee may
33 compel the production of "papers, waybills, books,
34 accounts and all other pertinent documents and
35 testimony." The revised law omits the reference to
36 "waybills" because "waybills" is included in the
37 meaning of "papers."

38 (2) V.A.C.S. Article 6519a states that a record
39 of a hearing or investigation under that article that
40 is certified to by the commissioner or employee has
41 "the same force and effect" as if made before the
42 commission. The revised law omits the reference to
43 "force" because, in context, "force" is included in
44 the meaning of effect.

45 (3) V.A.C.S. Article 6519a refers to a person
46 who "obstruct[s]" or "interfere[s]" with a proceeding

1 under that article. The reference to "interfere" is
2 omitted from the revised law because "interfere" is
3 included in the meaning of "obstruct."

4 (4) V.A.C.S. Article 6519a provides that the
5 article is cumulative of all other laws conferring
6 jurisdiction and authority on the commission. The
7 revised law omits that provision because an accepted
8 general principle of statutory construction requires a
9 statute to be given cumulative effect with other
10 statutes unless the statute provides otherwise or
11 unless the statute conflicts with another statute.
12 The general principle applies to the revised law. The
13 omitted law reads:

14 Art. 6519a. . . .
15 This Act shall be cumulative of all
16 other laws conferring jurisdiction and
17 authority upon the Railroad Commission.

18 [Sections 81.065-81.090 reserved for expansion]

19 SUBCHAPTER D. WITNESSES

20 Revised Law

21 Sec. 81.093. DEPOSITIONS. (a) In a matter pending for
22 hearing before the commission or a division of the commission, the
23 commission or an interested party may produce the testimony of a
24 witness by written or oral deposition instead of compelling the
25 personal attendance of the witness. For that purpose, the
26 commission may issue a commission or other process necessary to
27 take a deposition.

28 (b) The deposition shall be taken, to the extent applicable
29 and to the greatest extent possible, in accordance with the
30 provisions of the Texas Rules of Civil Procedure relating to
31 written and oral depositions. (V.A.C.S. Art. 6472a.)

32 Source Law

33 Art. 6472a. In all matters pending for hearing
34 before the Railroad Commission of Texas, or any
35 division thereof, the Commission, or any interested
36 party, shall have the right to produce the testimony of
37 any witness, or witnesses, by either written or oral
38 depositions instead of compelling the personal
39 attendance of witnesses. For this purpose the

1 Commission is hereby empowered and authorized to issue
2 commissions and all other process necessary for the
3 purpose of taking such depositions. All depositions
4 taken under the provisions of this Act shall be taken,
5 insofar as applicable and to the fullest extent
6 possible, in accordance with provisions of the Texas
7 Rules of Civil Procedure, as amended, relating to
8 written and oral depositions in civil cases.

9 Revisor's Note

10 (1) V.A.C.S. Article 6472a refers to the Texas
11 Rules of Civil Procedure, "as amended." The revised
12 law omits "as amended" for the reason stated in the
13 revisor's note to Section 81.01013.

14 (2) V.A.C.S. Article 6472a refers to the
15 provisions of the Texas Rules of Civil Procedure,
16 "relating to written and oral depositions in civil
17 cases." The revised law omits "in civil cases" as
18 unnecessary because Rule 2, Texas Rules of Civil
19 Procedure, states that the rules apply to "all actions
20 of a civil nature."

21 Revisor's Note
22 (End of Chapter)

23 (1) V.A.C.S. Article 6444 defines "Commission"
24 and "Commissioners." V.A.C.S. Article 6447a-1 defines
25 "commission." The revised law omits those articles
26 because they duplicate Section 81.001 of this code.
27 The omitted laws read:

28 Art. 6444. The term "Commission" as
29 used in this title means the Railroad
30 Commission of Texas, and the term
31 "Commissioners" means the members of the
32 Railroad Commission of Texas.

33 Art. 6447a-1. In Articles
34 6447b-6447h, Revised Statutes,
35 "commission" means the Railroad Commission
36 of Texas.

