

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,
13 and 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. Subchapter C, Chapter 460, Transportation Code,

1 is amended by adding Section 460.1061 to read as follows:

2 Sec. 460.1061. INCREASE OF TAX LEVY; ELECTION. (a) Except
3 as provided by Subsection (d), in an election to increase the tax
4 rate, the ballots shall be printed to provide for voting for or
5 against the following proposition: "Shall the tax rate imposed by
6 (name of authority created under this chapter) increase to
7 (percentage)?"

8 (b) An election to increase the tax rate shall be conducted
9 so that votes are separately tabulated and canvassed and that the
10 result is declared in each unit of election in the authority as
11 follows:

12 (1) in each municipality in the authority; and

13 (2) in the unincorporated area of each county in the
14 authority.

15 (c) In an election to increase the rate of the authority's
16 sales and use tax, if a majority of the votes received in each
17 municipality in the authority and in the unincorporated area of
18 each county in the authority favor the proposition, the authority
19 shall increase the tax rate.

20 (d) If the approval of the authority's proposed tax rate
21 increase would cause the tax in a municipality that has imposed a
22 dedicated or special-purpose municipal sales and use tax to exceed
23 the limit imposed under Section 460.551(c)(1), the governing body
24 of the municipality may request in writing that an authority call an
25 election imposing a tax increase with a combined ballot proposition
26 to lower or repeal any dedicated or special purpose municipal sales
27 tax. The election shall otherwise be conducted in accordance with

1 Section 321.409, Tax Code.

2 (e) In this section and in Section 460.302, "dedicated or
3 special purpose sales and use tax" means a tax referred to or
4 described by:

5 (1) Section 4A or 4B, Development Corporation Act of
6 1979 (Article 5190.6, Vernon's Texas Civil Statutes);

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

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

9 (4) Section 327.003, Tax Code.

10 SECTION 6. The heading to Subchapter D, Chapter 460,
11 Transportation Code, is amended to read as follows:

12 SUBCHAPTER D. PROVISIONS APPLICABLE TO BOARD OF DIRECTORS

13 [~~EXECUTIVE COMMITTEE~~]

14 SECTION 7. Section 460.201(a), Transportation Code, is
15 amended to read as follows:

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

18 SECTION 8. Section 460.202, Transportation Code, is amended
19 to read as follows:

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

24 SECTION 9. Section 460.203, Transportation Code, is amended
25 to read as follows:

26 Sec. 460.203. CONFLICTS OF INTEREST. Members of the board
27 of directors [~~executive committee~~] and officers and employees of

1 the authority are subject to Chapter 171, Local Government Code.

2 SECTION 10. Sections 460.204(a) and (c), Transportation
3 Code, are amended to read as follows:

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

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

8 (1) set the time, place, and date of regular meetings;
9 and

10 (2) adopt rules and bylaws as necessary to conduct
11 meetings.

12 SECTION 11. Section 460.205, Transportation Code, is
13 amended to read as follows:

14 Sec. 460.205. QUORUM; VOTING REQUIREMENTS. (a) Five
15 members constitute a quorum of the board of directors [~~executive
16 committee~~].

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

20 SECTION 12. Section 460.302, Transportation Code, is
21 amended to read as follows:

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

25 (1) any part of the municipality is located in the
26 territory of the authority;

27 (2) the governing body of the municipality requests in

1 writing that the authority call [~~orders~~] an election under this
2 section on whether the territory of the municipality should be
3 added to the authority, the authority calls the election, and
4 submits to the qualified voters of the municipality the following
5 proposition: "Shall the (name of the authority) levy of a proposed
6 tax, not to exceed (rate), be authorized?"; and

7 (3) a majority of the votes received in the election
8 favor the measure.

9 (b) The governing body of the authority [~~municipality~~]
10 shall canvas the returns, declare the result, and notify the
11 comptroller and the department [~~certify to the executive committee~~
12 ~~the result of an election in which the addition is approved~~].

13 (c) If approval by a municipality on being added to an
14 authority would cause the tax in a municipality that has imposed a
15 dedicated or special-purpose municipal sales and use tax to exceed
16 the limit imposed under Section 460.551(c)(1), the governing body
17 of the municipality may request in writing that an authority call an
18 election under this section on whether the territory of the
19 municipality should be added with a combined ballot proposition to
20 lower or repeal any dedicated or special purpose municipal sales
21 tax. The election shall otherwise be conducted in accordance with
22 Section 321.409, Tax Code.

