

**CHAPTER 181**

**H.B. No. 871**

An Act relating to the acquisition, maintenance, and operation of a railroad by certain municipalities and other public agencies.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1. DEFINITIONS.** In this Act:

(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 city.

**SECTION 2. DECLARATION OF GOVERNMENTAL FUNCTION.** The planning, acquisition, establishment, development, construction, enlarging, improvement, maintenance, equipping, operation, regulation, protection, policing, leasing, and alienation of a railroad and railroad facilities by municipalities and other public agencies, separately or jointly exercised, are declared to be public and governmental functions that are exercised for a public purpose and matters of public necessity and, in the case of a municipality, are declared to be municipal functions and purposes as well as public and governmental. All land and other property and privileges acquired and used by or on behalf of municipalities or other public agencies for railroad purposes are declared to be acquired for public and governmental purposes and as a matter of public necessity and, in the case of a municipality, for a municipal purpose. Nothing in this Act shall operate to confer or convey any governmental immunity or limitation of liability to any entity which is not a governmental entity, authority, public agency, or subdivision thereof.

**SECTION 3. VALIDATION.** (a) Any real estate transactions or any acquisitions or operations of any railroad property by a municipality or municipalities that occurred on or after January 1, 1984, but before the effective date of this Act, are validated as of the dates they occurred. The transactions, acquisitions, or operations may not be held invalid because they were not performed in accordance with law.

(b) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

**SECTION 4.** The provisions of this Act shall be cumulative of all other laws or parts of laws, general or special.

**SECTION 5.** If any provisions of this Act or the application thereof to any person, entity, or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 6.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 18, 1985, by the following vote: Yeas 137, Nays 2, 2 present, not voting; passed by the Senate on May 9, 1985, by the following vote: Yeas 31, Nays 0.

Approved: May 24, 1985

Effective: Immediately