37 (2) V.A.C.S. Article 6519c requires certain
38 taxes and fees to be deposited to the credit of the
39 general revenue fund, authorizes the comptroller to
40 establish accounts to account for the sources and uses
41 of dedicated money deposited to the credit of the
42 general revenue fund, and authorizes the legislature

1 to appropriate money from the general revenue fund to
2 the commission to carry out the commission's duties.
3 The revised law omits that article as unnecessary.
4 Section 404.094, Government Code, requires, with
5 certain exceptions, all money collected or received by
6 a state agency to be deposited to the credit of the
7 general revenue fund. Section 403.031, Government
8 Code, requires the comptroller to maintain accounts
9 and information as necessary to show the sources of
10 state revenues and the purposes for which expenditures
11 are made. In addition, the legislature has the power
12 to appropriate money to the commission without an
13 express statement to that effect. The omitted law
14 reads:

15 Art. 6519c. (a) Except as provided by
16 Section 131.231, Natural Resources Code,
17 all taxes, license fees, permit fees,
18 examination fees, and truck registration
19 fees collected or received by the Railroad
20 Commission of Texas shall be deposited to
21 the credit of the General Revenue Fund.

22 (b) The comptroller of public
23 accounts may establish accounts as are
24 necessary to account for the sources and
25 uses of dedicated funds deposited to the
26 General Revenue Fund under this section.

27 (c) The legislature may appropriate
28 funds from the General Revenue Fund to the
29 Railroad Commission of Texas for the
30 operation of the commission and for
31 carrying out the duties of the commission as
32 required or permitted by law.

1 APPENDIX A

2 ARTICLE 4. CONFORMING AMENDMENTS

3 SECTION 4.01. Section 101.0817, Government Code, is amended
4 to read as follows:

5 Sec. 101.0817. STATUTORY COUNTY COURT FEES AND COSTS UNDER
6 OTHER LAWS. The clerk of a statutory county court shall collect
7 a fee of \$10 under Section 112.059, Transportation Code [~~Article~~
8 ~~6327, Vernon's Texas Civil Statutes~~], for a county attorney in a
9 suit regarding a railroad company's failure to keep roadbed and
10 right-of-way in proper condition.

11 SECTION 4.02. Subsection (c), Section 91.004,
12 Transportation Code, is amended to read as follows:

13 (c) Subsection (b) does not apply to money appropriated or
14 allocated:

15 (1) to a transit authority described by Chapter 451, a
16 transportation authority described by Chapter 452 or 460, or a
17 transit department described by Chapter 453; or

18 (2) for use by:

19 (A) a port authority or navigation district
20 created or operating under Section 52, Article III, or Section 59,
21 Article XVI, Texas Constitution; or

22 (B) a district created under Chapter 172 of this
23 code or Chapter 623, Acts of the 67th Legislature, Regular Session,
24 1981 (former Article 6550c, Vernon's Texas Civil Statutes).

25 SECTION 4.03. Subdivisions (2), (4), and (5), Section
26 171.001, Transportation Code, are amended to read as follows:

27 (2) "Bonds" has the meaning assigned by Section
28 172.001 [~~Chapter 623, Acts of the 67th Legislature, Regular~~
29 ~~Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)~~].

30 (4) "Rail facilities" has the meaning assigned by
31 Section 172.001 [~~Chapter 623, Acts of the 67th Legislature, Regular~~
32 ~~Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)~~],
33 except that the term includes property and interests necessary or
34 convenient for the provision of a nonrural rail transportation

1 system.

2 (5) "Revenue" [~~"Revenues"~~] has the meaning assigned by
3 Section 172.001 [~~Chapter 623, Acts of the 67th Legislature, Regular~~
4 ~~Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes)~~].

