

## **BILL ANALYSIS**

C.S.S.B. 2096  
By: Wentworth  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In an effort to address local and regional transportation needs, the creation of a variety of entities has been authorized by the state, including metropolitan transit authorities, regional mobility authorities, and advanced transportation districts. Each such entity has a distinct scope of authority, unique financing options, and its own governance guidelines and planning responsibilities. In urban areas, the multitude of transportation development can lead to inefficiencies and even duplication in planning, financing, and developing the facilities that will best meet a community's needs.

Additionally, as urban populations increase, the need for both congestion mitigation and mass transit options increases. Coordinating the development of transportation facilities permits the joint financing of transit and roadway projects, allowing multiple revenue sources to support a menu of multimodal transportation options for a community.

C.S.S.B. 2096 authorizes certain communities that have already created a regional mobility authority, a metropolitan rapid transit authority, and an advanced transportation district, to create an urban transportation authority to replace those entities.

### **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. 2096 amends the Transportation Code to authorize the governing body of a rapid transit authority in which the principal municipality has a population of more than 700,000 and in the territory of which both an advanced transportation district and a regional mobility authority exist, to approve and submit a petition to the governing bodies of the advanced transportation district and the regional mobility authority that seeks consent to the creation of an urban transportation authority.

C.S.S.B. 2096 authorizes creation of an urban transportation authority to occur if each of the following authorities consents: the governing body of the principal municipality in the rapid transit authority and the commissioners court of each county in which the rapid transit authority is located and in which a sales and use tax is collected under provisions for a metropolitan rapid transit authority; the governing body of the regional mobility authority; the commissioners court of each county in which the regional mobility authority is located; the governing body of the advanced transportation district; and the commissioners court of each county and the governing body of the principal municipality in which the advanced transportation district is located.

C.S.S.B. 2096 requires the petition of the rapid transit authority and the consents described above to approve the transfer of the assets, liabilities, rights, and obligations of each entity to the urban transportation authority or to make adequate provision for the transfer by the applicable

entity.

C.S.S.B. 2096 specifies that an urban transportation authority is created only after the occurrence of the actions required by the bill, and clarifies that such an authority is considered to have been created on the first day of the calendar month after the month in which the final required action is taken. The bill grants to such an authority the rights, powers, duties, and privileges granted to a metropolitan rapid transit authority under provisions for a metropolitan rapid transit authority, to an urban transportation authority under provisions of the bill, to an advanced transportation district under state law, and to a regional mobility authority under the Regional Mobility Authority Act, including the right to plan and develop transportation projects in any county in which the urban transportation authority is located.

C.S.S.B. 2096 provides that the urban transportation authority becomes the successor entity to the rapid transit authority, the advanced transportation district, and the regional mobility authority on the date the urban transportation authority is considered to have been created, and that on that date the metropolitan rapid transit authority, the advanced transportation district, and the regional mobility authority cease to exist.

C.S.S.B. 2096 establishes that the urban transportation authority succeeds to and is obligated for all assets, liabilities, rights, and obligations not otherwise provided for of the rapid transit authority, the advanced transportation district, and the regional mobility authority, on terms and conditions that, upon succession, are no less beneficial to employees than those extant immediately before the creation of the urban transportation authority, including continuation of all rights, privileges, and benefits such as pension rights and benefits, wages, and working conditions, afforded to employees under an existing agreement.

C.S.S.B. 2096 grants to an urban transportation authority the powers necessary or convenient to implement this bill or to effect a purpose of this bill. The bill authorizes the authority through its governing board to plan, study, evaluate, design, finance, acquire, construct, maintain, repair, and operate a transportation project, individually or as one or more comprehensive transportation systems.

C.S.S.B. 2096 grants to such an authority all of the rights, powers, duties, and privileges granted to a rapid transit authority by provisions for a metropolitan rapid transit authority, granted to a regional mobility authority by the Regional Mobility Authority Act, and granted to an advanced transportation district by statute. The bill provides that such a right, power, duty, or privilege of an urban transportation authority may be exercised independently or in combination to effect the purposes of the bill, and that in the event of a conflict, the most liberal provision applies, except as otherwise provided by the bill.

C.S.S.B. 2096 authorizes an urban transportation authority to develop and operate a transit system, set fares and other charges, and develop stations or terminal complexes for the use of the transit system and related right-of-way in the manner and to the extent that a rapid transit authority is authorized by provisions for a metropolitan rapid transit authority. The bill grants to an urban transportation authority any right, power, duty, or privilege granted by the Regional Mobility Authority Act to a regional mobility authority that relates to mass transit or a transit system and that is not in conflict with provisions of the bill.

C.S.S.B. 2096 authorizes an urban transportation authority to impose any kind of tax or fee other than a property tax, including a sales and use tax. The bill provides that the applicable provisions of the law governing a metropolitan rapid transit authority, including provisions for an advanced transportation district, and the Regional Mobility Authority Act apply to the imposition of a fee or tax by the urban transportation authority. The bill provides that if the legislature enacts provisions for local option transportation financing through a transportation finance authority or a centralized transportation finance entity, an urban transportation authority may serve as such an entity.