23 (d) At any time after the date of an election approving the
24 addition of a municipality under this section, the executive
25 committee and the governing body of the municipality may enter into
26 an interlocal agreement that provides for the eventual admission of
27 the municipality to the territory of the authority and for the

1 payment of capital recovery fees as determined by the executive
2 committee. The authority is not required to provide transportation
3 services to the municipality until any capital recovery fees
4 provided for in the agreement are paid to the authority.

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

13 SECTION 13. Section 460.304(a), Transportation Code, is
14 amended to read as follows:

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

19 SECTION 14. Section 460.401, Transportation Code, is
20 amended to read as follows:

21 Sec. 460.401. MANAGEMENT OF AUTHORITY. The board of
22 directors [~~executive committee~~] is responsible for the management,
23 operation, and control of the authority and its properties.

24 SECTION 15. Sections 460.402(a) and (c), Transportation
25 Code, are amended to read as follows:

26 (a) The [~~executive committee of an~~] authority shall have an
27 annual audit of the affairs of the authority prepared by an

1 independent certified public accountant.

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

6 SECTION 16. Section 460.403, Transportation Code, is
7 amended to read as follows:

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

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

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

16 (1) the aggregate amount involved in the contract is
17 \$25,000 or less;

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

20 (3) the contract is for services or property for which
21 there is only one source or for which it is otherwise impracticable
22 to obtain competition;

23 (4) the contract is to respond to an emergency for
24 which the public exigency does not permit the delay incident to the
25 competitive process;

26 (5) the contract is for personal or professional
27 services or services for which competitive bidding is precluded by

1 law; ~~or~~]

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

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

8 (B) a bond, note, debt sale or purchase, trustee,
9 paying agent, remarketing agent, indexing agent, or similar
10 agreement;

11 (C) an agreement with a securities dealer,
12 broker, or underwriter; and

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

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

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

20 (9) the contract is for the purchase of personal
21 property sold:

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

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

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

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

3 (11) the contract is for the purchase of electricity;
4 or

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

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

10 SECTION 18. Section 460.504, Transportation Code, is
11 amended to read as follows:

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

15 SECTION 19. Section 460.508(c), Transportation Code, is
16 amended to read as follows:

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

20 SECTION 20. Sections 460.551(a), (b), (c), and (d),
21 Transportation Code, are amended to read as follows:

22 (a) The board of directors [~~executive committee~~] may impose
23 for an authority a sales and use tax at the rate of:

24 (1) one-quarter of one percent;

25 (2) three-eighths of one percent;

26 (3) one-half of one percent;

27 (4) five-eighths of one percent;

- 1 (5) three-quarters of one percent;
2 (6) seven-eighths of one percent; or
3 (7) one percent.

4 (b) The imposition of an authority's sales and use tax must
5 be approved at an election conducted in the manner provided by
6 Section 460.1061 or 460.302 and may not be imposed in an area that
7 has not confirmed the authority.

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

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

14 (2) the ballot of the authorization vote for the sales
15 and use tax reads:

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

22 (d) The authority shall impose a sales and use tax at a
23 minimum uniform rate as determined by the board of directors
24 [~~executive committee~~] if the tax is approved at an election in an
25 area that has confirmed the authority.

26 SECTION 21. Section 460.554, Transportation Code, is
27 amended to read as follows:

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

7 SECTION 22. Section 321.409(d), Tax Code, is amended to
8 read as follows:

9 (d) This section does not apply to sales tax elections
10 called by any method other than by the governing body, except as
11 provided by Section 460.1061, Transportation Code.

12 SECTION 23. Section 460.201(b), Transportation Code, is
13 repealed.

14 SECTION 24. (a) An election called and conducted
15 authorizing the levy of a sales and use tax, where a majority of
16 votes received favored the authorization of a sales and use tax levy
17 by or for the benefit of an authority created under Chapter 460,
18 Transportation Code, that occurred before the effective date of
19 this Act, is validated. Any acts or proceedings of an authority are
20 validated as of the dates they occurred.

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

24 SECTION 25. This Act takes effect September 1, 2007.