5 SECTION 4.04. Section 171.002, Transportation Code, is
6 amended to read as follows:

7 Sec. 171.002. APPLICABILITY OF RURAL RAIL TRANSPORTATION
8 DISTRICTS LAW. (a) Except as provided by this chapter, the
9 provisions of Chapter 172 other than Section 172.003 [~~Sections 2-9,~~
10 ~~Chapter 623, Acts of the 67th Legislature, Regular Session, 1981~~
11 ~~(Article 6550c, Vernon's Texas Civil Statutes),~~] apply to a
12 district as if the district were created under that chapter.

13 (b) For purposes of applying Chapter 172 [~~623, Acts of the~~
14 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
15 ~~Texas Civil Statutes),~~] to a district created under this chapter, a
16 reference to "rail facilities" in Chapter 172 [~~Chapter 623~~] means
17 "rail facilities" as defined by Section 171.001.

18 (c) For purposes of applying Chapter 172 [~~623, Acts of the~~
19 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
20 ~~Texas Civil Statutes),~~] to a district created under this chapter, a
21 reference in Chapter 172 [~~Chapter 623~~] to "eligible county" means a
22 county that created the district.

23 SECTION 4.05. Section 171.053, Transportation Code, is
24 amended to read as follows:

25 Sec. 171.053. INTERMUNICIPAL COMMUTER RAIL DISTRICT
26 POWERS. The governing bodies of the county or counties and of the
27 most populous municipality in the most populous county may provide
28 that the district may exercise the powers of an intermunicipal
29 commuter rail district created under Chapter 173 or former Article
30 6550c-1, Revised Statutes, by specifying in the concurrent order or
31 ordinance creating the district that those powers may be exercised
32 by the district.

33 SECTION 4.06. Section 171.154, Transportation Code, is
34 amended to read as follows:

1 Sec. 171.154. INTERMUNICIPAL COMMUTER RAIL POWERS. (a)
2 The district may exercise the powers of an intermunicipal commuter
3 rail district created under Chapter 173 or former Article 6550c-1,
4 Revised Statutes, only if the concurrent order or ordinance
5 creating the district specifies that the district may exercise
6 those powers. The order or ordinance may not grant the district
7 the power to impose a tax.

8 (b) In the event of a conflict between this chapter and a
9 power granted by Chapter 173 [~~Article 6550c-1, Revised Statutes~~],
10 this chapter controls. In the event of a conflict between Chapter
11 173 [~~Article 6550c-1~~] and Chapter 172 [~~Chapter 623, Acts of the 67th~~
12 ~~Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas~~
13 ~~Civil Statutes)~~], Chapter 172 [~~Article 6550c~~] controls over Chapter
14 173 [~~Article 6550c-1~~].

15 SECTION 4.07. Section 171.251, Transportation Code, is
16 amended to read as follows:

17 Sec. 171.251. PLEDGE OF REVENUE [~~REVENUES~~]. A district may
18 secure and pledge revenue [~~revenues~~] derived from any source to
19 secure the payment of district bonds.

20 SECTION 4.08. Section 171.302, Transportation Code, is
21 amended to read as follows:

22 Sec. 171.302. DISSOLUTION. In addition to the dissolution
23 procedures provided by Chapter 172 [~~Chapter 623, Acts of the 67th~~
24 ~~Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas~~
25 ~~Civil Statutes)~~], the board may dissolve a district if:

26 (1) all district liabilities have been paid or
27 adequate provision has been made for the payment of all
28 liabilities;

29 (2) the district is not a party to any lawsuits or
30 adequate provision has been made for the satisfaction of any
31 judgment or order that may be entered against the district in a
32 lawsuit to which the district is a party; and

33 (3) the district has commitments from other
34 governmental entities to assume jurisdiction of all district rail

1 facilities.

2 SECTION 4.09. Subsection (d), Section 370.186,
3 Transportation Code, is amended to read as follows:

4 (d) An authority may not construct, maintain, or operate a
5 passenger rail facility within the boundaries of an intermunicipal
6 commuter rail district created under former Article 6550c-1,
7 Vernon's Texas Civil Statutes, as those boundaries existed on
8 September 1, 2005, unless the district and the authority enter into
9 a written agreement specifying the terms and conditions under which
10 the project will be undertaken.

