

TRANSPORTATION CODE

CHAPTER 455. GENERAL POWERS AND DUTIES OF DEPARTMENT OF  
TRANSPORTATION REGARDING MASS TRANSPORTATION

Sec. 455.001. DEPARTMENT DUTIES REGARDING MASS  
TRANSPORTATION. The Texas Department of Transportation shall:

(1) encourage, foster, and assist in developing  
intracity and intercity public and mass transportation;

(2) encourage the establishment of rapid transit and  
other transportation media;

(3) assist any political subdivision of this state to  
obtain federal aid to establish or maintain a public or mass  
transportation system;

(4) develop and maintain a comprehensive master plan  
for public and mass transportation development; and

(5) conduct hearings and make investigations to  
determine the location, type of construction, and cost to the state  
or its political subdivisions of a public mass transportation  
system owned, operated, or wholly or partly directly financed by  
the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 455.0015. TRANSPORTATION NEEDS OF CLIENTS OF HEALTH AND  
HUMAN SERVICES AGENCIES. (a) In performing its public  
transportation planning and funding activities, the department  
shall consider and include the transportation needs of those  
persons who are clients of the health and human services agencies of  
this state.

(b) It is the intent of the legislature that, whenever  
possible, and to the maximum extent feasible, the existing network  
of transportation providers, and in particular the fixed route  
components of the existing networks, be used to meet the client  
transportation requirements of the state's social service agencies  
and their agents. The legislature recognizes the contributions of  
nonprofit entities dedicated to providing social services and  
related activities and encourages the continued community  
involvement of these entities in this area. The legislature  
likewise recognizes the potential cost savings and other benefits  
for utilizing existing private sector transportation resources.  
The department will contract with and promote the use of private  
sector transportation resources to the maximum extent feasible  
consistent with the goals of this subsection.

(c) The Texas Department of Health and the Health and Human  
Services Commission shall contract with the department for the  
department to assume all responsibilities of the Texas Department  
of Health and the Health and Human Services Commission relating to  
the provision of transportation services for clients of eligible  
programs. The department shall hold at least one public hearing to  
solicit the views of the public concerning the transition of  
transportation services to the department under this subsection and  
shall meet with and consider the views of interested persons,  
including persons representing transportation clients.

(d) The department may contract with any public or private  
transportation provider or with any regional transportation broker  
for the provision of public transportation services.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.28, eff. Sept. 1,  
1997. Amended by Acts 2003, 78th Leg., ch. 198, Sec. 2.127, eff.  
Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 13.02, eff.  
Sept. 1, 2003.

Sec. 455.002. DEPARTMENT POWERS REGARDING MASS  
TRANSPORTATION. The Texas Department of Transportation may:

(1) purchase, construct, lease, and contract for  
public transportation systems;

(2) use the expertise of recognized private  
authorities or consultants to plan and design public and mass  
transportation systems;

(3) represent this state in each public and mass  
transportation matter before a state or federal agency;

(4) apply for and receive a gift or grant from a  
governmental or private source for use in performing the  
department's functions under this chapter;

(5) contract as necessary to perform a function under  
this chapter; and

(6) recommend legislation necessary to advance this  
state's interest in public and mass transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 455.003. RESTRICTION ON USE OF EMINENT DOMAIN. The

Texas Department of Transportation may not use eminent domain for a purpose under this chapter in a way that:

- (1) unduly interferes with interstate commerce; or
- (2) establishes a right to operate a vehicle on a railroad track used to transport property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 455.004. PUBLIC TRANSPORTATION ADVISORY COMMITTEE. (a) A public transportation advisory committee consisting of 11 members shall:

- (1) advise the commission on the needs and problems of the state's public transportation providers, including the methods for allocating state public transportation money;

- (2) comment on rules involving public transportation during development of the rules and before the commission finally adopts the rules unless an emergency requires immediate commission action;

- (3) advise the commission on the implementation of Chapter 461; and

- (4) perform any other duty determined by the commission.

(b) The commission shall appoint members of the advisory committee. The membership of the committee shall include:

- (1) four members who represent a diverse cross-section of public transportation providers;

- (2) three members who represent a diverse cross-section of transportation users;

- (3) three members who represent the general public; and

- (4) one member with experience in the administration of health and human services programs.

