

By: Solomons

H.B. No. 2682

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration and powers of a coordinated county
3 transportation authority.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 460.054(c), Transportation Code, is
6 amended to read as follows:

7 (c) The members described by Subsection (b)(3) shall be
8 designated as follows:

9 (1) each municipality with a population of more than
10 500 but less than 12,000 located in the county shall nominate one
11 person using a nomination form sent to the governing body of the
12 municipality by mail;

13 (2) the county judge shall add the names on the
14 nomination forms that are received before the 31st day after the
15 date of the mailing of the nomination forms;

16 (3) each municipality with a population of more than
17 500 but less than 12,000 located in the county is entitled to cast
18 one vote;

19 (4) only ballots returned to the county judge on or
20 before a predetermined date shall be counted;

21 (5) the county judge shall designate the three persons
22 with the highest plurality vote as members of the interim executive
23 committee; and

24 (6) if three members are not designated by this

1 process, the county judge shall name the balance of the members of
2 the interim executive committee described by Subsection (b)(3).

3 SECTION 2. Section 460.059(d), Transportation Code, is
4 amended to read as follows:

5 (d) On adoption of the order confirming the authority, the
6 interim executive committee becomes the board of directors
7 [~~executive committee~~] of the authority.

8 SECTION 3. Section 460.104, Transportation Code, is amended
9 by adding Subsection (d) to read as follows:

10 (d) An authority may acquire rolling stock or other real or
11 personal property under a contract or trust agreement, including a
12 conditional sales contract, a lease, a lease-purchase agreement, or
13 an equipment trust.

14 SECTION 4. Sections 460.106(a) and (b), Transportation
15 Code, are amended to read as follows:

16 (a) An authority may call an authorization election for a
17 tax levy associated with the service plan developed by the interim
18 executive committee or a tax rate that has been modified by action
19 of the authority [~~executive committee~~] at any time after the
20 confirmation election that creates the authority.

21 (b) The authority [~~executive committee~~] in ordering the
22 authorization election shall submit to the qualified voters in the
23 county located in an area participating in the authority the
24 following proposition:

25 "Shall the (name of authority) levy of a proposed tax, not to
26 exceed (rate), be authorized?"

27 SECTION 5. The heading to Subchapter D, Chapter 460,

1 Transportation Code, is amended to read as follows:

2 SUBCHAPTER D. PROVISIONS APPLICABLE TO BOARD OF DIRECTORS

3 [~~EXECUTIVE COMMITTEE~~]

4 SECTION 6. Section 460.201(a), Transportation Code, is
5 amended to read as follows:

6 (a) Each member of the board of directors [~~executive~~
7 ~~committee~~] serves a term of two years.

8 SECTION 7. Section 460.202, Transportation Code, is amended
9 to read as follows:

10 Sec. 460.202. ELIGIBILITY. To be eligible for appointment
11 to the board of directors [~~executive committee~~], a person must have
12 professional experience in the field of transportation, business,
13 government, engineering, or law.

14 SECTION 8. Section 460.203, Transportation Code, is amended
15 to read as follows:

16 Sec. 460.203. CONFLICTS OF INTEREST. Members of the board
17 of directors [~~executive committee~~] and officers and employees of
18 the authority are subject to Chapter 171, Local Government Code.

19 SECTION 9. Sections 460.204(a) and (c), Transportation
20 Code, are amended to read as follows:

21 (a) The board of directors [~~executive committee~~] shall meet
22 at least monthly to transact the business of an authority.

23 (c) The board of directors [~~executive committee~~] by
24 resolution shall:

25 (1) set the time, place, and date of regular meetings;
26 and

27 (2) adopt rules and bylaws as necessary to conduct

1 meetings.

2 SECTION 10. Section 460.205, Transportation Code, is
3 amended to read as follows:

4 Sec. 460.205. QUORUM; VOTING REQUIREMENTS. (a) Five
5 members constitute a quorum of the board of directors [~~executive~~
6 ~~committee~~].

7 (b) An action of the board of directors [~~executive~~
8 ~~committee~~] requires a vote of a majority of the members present
9 unless the bylaws require a larger number for a specific action.

10 SECTION 11. Section 460.302, Transportation Code, is
11 amended to read as follows:

12 Sec. 460.302. ADDITION OF MUNICIPALITY BY ELECTION. (a)
13 The territory of a municipality that is not initially part of an
14 authority may be added to an authority if:

15 (1) any part of the municipality is located in the
16 territory of the authority;

17 (2) the governing body of the municipality requests in
18 writing that the authority call [~~orders~~] an election under this
19 section on whether the territory of the municipality should be
20 added to the authority, the authority calls the election, and
21 submits to the qualified voters of the municipality the following
22 proposition: "Shall the (name of authority) levy of a proposed tax,
23 not to exceed (rate), be authorized?"; and

24 (3) a majority of the votes received in the election
25 favor the measure.