11 SECTION 4.10. Subsection (d), Section 452.056,
12 Transportation Code, is amended to read as follows:

13 (d) A private operator who contracts with an authority under
14 this chapter is not a public entity for purposes of any law of this
15 state except that an independent contractor of the authority that,
16 on or after June 14, 1989, performs a function of the authority or
17 an entity described by Section 452.0561 [~~under Title 112, Revised~~
18 ~~Statutes,~~] that is created to provide transportation services is
19 liable for damages only to the extent that the authority or entity
20 would be liable if the authority or entity itself were performing
21 the function and only for a cause of action that accrues on or after
22 that date.

23 SECTION 4.11. Subsection (b), Section 25.07, Tax Code, as
24 amended by Chapters 609, 885, and 1169, Acts of the 80th
25 Legislature, Regular Session, 2007, is reenacted and amended to
26 read as follows:

27 (b) Except as provided by Sections 11.11(b) and (c), a
28 leasehold or other possessory interest in exempt property may not
29 be listed if:

- 30 (1) the property is permanent university fund land;
31 (2) the property is county public school fund
32 agricultural land;
33 (3) the property is a part of a public transportation
34 facility owned by a municipality or county and:

1 (A) is an airport passenger terminal building or
2 a building used primarily for maintenance of aircraft or other
3 aircraft services, for aircraft equipment storage, or for air
4 cargo;

5 (B) is an airport fueling system facility;

6 (C) is in a foreign-trade zone:

7 (i) that has been granted to a joint airport
8 board under Subchapter C, Chapter 681, Business & Commerce Code;

9 (ii) the area of which in the portion of the
10 zone located in the airport operated by the joint airport board does
11 not exceed 2,500 acres; and

12 (iii) that is established and operating
13 pursuant to federal law; or

14 (D)(i) is in a foreign trade zone established
15 pursuant to federal law after June 1, 1991, that [~~which~~] operates
16 pursuant to federal law;

17 (ii) is contiguous to or has access via a
18 taxiway to an airport located in two counties, one of which has a
19 population of 500,000 or more according to the federal decennial
20 census most recently preceding the establishment of the foreign
21 trade zone; and

22 (iii) is owned, directly or through a
23 corporation organized under the Development Corporation Act
24 (Subtitle C1, Title 12, Local Government Code), by the same
25 municipality that [~~which~~] owns the airport;

26 (4) the interest is in a part of:

27 (A) a park, market, fairground, or similar public
28 facility that is owned by a municipality; or

29 (B) a convention center, visitor center, sports
30 facility with permanent seating, concert hall, arena, or stadium
31 that is owned by a municipality as such leasehold or possessory
32 interest serves a governmental, municipal, or public purpose or
33 function when the facility is open to the public, regardless of
34 whether a fee is charged for admission;

1 (5) the interest involves only the right to use the
2 property for grazing or other agricultural purposes; ~~or~~

3 (6) the property is:

4 (A) owned by a municipality, a public port, or a
5 navigation district created or operating under Section 59, Article
6 XVI, Texas Constitution, or under a statute enacted under Section
7 59, Article XVI, Texas Constitution; and

8 (B) used as an aid or facility incidental to or
9 useful in the operation or development of a port or waterway or in
10 aid of navigation-related commerce; or

11 (7) ~~(8)~~ the property is part of a rail facility
12 owned by a rural rail transportation district ~~[created or]~~
13 operating under Chapter 172, Transportation Code ~~[623, Acts of the~~
14 ~~67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's~~
15 ~~Texas Civil Statutes)]~~.