(c) A member serves at the pleasure of the commission. A member is not entitled to compensation for service on the committee but is entitled to reimbursement for reasonable expenses the member incurs in performing committee duties.

(d) The public transportation advisory committee shall meet as requested by the commission.

(e) The commission may adopt rules to govern the operation of the advisory committee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 13.03, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 281, Sec. 4.01, eff. June 14, 2005.

Sec. 455.005. RAIL FIXED GUIDEWAY MASS TRANSPORTATION SYSTEM SAFETY OVERSIGHT. (a) The department shall:

- (1) oversee safety and security practices of rail fixed guideway mass transportation systems in compliance with 49 U.S.C. Section 5330;

- (2) establish a safety program for each entity operating a rail fixed guideway mass transportation system within the state that provides:

- (A) safety requirements that:

- (i) at a minimum comply with the American Public Transit Association's guidelines published in the "Manual for the Development of Rail Transit System Safety Program Plans"; and

- (ii) include standards for the personal security of passengers and employees of rail fixed guideway systems;

- (B) lines of authority;

- (C) levels of responsibility and accountability;

and

- (D) methods of documentation for the system;

- (3) at least every three years conduct an on-site safety review of each entity's system safety program plan and prepare and issue a report containing findings and recommendations resulting from that review that, at a minimum, include an analysis of the efficacy of the system safety program plan and a determination of whether it should be updated;

- (4) review and approve the annual internal safety audit conducted by an entity that operates a system;

- (5) establish procedures for the investigation of accidents and unacceptable hazardous conditions;

- (6) investigate accidents and unacceptable hazardous conditions at entities operating systems unless the National Transportation Safety Board has investigated or will investigate an accident;

(7) require, review, and approve any plan of an entity operating a system to minimize, control, correct, or eliminate any investigated accident or hazard; and

(8) submit reports or other information required by the United States Department of Transportation.

(b) The department may use a contractor to act on its behalf in carrying out the duties of the department under this section.

(c) The data collected and the report of any investigation conducted by the department or a contractor acting on behalf of the department:

(1) is confidential and subject to disclosure, inspection, or copying under Chapter 552, Government Code; but

(2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the state.

(d) Each entity operating a system shall:

(1) develop a system safety program plan that complies with the department's safety program plan standards;

(2) conduct an annual internal safety audit and submit the audit report to the department;

(3) report accidents and unacceptable hazardous conditions to the department in writing or by electronic means acceptable to the department;

(4) minimize, control, correct, or eliminate any investigated unacceptable hazardous condition as required by the department; and

(5) provide all necessary assistance to allow the department to conduct appropriate on-site investigations of accidents and unacceptable hazardous conditions.

(e) Any part of a system safety program plan that concerns security for the system:

(1) is confidential and not subject to disclosure, inspection, or copying under Chapter 552, Government Code; and

(2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the state.

(f) The commission shall adopt rules to implement this section.

(g) Notwithstanding any other provision of law to the contrary, the commission, the department, or an officer, employee, or agent of the commission or department is not liable for any act or omission in the implementation of this section.

(h) In this section:

(1) "Accident" means:

(A) any event involving the revenue service operation of a rail fixed guideway system as a result of which an individual:

(i) dies; or

(ii) suffers bodily injury and immediately receives medical treatment away from the scene of the event; or

(B) a collision, derailment, or fire that causes property damage in excess of \$100,000.

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

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

(4) "Hazardous condition" means a condition that may endanger human life or property, including an unacceptable hazardous condition.

(5) "Investigation" means a process to determine the probable cause of an accident or an unacceptable hazardous condition. The term includes a review and approval of the transit agency's determination of the probable cause of an accident or unacceptable hazardous condition.

(6) "Rail fixed guideway mass transportation system" or "system" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway used for mass transportation that is included in the United States government's computation of fixed guideway route miles or receives funding for urbanized areas under 49 U.S.C. Section 5336 and is not regulated by the United States government.

(7) "Safety" means freedom from danger.

(8) "Security" means freedom from intentional danger.

(9) "Unacceptable hazardous condition" means a hazardous condition determined to be unacceptable using the American Public Transit Association's guidelines' hazard resolution matrix.

Added by Acts 1997, 75th Leg., ch. 492, Sec. 1, eff. May 31, 1997.