26 (b) The governing body of the authority [~~municipality~~]
27 shall canvass the returns, declare the result, and notify the

1 comptroller and the department [~~certify to the executive committee~~
2 ~~the result of an election in which the addition is approved~~].

3 (c) If approval by a municipality would cause the tax in a
4 municipality that has imposed a dedicated or special-purpose sales
5 and use tax to exceed the limit imposed under Section 460.552(a),
6 the governing body of the municipality may request in writing that
7 an authority call an election under this section on whether the
8 territory of the municipality should be added with a combined
9 ballot proposition to lower or repeal any dedicated or
10 special-purpose sales and use tax. A combined ballot proposition
11 under this subsection:

12 (1) shall contain substantially the same language, if
13 any, required by law for the lowering, repealing, raising, or
14 adopting of each tax as appropriate; and

15 (2) that receives a negative vote shall have no effect
16 on either the sales tax to be lowered or repealed by the proposition
17 or the sales tax to be raised or adopted by the proposition.

18 (c-1) This section shall not be construed to change the
19 substantive law of any sales tax, including the allowed maximum
20 rate or combined rate of local sales taxes.

21 (d) At any time after the date of an election approving the
22 addition of a municipality under this section, the authority and
23 the governing body of the municipality may enter into an interlocal
24 agreement that provides for the eventual admission of the
25 municipality to the territory of the authority and for the payment
26 of proportional capital recovery fees as determined by the
27 authority. The authority is not required to provide transportation

1 services to the municipality until any capital recovery fees
2 provided for in the agreement are paid to the authority.

3 (e) A sales and use tax imposed by an authority takes effect
4 in a municipality added to the authority under this section on the
5 first day after the expiration of the first complete calendar
6 quarter that begins after the date the comptroller receives a
7 certified copy of an order adopted by the authority relating to the
8 addition of the municipality or other notice of the addition of the
9 municipality, accompanied by a map of the authority clearly showing
10 the territory added.

11 (f) In this section, "dedicated or special-purpose sales
12 and use tax" means a tax referred to or described by:

13 (1) Section 4A or 4B, Development Corporation Act of
14 1979 (Article 5190.6, Vernon's Texas Civil Statutes);

15 (2) Section 379A.081, Local Government Code;

16 (3) Section 363.055, Local Government Code; or

17 (4) Section 327.003, Tax Code.

18 SECTION 12. Section 460.304(a), Transportation Code, is
19 amended to read as follows:

20 (a) Except as provided by Section 460.302(e), a [A] sales
21 and use tax imposed by an authority takes effect in territory added
22 to the authority under this subchapter on the first day of the first
23 calendar quarter that begins after the addition of the territory.

24 SECTION 13. Section 460.401, Transportation Code, is
25 amended to read as follows:

26 Sec. 460.401. MANAGEMENT OF AUTHORITY. The board of
27 directors [~~executive committee~~] is responsible for the management,

1 operation, and control of the authority and its properties.

2 SECTION 14. Sections 460.402(a) and (c), Transportation
3 Code, are amended to read as follows:

4 (a) The [~~executive committee of an~~] authority shall have an
5 annual audit of the affairs of the authority prepared by an
6 independent certified public accountant.

7 (c) On receipt of the audit prescribed by Subsection (a),
8 the board of directors [~~executive committee~~] shall address on the
9 record any deficiencies noted in the report at a regular meeting of
10 the board of directors [~~executive committee~~].

11 SECTION 15. Section 460.403, Transportation Code, is
12 amended to read as follows:

13 Sec. 460.403. BUDGET. The board of directors [~~executive~~
14 ~~committee~~] shall prepare an annual budget.

15 SECTION 16. Section 460.406, Transportation Code, is
16 amended by amending Subsection (c) and by adding Subsection (d) to
17 read as follows:

18 (c) The board of directors [~~executive committee~~] may
19 authorize the negotiation of a contract without competitive sealed
20 bids or proposals if:

21 (1) the aggregate amount involved in the contract is
22 \$25,000 or less;

23 (2) the contract is for construction for which not
24 more than one bid or proposal is received;

25 (3) the contract is for services or property for which
26 there is only one source or for which it is otherwise impracticable
27 to obtain competition;

1 (4) the contract is to respond to an emergency for
2 which the public exigency does not permit the delay incident to the
3 competitive process;

4 (5) the contract is for personal or professional
5 services or services for which competitive bidding is precluded by
6 law; ~~[or]~~

7 (6) the contract, without regard to form and which may
8 include bonds, notes, loan agreements, or other obligations, is for
9 the purpose of borrowing money or is a part of a transaction
10 relating to the borrowing of money, including:

11 (A) a credit support agreement, such as a line or
12 letter of credit or other debt guaranty;

13 (B) a bond, note, debt sale or purchase, trustee,
14 paying agent, remarketing agent, indexing agent, or similar
15 agreement;