16 ARTICLE 5. REPEALER

17 SECTION 5.01. (a) The following provisions are repealed:

18 (1) Title 112, Revised Statutes;

19 (2) Article 3922, Revised Statutes;

20 (3) Chapter 480 (H.B. 1656), Acts of the 73rd
21 Legislature, Regular Session, 1993 (Article 6370c, Vernon's Texas
22 Civil Statutes);

23 (4) Section 1, Chapter 140 (H.B. 525), Acts of the 40th
24 Legislature, Regular Session, 1927 (Article 6447a, Vernon's Texas
25 Civil Statutes);

26 (5) Section 1, Chapter 43 (H.B. 105), Acts of the 41st
27 Legislature, 5th Called Session, 1930 (Article 6472a, Vernon's
28 Texas Civil Statutes);

29 (6) Section 1, Chapter 262 (S.B. 125), Acts of the 41st
30 Legislature, Regular Session, 1929 (Article 6519a, Vernon's Texas
31 Civil Statutes);

32 (7) Section 8, Chapter 65 (S.B. 389), Acts of the 67th
33 Legislature, Regular Session, 1981 (Article 6519c, Vernon's Texas
34 Civil Statutes); and

1 (8) Chapter 623 (H.B. 1822), Acts of the 67th
2 Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas
3 Civil Statutes).

4 (b) The repeal of Title 112, Revised Statutes, by this Act
5 does not affect the validity of statutes that were not added to
6 Title 112, Revised Statutes, by the legislature, but were
7 unofficially printed in that title by any publisher of the Texas
8 statutes, except as those articles are specifically repealed in
9 Subsection (a) of this section.

10 ARTICLE 6. LEGISLATIVE INTENT; EFFECTIVE DATE

11 SECTION 6.01. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE.

12 This Act is enacted under Section 43, Article III, Texas
13 Constitution. No substantive change in law is intended by this Act.

14 SECTION 6.02. EFFECTIVE DATE. This Act takes effect April
15 1, 2011.

1 APPENDIX B

2 CHAPTER 311. CODE CONSTRUCTION ACT

3 (current as of end of 81st Legislature, 1st Called Session, 2009)

4 SUBCHAPTER A. GENERAL PROVISIONS

5 Sec. 311.001. SHORT TITLE. This chapter may be cited as the
6 Code Construction Act.

7 Sec. 311.002. APPLICATION. This chapter applies to:

8 (1) each code enacted by the 60th or a subsequent
9 legislature as part of the state's continuing statutory revision
10 program;

11 (2) each amendment, repeal, revision, and reenactment
12 of a code or code provision by the 60th or a subsequent legislature;

13 (3) each repeal of a statute by a code; and

14 (4) each rule adopted under a code.

15 Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in
16 this chapter are not exclusive but are meant to describe and clarify
17 common situations in order to guide the preparation and
18 construction of codes.

19 Sec. 311.004. CITATION OF CODES. A code may be cited by its
20 name preceded by the specific part concerned. Examples of
21 citations are:

22 (1) Title 1, Business & Commerce Code;

23 (2) Chapter 5, Business & Commerce Code;

24 (3) Section 9.304, Business & Commerce Code;

25 (4) Section 15.06(a), Business & Commerce Code; and

26 (5) Section 17.18(b)(1)(B)(ii), Business & Commerce
27 Code.

28 Sec. 311.005. GENERAL DEFINITIONS. The following
29 definitions apply unless the statute or context in which the word or
30 phrase is used requires a different definition:

31 (1) "Oath" includes affirmation.

32 (2) "Person" includes corporation, organization,
33 government or governmental subdivision or agency, business trust,
34 estate, trust, partnership, association, and any other legal

1 entity.

2 (3) "Population" means the population shown by the
3 most recent federal decennial census.

4 (4) "Property" means real and personal property.

5 (5) "Rule" includes regulation.

6 (6) "Signed" includes any symbol executed or adopted
7 by a person with present intention to authenticate a writing.

8 (7) "State," when referring to a part of the United
9 States, includes any state, district, commonwealth, territory, and
10 insular possession of the United States and any area subject to the
11 legislative authority of the United States of America.

12 (8) "Swear" includes affirm.

13 (9) "United States" includes a department, bureau, or
14 other agency of the United States of America.

15 (10) "Week" means seven consecutive days.

16 (11) "Written" includes any representation of words,
17 letters, symbols, or figures.

