

BILL ANALYSIS

C.S.H.B. 2682
By: Solomons
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The 77th Legislature enacted legislation to provide for the creation of a coordinated county transportation authority (authority) by a county adjacent to a county with a population of more than one million. Denton County has created such an authority in an effort to offer transportation alternatives to its region and alleviate traffic congestion and pollution.

C.S.H.B. 2682 amends Chapter 460, Transportation Code, to clarify an authority's ability to conduct a sales and use tax levy election in areas within the authority and areas requesting to join the authority. The Act also defines the ability of an authority to contract with certain entities and specifies the types of contracts the authority may enter. C.S.H.B. 2682 makes technical corrections to reflect the change in name of the governing body of an authority from the executive committee to the board of directors, as well as the changes in names of state agencies.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2682 makes technical amendments throughout Chapter 460, Transportation Code, to reflect the name change of the governing body of a coordinated county transportation authority (authority) from the "executive committee" to the "board of directors."

C.S.H.B. 2682 offers a technical amendment to Section 460.054(c)(5), Transportation Code, to reflect that a county judge designates the three people with the highest plurality of votes to initially serve on the interim executive committee of an authority.

Section 460.104, Transportation Code, is amended by adding Subsection (d) to allow an authority to acquire rolling stock or other real or personal property under a contract, lease-purchase, or trust agreement.

C.S.H.B. 2682 amends Section 460.104 (a) and (b) by replacing the term "executive committee" with "authority" so that the sections apply to the authority as a whole, not simply the governing body.

C.S.H.B. 2682 amends Section 460.302, Transportation Code, to clarify the process by which a municipality may join an authority already in existence. A municipality may request in writing that an authority call a transit sales tax election. The authority shall submit to qualified voters a proposition stating: "Shall the (name of authority) levy of a proposed tax, not to exceed (rate), be authorized?" The governing body of the authority will canvas the returns, declare the result, and notify the Comptroller and the department.

If approval to join an authority and impose a transit sales tax would cause a dedicated or special-purpose municipal sales tax to exceed the limit imposed in Section 460.552(a), Transportation Code, the governing body of a municipality may request for the authority to call an election on whether the territory of the municipality should be added to an authority with a combined ballot proposition that will lower or repeal any dedicated or special-purpose sales and use tax. This election is conducted in accordance with procedures specified. A negative vote shall not have an

effect on either the tax to be lowered or repealed, or the tax to be raised or adopted. C.S.H.B. 2682 states that this section shall not be used to change the substantive law of any sales tax.

After approval of the election, the authority and governing body of a municipality may enter into an interlocal agreement which provides for the eventual submission into the authority of the municipality and payment of proportional capital recovery fees. An authority does not have to provide transportation services to a municipality until all agreed upon capital recovery fees are paid.

The sales and use tax proposed by an authority and voted on favorably by a municipality takes effect on the first day following the end of the first complete calendar quarter that begins after certified notification of the order stating the addition of that municipality and a map of the authority depicting the added territory is received by the Comptroller. C.S.H.B. 2682 defines "dedicated or special-purpose sales and use tax."

C.S.H.B. 2682 makes a technical change to Section 460.304(a) to clarify that, unless a municipality is added to an authority already in existence and therefore subject to the provisions under Section 460.302(e), Transportation Code, an approved sales and use tax will take effect on the first day of the first calendar quarter following the addition of the area.

C.S.H.B. 2682 amends the provisions which allow an authority to negotiate a contract without competitive sealed bids or proposals listed in Section 460.406(c), Transportation Code. The changes include: a contract for work performed and paid for by the day as the work progresses; a contract for the purchase of land or a right-of-way; a contract for the purchase of personal property sold at auction by a licensed auctioneer, at a going out of business sale, or by a political subdivision of the state, a state agency, or entity of the federal government; a contract for services performed by blind or severely disabled people; a contract for the purchase of electricity; or a contract awarded for alternate project delivery pursuant to Section 271.117-271.119, Local Government Code. The Local Government Code, Section 271.111, definition of "governmental entity" is utilized for the purposes of this section.