16 (C) an agreement with a securities dealer,
17 broker, or underwriter; and

18 (D) any other contract or agreement considered by
19 the board of directors ~~[executive committee]~~ to be appropriate or
20 necessary in support of the authority's financing activities;

21 (7) the contract is for work that is performed and paid
22 for by the day as the work progresses;

23 (8) the contract is for the purchase of land or a
24 right-of-way;

25 (9) the contract is for the purchase of personal
26 property sold:

27 (A) at an auction by a state licensed auctioneer;

1 (B) at a going out of business sale held in
2 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
3 or

4 (C) by a political subdivision of this state, a
5 state agency, or an entity of the federal government;

6 (10) the contract is for services performed by blind
7 or severely disabled persons;

8 (11) the contract is for the purchase of electricity;
9 or

10 (12) the contract is one awarded for alternate project
11 delivery under Sections 271.117-271.119, Local Government Code.

12 (d) For the purposes of entering into a contract authorized
13 by Subsection (c)(12), an authority is considered a "governmental
14 entity" as defined by Section 271.111, Local Government Code.

15 SECTION 17. Section 460.504, Transportation Code, is
16 amended to read as follows:

17 Sec. 460.504. SALE. An authority's bonds may be sold at a
18 public or private sale as determined by the board of directors
19 ~~[executive committee]~~ to be the more financially beneficial.

20 SECTION 18. Section 460.508(c), Transportation Code, is
21 amended to read as follows:

22 (c) The Texas ~~[Natural Resource Conservation]~~ Commission on
23 Environmental Quality is not required to approve notes issued under
24 this section.

25 SECTION 19. Sections 460.551(a), (b), (c), and (d),
26 Transportation Code, are amended to read as follows:

27 (a) The board of directors ~~[executive committee]~~ may impose

1 for an authority a sales and use tax at the rate of:

- 2 (1) one-quarter of one percent;
- 3 (2) three-eighths of one percent;
- 4 (3) one-half of one percent;
- 5 (4) five-eighths of one percent;
- 6 (5) three-quarters of one percent;
- 7 (6) seven-eighths of one percent; or
- 8 (7) one percent.

9 (b) The imposition of an authority's sales and use tax must
10 be approved at an election conducted in the manner provided by this
11 chapter and may not be imposed in an area that has not confirmed the
12 authority.

13 (c) A sales and use tax may be imposed, as prescribed by this
14 section, by a municipality that participates in a transportation or
15 transit authority other than an authority created under this
16 chapter if:

17 (1) the combined rates of all sales and use taxes
18 imposed in the municipality does not exceed two percent; and

19 (2) the ballot of the authorization vote for the sales
20 and use tax reads:

21 "(Name of city) already imposes a sales and use tax for
22 participation in the (name of transportation or transit authority)
23 [~~transportation authority~~]. The proposed sales and use tax is
24 solely for the benefit of, and will be dedicated to, the (name of
25 authority created under this chapter) [~~county transportation~~
26 ~~authority~~]."

27 (d) The authority shall impose a sales and use tax at a

1 minimum uniform rate as determined by the board of directors
2 [~~executive committee~~] if the tax is approved at an election in an
3 area that has confirmed the authority.

4 SECTION 20. Section 460.554, Transportation Code, is
5 amended to read as follows:

6 Sec. 460.554. RATE DECREASE. The board of directors
7 [~~executive committee~~] by order may direct the comptroller of public
8 accounts to collect the authority's sales and use tax at a rate that
9 is lower than the rate approved by the voters at the confirmation
10 hearing if the board of directors [~~executive committee~~] determines
11 that it is in the best interest of the authority.

12 SECTION 21. Section 321.107, Tax Code, is amended to read as
13 follows:

14 Sec. 321.107. ADMINISTRATION OF LOCAL SALES AND USE TAXES
15 IMPOSED BY OTHER GOVERNMENTAL ENTITIES. The imposition,
16 computation, administration, enforcement, and collection of any
17 local sales and use tax imposed by any other local governmental
18 entity is governed by this chapter, except as otherwise provided by
19 law. In this section, "other local governmental entity" includes
20 any governmental entity created by the legislature that has a
21 limited purpose or function, that has a defined or restricted
22 geographic territory, and that is authorized by law to impose a
23 local sales and use tax. The term does not include a county, county
24 health services district, county landfill and criminal detention
25 center district, metropolitan transportation authority,
26 coordinated county transportation authority, economic development
27 district, crime control district, hospital district, emergency

1 services district, or library district.

2 SECTION 22. Section 460.201(b), Transportation Code, is
3 repealed.

4 SECTION 23. (a) An election called and conducted
5 authorizing the levy of a sales and use tax, where a majority of
6 votes received favored the authorization of a sales and use tax levy
7 by or for the benefit of an authority created under Chapter 460,
8 Transportation Code, that occurred before the effective date of
9 this Act, is validated. Any acts or proceedings of an authority are
10 validated as of the dates they occurred.

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

14 SECTION 24. This Act takes effect September 1, 2007.