18 (12) "Year" means 12 consecutive months.

19 (13) "Includes" and "including" are terms of
20 enlargement and not of limitation or exclusive enumeration, and use
21 of the terms does not create a presumption that components not
22 expressed are excluded.

23 Sec. 311.006. INTERNAL REFERENCES. In a code:

24 (1) a reference to a title, chapter, or section
25 without further identification is a reference to a title, chapter,
26 or section of the code; and

27 (2) a reference to a subtitle, subchapter, subsection,
28 subdivision, paragraph, or other numbered or lettered unit without
29 further identification is a reference to a unit of the next larger
30 unit of the code in which the reference appears.

31 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

32 Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a)
33 Words and phrases shall be read in context and construed according
34 to the rules of grammar and common usage.

1 (b) Words and phrases that have acquired a technical or
2 particular meaning, whether by legislative definition or
3 otherwise, shall be construed accordingly.

4 Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the
5 present tense include the future tense.

6 (b) The singular includes the plural and the plural includes
7 the singular.

8 (c) Words of one gender include the other genders.

9 Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A
10 grant of authority to three or more persons as a public body confers
11 the authority on a majority of the number of members fixed by
12 statute.

13 (b) A quorum of a public body is a majority of the number of
14 members fixed by statute.

15 Sec. 311.014. COMPUTATION OF TIME. (a) In computing a
16 period of days, the first day is excluded and the last day is
17 included.

18 (b) If the last day of any period is a Saturday, Sunday, or
19 legal holiday, the period is extended to include the next day that
20 is not a Saturday, Sunday, or legal holiday.

21 (c) If a number of months is to be computed by counting the
22 months from a particular day, the period ends on the same numerical
23 day in the concluding month as the day of the month from which the
24 computation is begun, unless there are not that many days in the
25 concluding month, in which case the period ends on the last day of
26 that month.

27 Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to
28 a series of numbers or letters, the first and last numbers or
29 letters are included.

30 Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following
31 constructions apply unless the context in which the word or phrase
32 appears necessarily requires a different construction or unless a
33 different construction is expressly provided by statute:

34 (1) "May" creates discretionary authority or grants

1 permission or a power.

2 (2) "Shall" imposes a duty.

3 (3) "Must" creates or recognizes a condition
4 precedent.

5 (4) "Is entitled to" creates or recognizes a right.

6 (5) "May not" imposes a prohibition and is synonymous
7 with "shall not."

8 (6) "Is not entitled to" negates a right.

9 (7) "Is not required to" negates a duty or condition
10 precedent.

11 SUBCHAPTER C. CONSTRUCTION OF STATUTES

12 Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In
13 enacting a statute, it is presumed that:

14 (1) compliance with the constitutions of this state
15 and the United States is intended;

16 (2) the entire statute is intended to be effective;

17 (3) a just and reasonable result is intended;

18 (4) a result feasible of execution is intended; and

19 (5) public interest is favored over any private
20 interest.

21 Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute
22 is presumed to be prospective in its operation unless expressly
23 made retrospective.

24 Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a
25 statute, whether or not the statute is considered ambiguous on its
26 face, a court may consider among other matters the:

27 (1) object sought to be attained;

28 (2) circumstances under which the statute was enacted;

29 (3) legislative history;

30 (4) common law or former statutory provisions,
31 including laws on the same or similar subjects;

32 (5) consequences of a particular construction;

33 (6) administrative construction of the statute; and

34 (7) title (caption), preamble, and emergency

1 provision.

2 Sec. 311.024. HEADINGS. The heading of a title, subtitle,
3 chapter, subchapter, or section does not limit or expand the
4 meaning of a statute.

5 Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a)
6 Except as provided by Section 311.031(d), if statutes enacted at
7 the same or different sessions of the legislature are
8 irreconcilable, the statute latest in date of enactment prevails.

9 (b) Except as provided by Section 311.031(d), if amendments
10 to the same statute are enacted at the same session of the
11 legislature, one amendment without reference to another, the
12 amendments shall be harmonized, if possible, so that effect may be
13 given to each. If the amendments are irreconcilable, the latest in
14 date of enactment prevails.

