

BILL ANALYSIS

C.S.S.B. 2015
By: Watson
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In December 2008, a Capital Area Metropolitan Planning Organization (CAMPO) peer review of the Capital Metropolitan Transportation Authority made a series of findings and recommendations regarding the authority's performance compared to similar transit authorities and compared to authorities that stakeholders identified as models.

When the current board composition was enacted, it was with an eye toward providing representation of the service area. Since that time, the board lost its balance of equitable representation when numerous jurisdictions withdrew.

Capital Metro is the only metropolitan transit authority in Texas required to have a referendum to operate, maintain, or construct a passenger rail facility even if it does not need to sell bonds or increase taxes. It must hold those elections in November of even-numbered years. A referendum can be held on any general, uniform election date.

C.S.S.B. 2015 provides that the establishment of or a change to fares, tolls, charges, rents, and other compensation by a metropolitan rapid transit authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 takes effect immediately on approval by a majority vote of the governing body of the authority. The bill provides that no referendum is required for that authority to build, operate, or maintain certain fixed rail transit systems under certain circumstances. The bill also modifies the composition of the board.

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.S.B. 2015 amends the Transportation Code to designate that the establishment of or a change to fares, tolls, charges, rents, and other compensation by a metropolitan rapid transit authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 takes effect immediately on approval by a majority vote of the board of the authority, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

C.S.S.B. 2015 establishes that provisions of law relating to a referendum for a rail plan in an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 do not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement to build, operate, or maintain a fixed rail transit system for another entity. The bill prohibits the authority from expending funds of the authority, other than funds spent as part of entering into the contract or interlocal agreement, to build, operate, or

maintain a fixed rail system if not authorized in a referendum. The bill establishes that a referendum called by a jurisdiction or entity other than the authority in which funding is approved for a fixed rail transit system and the notice of election is made in accordance with notice requirements under provisions for a referendum of a rail plan is deemed to meet the election requirements under those provisions and the requirements under provisions relating to bonds for a rail system for such an authority to operate a fixed rail transit system. The bill authorizes the referendum to allow for financial participation of more than one jurisdiction or entity and authorizes the authority to only expend funds of the authority if the referendum so authorizes.

C.S.S.B. 2015 requires the board of such an authority to enter into a contract with a qualified individual to perform internal auditing services as specified in the contract. The bill authorizes such a contract to be renewed for subsequent fiscal years of the authority, prohibits the contract from being renewed for more than three consecutive fiscal years, and requires the contract to require the auditor to report directly to the board. The bill makes such an authority subject to review under the Texas Sunset Act as if it were a state agency but prohibits abolishment of the authority under the Act. The bill requires the review to be conducted as if the authority were scheduled to be abolished September 1, 2011, and requires another review to be conducted as if the authority were scheduled to be abolished September 1, 2016. The bill requires those reviews to include an assessment of the governance, management, and operating structure of the authority and the authority's compliance with the duties and requirements placed on it by the legislature. The bill requires the authority to pay the cost incurred by the Sunset Advisory Commission in performing those reviews, requires the commission to determine the cost, and requires the authority to pay the amount promptly on receipt of a statement from the commission detailing the cost.

C.S.S.B. 2015 requires such an authority to annually provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county.

C.S.S.B. 2015 makes a conforming change to provisions regarding the composition of the board of such an authority to specify that they are applicable only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 750,000, rather than to the board of an authority in which each member of the governing body of the principal municipality is elected at large. The bill removes the provision establishing that the board is composed of seven members and changes the composition of board. The bill specifies that one board member who is an elected official, rather than two members representing the general public, is appointed by the metropolitan planning organization designated by the governor that serves the area of the authority; one member who is an elected official, rather than two members, is appointed by the governing body of the principal municipality; and one board member is jointly appointed by the governing body of the principal municipality and the commissioners court of the principal county, rather than solely by the commissioners court. The bill adds one board member who is jointly appointed by the governing body of the principal municipality and the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority. The bill removes the board member appointed by a panel composed of the mayors of all the municipalities in the authority located in the principal county of the authority, excluding the mayor of the principal municipality. The bill specifies that one board member who is an elected official is appointed by a panel composed of the mayors of all municipalities in the authority, excluding the mayor of the principal municipality. The bill removes the board member who is appointed by a panel composed of the mayors of all municipalities in the authority, excluding the mayor of the principal municipality, located outside the principal county of the authority; the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and the presiding officer of each municipal utility district that has a majority of its territory located outside the principal county and is located wholly or partly in the authority. The bill adds one board member who has at least 10 years of professional financial or accounting experience

appointed by the metropolitan planning organization that serves the area in which the authority is located; one board member who has at least 10 years of experience in an executive-level position in a public or private organization, including a governmental entity, appointed by the metropolitan planning authority serving the area in which the authority is located; and two board members appointed by the metropolitan planning organization, if according to the most recent federal decennial census more than 35 percent of the population in the territory of the authority resides outside the principal municipality.

C.S.S.B. 2015 specifies that members of the board serve staggered three-year terms, with the terms of two or three members, as applicable, expiring June 1 of each year. The bill establishes that the members who are elected officials are included in the requirement that the person be a member of the governing body of the political subdivision entitled to make the appointment or over which a member of the panel entitled to make an appointment presides and be subject to certain other provisions, and removes certain other members from that requirement.

