

1-1 By: Solomons (Senate Sponsor - Brimer) H.B. No. 2682
1-2 (In the Senate - Received from the House April 30, 2007;
1-3 May 2, 2007, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 8, 2007, reported
1-5 favorably by the following vote: Yeas 8, Nays 0; May 8, 2007, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the administration and powers of a coordinated county
1-10 transportation authority.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 460.054(c), Transportation Code, is
1-13 amended to read as follows:

1-14 (c) The members described by Subsection (b)(3) shall be
1-15 designated as follows:

1-16 (1) each municipality with a population of more than
1-17 500 but less than 12,000 located in the county shall nominate one
1-18 person using a nomination form sent to the governing body of the
1-19 municipality by mail;

1-20 (2) the county judge shall add the names on the
1-21 nomination forms that are received before the 31st day after the
1-22 date of the mailing of the nomination forms;

1-23 (3) each municipality with a population of more than
1-24 500 but less than 12,000 located in the county is entitled to cast
1-25 one vote;

1-26 (4) only ballots returned to the county judge on or
1-27 before a predetermined date shall be counted;

1-28 (5) the county judge shall designate the three persons
1-29 with the highest plurality vote as members of the interim executive
1-30 committee; and

1-31 (6) if three members are not designated by this
1-32 process, the county judge shall name the balance of the members of
1-33 the interim executive committee described by Subsection (b)(3).

1-34 SECTION 2. Section 460.059(d), Transportation Code, is
1-35 amended to read as follows:

1-36 (d) On adoption of the order confirming the authority, the
1-37 interim executive committee becomes the board of directors
1-38 [~~executive committee~~] of the authority.

1-39 SECTION 3. Section 460.104, Transportation Code, is amended
1-40 by adding Subsection (d) to read as follows:

1-41 (d) An authority may acquire rolling stock or other real or
1-42 personal property under a contract or trust agreement, including a
1-43 conditional sales contract, a lease, a lease-purchase agreement, or
1-44 an equipment trust.

1-45 SECTION 4. Sections 460.106(a) and (b), Transportation
1-46 Code, are amended to read as follows:

1-47 (a) An authority may call an authorization election for a
1-48 tax levy associated with the service plan developed by the interim
1-49 executive committee or a tax rate that has been modified by action
1-50 of the authority [~~executive committee~~] at any time after the
1-51 confirmation election that creates the authority.

1-52 (b) The authority [~~executive committee~~] in ordering the
1-53 authorization election shall submit to the qualified voters in the
1-54 county located in an area participating in the authority the
1-55 following proposition:

1-56 "Shall the (name of authority) levy of a proposed tax, not to
1-57 exceed (rate), be authorized?"

1-58 SECTION 5. The heading to Subchapter D, Chapter 460,
1-59 Transportation Code, is amended to read as follows:

1-60 SUBCHAPTER D. PROVISIONS APPLICABLE TO BOARD OF DIRECTORS
1-61 [~~EXECUTIVE COMMITTEE~~]

1-62 SECTION 6. Section 460.201(a), Transportation Code, is
1-63 amended to read as follows:

1-64 (a) Each member of the board of directors [~~executive~~

~~committee~~] serves a term of two years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) At any time after the date of an election approving the

3-1 addition of a municipality under this section, the authority and
 3-2 the governing body of the municipality may enter into an interlocal
 3-3 agreement that provides for the eventual admission of the
 3-4 municipality to the territory of the authority and for the payment
 3-5 of proportional capital recovery fees as determined by the
 3-6 authority. The authority is not required to provide transportation
 3-7 services to the municipality until any capital recovery fees
 3-8 provided for in the agreement are paid to the authority.

3-9 (e) A sales and use tax imposed by an authority takes effect
 3-10 in a municipality added to the authority under this section on the
 3-11 first day after the expiration of the first complete calendar
 3-12 quarter that begins after the date the comptroller receives a
 3-13 certified copy of an order adopted by the authority relating to the
 3-14 addition of the municipality or other notice of the addition of the
 3-15 municipality, accompanied by a map of the authority clearly showing
 3-16 the territory added.

3-17 (f) In this section, "dedicated or special-purpose sales
 3-18 and use tax" means a tax referred to or described by:

3-19 (1) Section 4A or 4B, Development Corporation Act of
 3-20 1979 (Article 5190.6, Vernon's Texas Civil Statutes);

3-21 (2) Section 379A.081, Local Government Code;

3-22 (3) Section 363.055, Local Government Code; or

3-23 (4) Section 327.003, Tax Code.