15 (c) In determining whether amendments are irreconcilable,
16 text that is reenacted because of the requirement of Article III,
17 Section 36, of the Texas Constitution is not considered to be
18 irreconcilable with additions or omissions in the same text made by
19 another amendment. Unless clearly indicated to the contrary, an
20 amendment that reenacts text in compliance with that constitutional
21 requirement does not indicate legislative intent that the reenacted
22 text prevail over changes in the same text made by another
23 amendment, regardless of the relative dates of enactment.

24 (d) In this section, the date of enactment is the date on
25 which the last legislative vote is taken on the bill enacting the
26 statute.

27 (e) If the journals or other legislative records fail to
28 disclose which of two or more bills in conflict is latest in date of
29 enactment, the date of enactment of the respective bills is
30 considered to be, in order of priority:

31 (1) the date on which the last presiding officer
32 signed the bill;

33 (2) the date on which the governor signed the bill; or

34 (3) the date on which the bill became law by operation

1 of law.

2 Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER
3 GENERAL. (a) If a general provision conflicts with a special or
4 local provision, the provisions shall be construed, if possible, so
5 that effect is given to both.

6 (b) If the conflict between the general provision and the
7 special or local provision is irreconcilable, the special or local
8 provision prevails as an exception to the general provision, unless
9 the general provision is the later enactment and the manifest
10 intent is that the general provision prevail.

11 Sec. 311.027. STATUTORY REFERENCES. Unless expressly
12 provided otherwise, a reference to any portion of a statute or rule
13 applies to all reenactments, revisions, or amendments of the
14 statute or rule.

15 Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A
16 uniform act included in a code shall be construed to effect its
17 general purpose to make uniform the law of those states that enact
18 it.

19 Sec. 311.029. ENROLLED BILL CONTROLS. If the language of
20 the enrolled bill version of a statute conflicts with the language
21 of any subsequent printing or reprinting of the statute, the
22 language of the enrolled bill version controls.

23 Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a
24 repealing statute does not revive the statute originally repealed
25 nor impair the effect of any saving provision in it.

26 Sec. 311.031. SAVING PROVISIONS. (a) Except as provided
27 by Subsection (b), the reenactment, revision, amendment, or repeal
28 of a statute does not affect:

29 (1) the prior operation of the statute or any prior
30 action taken under it;

31 (2) any validation, cure, right, privilege,
32 obligation, or liability previously acquired, accrued, accorded,
33 or incurred under it;

34 (3) any violation of the statute or any penalty,

1 forfeiture, or punishment incurred under the statute before its
2 amendment or repeal; or

3 (4) any investigation, proceeding, or remedy
4 concerning any privilege, obligation, liability, penalty,
5 forfeiture, or punishment; and the investigation, proceeding, or
6 remedy may be instituted, continued, or enforced, and the penalty,
7 forfeiture, or punishment imposed, as if the statute had not been
8 repealed or amended.

9 (b) If the penalty, forfeiture, or punishment for any
10 offense is reduced by a reenactment, revision, or amendment of a
11 statute, the penalty, forfeiture, or punishment, if not already
12 imposed, shall be imposed according to the statute as amended.

13 (c) The repeal of a statute by a code does not affect an
14 amendment, revision, or reenactment of the statute by the same
15 legislature that enacted the code. The amendment, revision, or
16 reenactment is preserved and given effect as part of the code
17 provision that revised the statute so amended, revised, or
18 reenacted.

19 (d) If any provision of a code conflicts with a statute
20 enacted by the same legislature that enacted the code, the statute
21 controls.

22 Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute
23 contains a provision for severability, that provision prevails in
24 interpreting that statute.

25 (b) If any statute contains a provision for
26 nonseverability, that provision prevails in interpreting that
27 statute.