A technical change is made in Section 460.508(c) to reflect the name change from The Texas Natural Resources Conservation Commission to the Texas Commission on Environmental Quality.

C.S.H.B. 2682 adds a technical amendment to Section 460.551(b), Transportation Code, to reflect the changes to the sales and use tax levy election made in Section 460.302, Transportation Code.

C.S.H.B. 2682 amends Section 460.551(c) to allow the language of a ballot proposition for a sales and use tax election to be altered based upon the name of the coordinated county transportation or transit authority, created under Chapter 460, Transportation Code, that is conducting the election.

Section 321.107, Tax Code, is amended by C.S.H.B. 2682 so that a "coordinated county transportation authority" is excluded from being defined as an "other local government entity."

C.S.H.B. 2682 repeals Section 460.201(b), Transportation Code, which limits the number of terms a member of the board of directors may serve. Currently, a member may not serve for more than three consecutive terms; C.S.H.B. 2682 will eliminate term limits.

C.S.H.B. 2682 validates a sales and use tax levy election called and conducted before the effective date by or for the benefit of an authority created under Chapter 460, Transportation Code, and of which a majority of votes was received to authorize the tax. Further, any acts or proceedings of an authority are validated as of the dates they occurred.

This Act does not validate any governmental act or proceeding that, under the law of this state at the time the act or proceeding occurred, was a misdemeanor or a felony.

EFFECTIVE DATE

C.S.H.B. 2682 80(R)

September 1, 2007.

COMPARISON OF SUBSTITUTE TO ORIGINAL

C.S.H.B. 2682 amends Section 460.104, Transportation Code, by replacing the term "and" with the term "or" in Subsection (d). This subsection is added to Section 460.104, Transportation Code, by the original.

C.S.H.B. 2682 strikes Subsections (a) through (d) of Section 460.1061, Transportation Code, added to the code by the original. Subsection (e) is moved from Section 460.1061, Transportation Code, to Section 460.302, Transportation Code, to become Subsection (f). The subsection is amended by striking the phrase "and in Section 460.302".

C.S.H.B. 2682 makes a technical correction to the language added by the original to Section 460.302(a)(2), Transportation Code, by deleting the term "the" in the language to be used on a transit sales tax election ballot proposition so that the parenthetical phrase reads as "(name of authority)".

C.S.H.B. 2682 substitute amends Section 460.302(c) by striking the phrase "on being added to an authority" and deleting the sentence: "The election shall otherwise be conducted in accordance with Section 321.409, Tax Code." Further, the reference made to Section 460.551(c)(1) in Section 460.302(c) is technically incorrect and so replaced with a reference to Section 460.552(a).

C.S.H.B. 2682 adds Section 460.302(c) (1) and (2) and (c-1) to specify the language with must be contained in the combined ballot proposition, to clarify that a negative vote shall not have an effect on the taxes involved in the ballot proposition, and to clarify that this section shall not be used to change the substantive law of any sales tax.

C.S.H.B. 2682 makes corrections to Section 460.302, Transportation Code, by replacing the term "executive committee" with the term "authority" so that applicability of the section is to the authority as a whole, not simply the governing body. Subsection (d) is also amended by adding the term "proportional" so that an interlocal agreement "provides for the eventual admission of the municipality to the territory of the authority and for the payment of proportional capital recovery fees as determined by the authority." The replacement of "executive committee" with the term authority is also made in Section 46.302(e), Transportation Code.

C.S.H.B. 2682 corrects a technical inaccuracy in Section 460.304(a), Transportation Code. The original bill referenced Section 460.302(d) and C.S.H.B. 2682 changes this reference to Section 460.302(e).

C.S.H.B. 2682 amends Section 460.551(b) by striking the phrase "Section 460.1061 or 460.302" added by the original, and replacing it with "this chapter."

C.S.H.B. 2682 deletes the phrase ", except as provided by Section 460.1061, Transportation Code" which was added to Section 321.409(d), Tax Code, by the original. Consequently, no reference to this Section of the Tax Code is made in the substitute.

C.S.H.B. 2682 amends Section 321.107, Tax Code, by adding "coordinated county transportation authority" so as to exclude it from being considered an "other local governmental entity."