3-24 SECTION 12. Section 460.304(a), Transportation Code, is
 3-25 amended to read as follows:

3-26 (a) Except as provided by Section 460.302(e), a [A] sales
 3-27 and use tax imposed by an authority takes effect in territory added
 3-28 to the authority under this subchapter on the first day of the first
 3-29 calendar quarter that begins after the addition of the territory.

3-30 SECTION 13. Section 460.401, Transportation Code, is
 3-31 amended to read as follows:

3-32 Sec. 460.401. MANAGEMENT OF AUTHORITY. The board of
 3-33 directors [~~executive committee~~] is responsible for the management,
 3-34 operation, and control of the authority and its properties.

3-35 SECTION 14. Sections 460.402(a) and (c), Transportation
 3-36 Code, are amended to read as follows:

3-37 (a) The [~~executive committee of an~~] authority shall have an
 3-38 annual audit of the affairs of the authority prepared by an
 3-39 independent certified public accountant.

3-40 (c) On receipt of the audit prescribed by Subsection (a),
 3-41 the board of directors [~~executive committee~~] shall address on the
 3-42 record any deficiencies noted in the report at a regular meeting of
 3-43 the board of directors [~~executive committee~~].

3-44 SECTION 15. Section 460.403, Transportation Code, is
 3-45 amended to read as follows:

3-46 Sec. 460.403. BUDGET. The board of directors [~~executive~~
 3-47 ~~committee~~] shall prepare an annual budget.

3-48 SECTION 16. Section 460.406, Transportation Code, is
 3-49 amended by amending Subsection (c) and by adding Subsection (d) to
 3-50 read as follows:

3-51 (c) The board of directors [~~executive committee~~] may
 3-52 authorize the negotiation of a contract without competitive sealed
 3-53 bids or proposals if:

3-54 (1) the aggregate amount involved in the contract is
 3-55 \$25,000 or less;

3-56 (2) the contract is for construction for which not
 3-57 more than one bid or proposal is received;

3-58 (3) the contract is for services or property for which
 3-59 there is only one source or for which it is otherwise impracticable
 3-60 to obtain competition;

3-61 (4) the contract is to respond to an emergency for
 3-62 which the public exigency does not permit the delay incident to the
 3-63 competitive process;

3-64 (5) the contract is for personal or professional
 3-65 services or services for which competitive bidding is precluded by
 3-66 law; [~~or~~]

3-67 (6) the contract, without regard to form and which may
 3-68 include bonds, notes, loan agreements, or other obligations, is for
 3-69 the purpose of borrowing money or is a part of a transaction

4-1 relating to the borrowing of money, including:

4-2 (A) a credit support agreement, such as a line or
4-3 letter of credit or other debt guaranty;

4-4 (B) a bond, note, debt sale or purchase, trustee,
4-5 paying agent, remarketing agent, indexing agent, or similar
4-6 agreement;

4-7 (C) an agreement with a securities dealer,
4-8 broker, or underwriter; and

4-9 (D) any other contract or agreement considered by
4-10 the board of directors [~~executive committee~~] to be appropriate or
4-11 necessary in support of the authority's financing activities;

4-12 (7) the contract is for work that is performed and paid
4-13 for by the day as the work progresses;

4-14 (8) the contract is for the purchase of land or a
4-15 right-of-way;

4-16 (9) the contract is for the purchase of personal
4-17 property sold:

4-18 (A) at an auction by a state licensed auctioneer;

4-19 (B) at a going out of business sale held in
4-20 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
4-21 or

4-22 (C) by a political subdivision of this state, a
4-23 state agency, or an entity of the federal government;

4-24 (10) the contract is for services performed by blind
4-25 or severely disabled persons;

4-26 (11) the contract is for the purchase of electricity;
4-27 or

4-28 (12) the contract is one awarded for alternate project
4-29 delivery under Sections 271.117-271.119, Local Government Code.

4-30 (d) For the purposes of entering into a contract authorized
4-31 by Subsection (c)(12), an authority is considered a "governmental
4-32 entity" as defined by Section 271.111, Local Government Code.

