

TRANSPORTATION CODE

TITLE 5. RAILROADS

SUBTITLE Z. MISCELLANEOUS PROVISIONS

CHAPTER 199. MISCELLANEOUS PROVISIONS

Sec. 199.001. AERIAL OR OTHER TRAMWAY TO MINE. (a) This section applies only to a person, firm, corporation, limited partnership, joint stock association, or other association that owns, constructs, operates, or manages an aerial or other tramway in this state between a mine, smelter, or railway.

(b) An entity described by Subsection (a) may hold and acquire by purchase or condemnation right-of-way. In the exercise of this right, the entity:

(1) is considered to be a common carrier;

(2) is subject to the jurisdiction and control of the department; and

(3) may exercise the power of eminent domain under which the entity may enter and condemn land, right-of-way, easements, or property of any person or corporation necessary for the construction, maintenance, or operation of the entity's aerial or other tramway.

(c) The power of eminent domain under Subsection (b) is exercised in the manner provided by law for the condemnation of land and acquisition of right-of-way by a railroad company.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 24.101, eff. September 1, 2011.

Sec. 199.002. RAILROAD FUNCTIONS AS PUBLIC AND GOVERNMENTAL FUNCTIONS. (a) In this section:

(1) "Railroad" means an enterprise created and operated to carry passengers, freight, or both on a fixed track. The term includes all real estate and interests in real estate, equipment, machinery, materials, structures, buildings, stations, facilities, and other improvements that are necessary to, or for the benefit of, the enterprise.

(2) "Municipality" means a home-rule municipality.

(b) The planning, acquisition, establishment, development,

construction, enlarging, improvement, maintenance, equipping, operation, regulation, protection, policing, leasing, and alienation of a railroad or railroad facility by a municipality or other public agency, separately or jointly exercised:

(1) are declared to be public and governmental functions that are exercised for a public purpose and matters of public necessity; and

(2) in the case of a municipality, are declared to be municipal functions and purposes as well as public and governmental.

(c) All land and other property and privileges acquired and used by or on behalf of a municipality or other public agency for railroad purposes:

(1) are declared to be acquired for public and governmental purposes and as a matter of public necessity; and

(2) in the case of a municipality, are declared to be acquired for a municipal purpose.

(d) This section does not confer or convey governmental immunity or any other limitation of liability to any entity that is not a governmental entity, governmental authority, or public agency, or a subdivision of a governmental entity, governmental authority, or public agency.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 19.007(a), eff. September 1, 2015.

Sec. 199.003. USE OF STATE MONEY FOR HIGH-SPEED RAIL.

(a) For the purposes of this section, "high-speed rail" means intercity passenger rail service that is reasonably expected to reach speeds of at least 110 miles per hour.

(b) Except as required by federal law or other state law, including the National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.):

(1) the legislature may not appropriate money to pay for a cost of planning, facility construction or maintenance, or security for, promotion of, or operation of, high-speed rail operated by a private entity; and

(2) a state agency may not accept or use state money to

pay for a cost described by Subdivision (1).

(c) A state agency shall prepare a semiannual report of each expense described by this section and submit a copy of each report to:

- (1) the commission;
- (2) the comptroller;
- (3) the committee in each house of the legislature with primary jurisdiction over transportation;
- (4) the speaker of the house of representatives;
- (5) the lieutenant governor; and
- (6) the governor.

(d) This section is not intended to preclude or limit the execution of the department's responsibilities under federal law or other state law, including:

- (1) regulatory responsibilities;
- (2) oversight of transportation projects;
- (3) environmental review;
- (4) policy development;
- (5) communication with public officials; or
- (6) coordinating with a private entity that operates or proposes to operate high-speed rail in the same manner that the department coordinates with other entities that operate transportation projects.

Added by Acts 2017, 85th Leg., R.S., Ch. 311 (S.B. [977](#)), Sec. 1, eff. September 1, 2017.