28 (c) In a statute that does not contain a provision for
29 severability or nonseverability, if any provision of the statute or
30 its application to any person or circumstance is held invalid, the
31 invalidity does not affect other provisions or applications of the
32 statute that can be given effect without the invalid provision or
33 application, and to this end the provisions of the statute are
34 severable.

1 Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to
2 preserve the legislature's interest in managing state fiscal
3 matters through the appropriations process, a statute shall not be
4 construed as a waiver of sovereign immunity unless the waiver is
5 effected by clear and unambiguous language. In a statute, the use
6 of "person," as defined by Section 311.005 to include governmental
7 entities, does not indicate legislative intent to waive sovereign
8 immunity unless the context of the statute indicates no other
9 reasonable construction. Statutory prerequisites to a suit,
10 including the provision of notice, are jurisdictional requirements
11 in all suits against a governmental entity.

1	APPENDIX C		
2	DISPOSITION TABLE		
3	TRANSPORTATION CODE		
4	Title 5		
5	VACS ARTICLE		CODE SECTION
6			(Transportation Code unless
7			otherwise cited)
8	3922	. . . . .	Nat. Res., 81.01010
9	6259a	. . . . .	Nat. Res., 81.002
10	6318	. . . . .	112.051
11	6320	. . . . .	112.057
12	6326	. . . . .	112.058
13	6327	. . . . .	112.059
14	6336	. . . . .	112.053
15	6336a	. . . . .	112.054
16	6337	. . . . .	112.051
17	6338	. . . . .	112.061
18	6339	. . . . .	112.055
19	6341	. . . . .	112.002
20	6351	. . . . .	112.052
21	6366	. . . . .	112.060
22	6367	. . . . .	112.060
23	6370c	. . . . .	471.009
24	6400	. . . . .	112.101
25	6402	. . . . .	112.102
26	6419b	. . . . .	112.103
27	6420	. . . . .	112.062
28	6432	. . . . .	112.158
29	6432A	. . . . .	112.151
30	6433	. . . . .	112.158
31	6434	. . . . .	112.158
32	6435	. . . . .	112.158
33	6436	. . . . .	112.158
34	6437	. . . . .	112.154

1	6438	.....	112.154
2	6439	.....	112.152
3	6440	.....	112.153
4	6441	.....	112.154
5	6442 (part)	.....	112.155
6	(part)	.....	112.156
7	6443	.....	112.157
8	6444	..... RN Nat. Res.,	81.093
9	6445, Subsec. (a)	.....	111.002
10	(b)	.....	111.003
11	(c)	.....	111.004
12	6445a	..... Nat. Res.,	81.01001
13	6446	..... RN	111.004
14	6447 (part)	..... Nat. Res.,	81.01002
15	(part)	..... Nat. Res.,	81.01003
16	(part)	..... RN Nat. Res.,	81.01003
17	(part)	..... Nat. Res.,	81.01004
18	(part)	..... Nat. Res.,	81.01005
19	(part)	..... Nat. Res.,	81.01006
20	(part)	..... Nat. Res.,	81.01007
21	(part)	..... Nat. Res.,	81.01008
22	(part)	..... RN Nat. Res.,	81.0165
23	6447a	..... Nat. Res.,	81.0165
24	6447a-1	..... RN Nat. Res.,	81.093
25	6447b	..... Nat. Res.,	81.01014
26	6447c	..... Nat. Res.,	81.01013
27	6447d	..... RN Nat. Res.,	81.0165
28	6447e	..... RN Nat. Res.,	81.0165
29	6447f (a)	..... Nat. Res.,	81.063
30	(b)	..... RN Nat. Res.,	81.063
31	(c)	..... Nat. Res.,	81.063
32	6447g	..... Nat. Res.,	81.0592
33	6447h	..... Nat. Res.,	81.0591
34	6447i	..... Nat. Res.,	81.01012

1	6447j	Nat. Res., 81.01009
2	6447k	Nat. Res., 81.01016
3	6447l	Nat. Res., 81.062
4	6447m	Nat. Res., 81.01015
5	6447n	Nat. Res., 81.01011
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