4-33 SECTION 17. Section 460.504, Transportation Code, is
4-34 amended to read as follows:

4-35 Sec. 460.504. SALE. An authority's bonds may be sold at a
4-36 public or private sale as determined by the board of directors
4-37 [~~executive committee~~] to be the more financially beneficial.

4-38 SECTION 18. Section 460.508(c), Transportation Code, is
4-39 amended to read as follows:

4-40 (c) The Texas [~~Natural Resource Conservation~~] Commission on
4-41 Environmental Quality is not required to approve notes issued under
4-42 this section.

4-43 SECTION 19. Sections 460.551(a), (b), (c), and (d),
4-44 Transportation Code, are amended to read as follows:

4-45 (a) The board of directors [~~executive committee~~] may impose
4-46 for an authority a sales and use tax at the rate of:

- 4-47 (1) one-quarter of one percent;
4-48 (2) three-eighths of one percent;
4-49 (3) one-half of one percent;
4-50 (4) five-eighths of one percent;
4-51 (5) three-quarters of one percent;
4-52 (6) seven-eighths of one percent; or
4-53 (7) one percent.

4-54 (b) The imposition of an authority's sales and use tax must
4-55 be approved at an election conducted in the manner provided by this
4-56 chapter and may not be imposed in an area that has not confirmed the
4-57 authority.

4-58 (c) A sales and use tax may be imposed, as prescribed by this
4-59 section, by a municipality that participates in a transportation or
4-60 transit authority other than an authority created under this
4-61 chapter if:

4-62 (1) the combined rates of all sales and use taxes
4-63 imposed in the municipality does not exceed two percent; and

4-64 (2) the ballot of the authorization vote for the sales
4-65 and use tax reads:

4-66 "(Name of city) already imposes a sales and use tax for
4-67 participation in the (name of transportation or transit authority)
4-68 [~~transportation authority~~]. The proposed sales and use tax is
4-69 solely for the benefit of, and will be dedicated to, the (name of

5-1 authority created under this chapter) [~~county transportation~~
5-2 ~~authority~~]."

5-3 (d) The authority shall impose a sales and use tax at a
5-4 minimum uniform rate as determined by the board of directors
5-5 [~~executive committee~~] if the tax is approved at an election in an
5-6 area that has confirmed the authority.

5-7 SECTION 20. Section 460.554, Transportation Code, is
5-8 amended to read as follows:

5-9 Sec. 460.554. RATE DECREASE. The board of directors
5-10 [~~executive committee~~] by order may direct the comptroller of public
5-11 accounts to collect the authority's sales and use tax at a rate that
5-12 is lower than the rate approved by the voters at the confirmation
5-13 hearing if the board of directors [~~executive committee~~] determines
5-14 that it is in the best interest of the authority.

5-15 SECTION 21. Section 321.107, Tax Code, is amended to read as
5-16 follows:

5-17 Sec. 321.107. ADMINISTRATION OF LOCAL SALES AND USE TAXES
5-18 IMPOSED BY OTHER GOVERNMENTAL ENTITIES. The imposition,
5-19 computation, administration, enforcement, and collection of any
5-20 local sales and use tax imposed by any other local governmental
5-21 entity is governed by this chapter, except as otherwise provided by
5-22 law. In this section, "other local governmental entity" includes
5-23 any governmental entity created by the legislature that has a
5-24 limited purpose or function, that has a defined or restricted
5-25 geographic territory, and that is authorized by law to impose a
5-26 local sales and use tax. The term does not include a county, county
5-27 health services district, county landfill and criminal detention
5-28 center district, metropolitan transportation authority,
5-29 coordinated county transportation authority, economic development
5-30 district, crime control district, hospital district, emergency
5-31 services district, or library district.

5-32 SECTION 22. Section 460.201(b), Transportation Code, is
5-33 repealed.

5-34 SECTION 23. (a) An election called and conducted
5-35 authorizing the levy of a sales and use tax, where a majority of
5-36 votes received favored the authorization of a sales and use tax levy
5-37 by or for the benefit of an authority created under Chapter 460,
5-38 Transportation Code, that occurred before the effective date of
5-39 this Act, is validated. Any acts or proceedings of an authority are
5-40 validated as of the dates they occurred.

5-41 (b) This Act does not validate any governmental act or
5-42 proceeding that, under the law of this state at the time the act or
5-43 proceeding occurred, was a misdemeanor or a felony.

5-44 SECTION 24. This Act takes effect September 1, 2007.

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