C.S.S.B. 2015 requires at least two of three specified members—one who is an elected official appointed by the metropolitan planning organization, one with financial or accounting experience, and one with executive-level experience—to be qualified voters residing in the principal municipality. The bill requires the member jointly appointed by the governing body of the principal municipality and the commissioners court of the principal county to have the member's principal place of occupation or employment in the principal municipality or the portion of the authority's service area located in the principal county, or to be a qualified voter of either jurisdiction. The bill requires a member jointly appointed by the governing body of the principal municipality and the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority to have the person's principal place of occupation or employment in the principal municipality or the portion of the authority's service area located in the county, other than the principal county, that has the largest population of the counties in the authority, or to be a qualified voter of either jurisdiction. The bill establishes that a joint appointment to the board will be by agreement of the municipality and county not later than the 60th day after the date a position becomes vacant.

C.S.S.B. 2015 establishes that the term of a member of the board of the authority that is scheduled, under the law as it existed before the bill's effective date, to expire after the bill's effective date but before January 1, 2010, is extended to December 31, 2009, and a term scheduled to expire, under that previous law, on or after January 1, 2010, expires on the date scheduled under that law. The bill establishes that, as soon as practicable on or after the effective date of the bill, but not later than December 31, 2009, the persons and entities specified shall appoint the members of the board in compliance with the changes made by the bill to serve terms that begin January 1, 2010, or the day after the current term expires, as applicable. The bill establishes that a vacancy created because of the expiration of a term as provided above is filled in the manner for appointment provided above. The bill requires the members of the board appointed under those provisions to draw lots to determine which terms of three members expire June 1, 2011, which terms of three members expire June 1, 2012, and which terms of three members expire June 1, 2013.

C.S.S.B. 2015 repeals Sections 451.5021(g) and (h), Transportation Code, establishing that board composition provisions continue to apply to a board composed under those provisions, notwithstanding a change in the method of electing the members of the governing body of the principal municipality, and requiring the principal municipality to make its appointments to the board so that at least one of the appointees is designated to represent the interests of persons who are transportation disadvantaged. The bill repeals Section 451.505(b)(2), Transportation Code, establishing staggered terms for the members of the board of an authority confirmed before July 1, 1985, and with a principal municipality with a population of less than 750,000.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 2015 differs from the original by specifying that provisions of law relating to a referendum for a rail plan in an authority to which the bill's provisions apply do not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement, rather than only a contract as in the original, to build, operate, or maintain a fixed rail transit system for another entity. The substitute omits a provision in the original establishing that those provisions do not require such an authority to hold a referendum on a proposal to expand a system previously approved under those provisions if the proposed expansion involves the addition of not more than one mile of track to the system and improves the operational performance of the system. The substitute adds a provision not in the original prohibiting the authority from expending funds of the authority, other than funds spent entering into the contract or interlocal agreement, to build, operate, or maintain a fixed rail system if not authorized in a referendum.

C.S.S.B. 2015 adds provisions not in the original establishing that a referendum called by a jurisdiction or entity other than the authority in which funding is approved for a fixed rail transit system and the notice of election is made in accordance with requirements under provisions regarding referendums for rail plans in such authorities is deemed to meet the election requirements under those provisions and the requirements under provisions regarding bonds for a rail system in such authorities for the authority to operate a fixed rail transit system. The substitute adds provisions not in the original authorizing the referendum to allow for financial participation of more than one jurisdiction or entity and authorizing the authority to expend funds of the authority only if authorized by the referendum.

C.S.S.B. 2015 adds language not in the original prohibiting a contract for internal auditing services from being renewed for more than three consecutive fiscal years. The substitute adds a provision not in the original requiring sunset reviews of the authority conducted under the bill's provisions to include certain assessments of the authority and the authority's compliance with the duties and requirements placed on it by the legislature. The substitute differs from the original by requiring the authority to annually provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county, whereas the original requires the authority to annually provide an oral report to the governing body of the principal municipality regarding the status of any financial obligation of the authority to the municipality.

C.S.S.B. 2015 omits a provision in the original establishing that the panel appointing one member who is an elected official to the board contains each member of a commissioners court who represents a commissioner precinct that includes an unincorporated area of the county in the authority. The substitute differs from the original by specifying as one of the alternative eligibility criteria for a person jointly appointed to the board by the governing body of the principal municipality and the commissioners court of the principal county that the person's principal place of occupation or employment be in the portion of the authority's service area located in the principal county, rather than in a county commissioners precinct represented by a member of the panel that appointed the person as in the original, or that the person be a qualified voter of the portion of the authority's service area located in the principal county, rather than in a county commissioners precinct represented by a member of the panel that appointed the person as in the original. The substitute adds a provision not in the original requiring a person jointly appointed to the board by the principal municipality's governing body and the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority to have the person's principal place of occupation or employment in the principal municipality or the portion of the authority's service area located in the county, other than the

principal county, that has the largest population of the counties in the authority, or to be a qualified voter of either jurisdiction. The substitute adds a provision not in the original establishing that a joint board appointment will be by agreement of the municipality and county not later than the 60th day after the date a position becomes vacant.

C.S.S.B. 2015 repeals a provision of existing law not repealed in the original that establishes staggered terms for the members of the board of an authority confirmed before July 1, 1985, and having a principal municipality with a population of less than 750,000. The substitute differs from the original by changing the dates for the expiration of the terms of current board members and the appointment of new members to the board set out in the original.