C.S.S.B. 2096 authorizes an urban transportation authority to develop and operate a turnpike project, and requires the turnpike project to be developed and operated under the provisions of the Regional Mobility Authority Act, including any provision relating to the setting of toll rates. The bill requires the board of directors of the urban transportation authority to allocate the proceeds of the advanced transportation district sales and use tax in compliance with provisions for an advanced transportation district, unless otherwise provided by the bill.

C.S.S.B. 2096 provides that an election relating to the sales and use tax or the boundaries of an advanced transportation district is governed by provisions for an advanced transportation district relating to such an election, unless otherwise provided by the bill. The bill authorizes an urban transportation authority to create a transportation corporation or local government corporation under the Texas Transportation Corporation Act. The bill establishes that an urban transportation authority is a toll project entity and a local toll project entity to the same extent as a regional mobility authority under the provisions of the Transportation Code. The bill requires the board of directors to consider the geographic location of other transportation projects funded by Texas or the United States so as to foster geographic equity when selecting and prioritizing transportation projects.

C.S.S.B. 2096 establishes that an urban transportation authority is a body politic and corporate and a political subdivision of Texas, has perpetual succession, and exercises public and essential governmental functions. The bill establishes that the exercise of a right, power, or privilege granted by provisions of the bill is for a public purpose and is a matter of public necessity and is, in all respects, for the benefit of the people of the territory in which an urban transportation authority operates and of the people of Texas, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety.

C.S.S.B. 2096 establishes that an urban transportation authority is a governmental unit under the Texas Tort Claims Act in the Civil Practice and Remedies Code, and that the operations of the urban transportation authority are not proprietary functions for any purpose. The bill specifies that an urban transportation authority is a public entity under provisions for contracts of certain public entities and a governmental agency under the Public Property Finance Act in the Local Government Code. The bill establishes that the property, revenue, and income of an urban transportation authority are exempt from state and local taxes.

C.S.S.B. 2096 provides that an urban transportation authority is governed by a 13-member board of directors that consists of six members appointed by the governing body of the principal municipality, with one member designated to represent the interests of the transportation disadvantaged; four members appointed by the commissioners courts of the county in which the urban transportation authority is located, or if the urban transportation authority is located in more than one county, jointly appointed by the commissioners courts of those counties; two members appointed by a panel composed of the mayors of the municipalities, other than the principal municipality, that are inside the boundaries of the rapid transit authority and contribute sales and use tax revenue to the rapid transit authority; and one member appointed by the governor. The bill requires the appointed members to select by majority vote one member to serve as presiding officer of the board.

C.S.S.B. 2096 requires the initial board to be appointed from among the memberships of the governing body of the rapid transit authority, the governing body of the advanced transportation district, and the governing body of the regional mobility authority, as extant immediately before the urban transportation authority was created. The bill provides that the board is responsible for the management, operation, and control of the urban transportation authority and the property of the urban transportation authority.

C.S.S.B. 2096 makes applicable to the board provisions for a metropolitan rapid transit authority that are applicable to the governing body of a rapid transit authority and relate to vacancies, term

limitations, residency requirements, compensation, surety bonds, nepotism, financial disclosure, indemnification, insurance, or removal. The bill establishes that board meetings and actions are governed by provisions for a metropolitan rapid transit authority that are applicable to the governing body of a rapid transit authority, and that those meetings and actions are not governed by the Regional Mobility Authority Act.

C.S.S.B. 2096 provides that to be eligible to serve as a director, an individual may be a representative of an entity that is also represented on a metropolitan planning organization in the region where the principal municipality is located. The bill prohibits a person from serving as a director who is an elected official; an officer or employee of the Texas Department of Transportation (TxDOT); an employee of a county or a municipality, including the principal municipality, that contributes sales and use tax revenue to the urban transportation authority; or a person who owns an interest in real property that will be acquired for a transportation project, if it is known at the time of the person's proposed appointment that the property will be acquired for the transportation project.

C.S.S.B. 2096 requires an urban transportation authority to make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the urban transportation authority; and prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the urban transportation authority's programs.

C.S.S.B. 2096 requires an urban transportation authority to develop a strategic plan for its operations, and to issue a plan that covers the succeeding five fiscal years of the urban transportation authority, before December 31 of each even-numbered year, beginning with the next odd-numbered fiscal year.

C.S.S.B. 2096 requires an urban transportation authority to file with each county in which the urban transportation authority is located, the principal municipality, and the panel composed of the mayors of the municipalities in the urban transportation authority that contribute sales and use tax revenue to the rapid transit authority, not later than March 31 of each year, a written report on the urban transportation authority's activities that includes a description of anticipated issuances of debt during the next fiscal year, a description of the financial condition of the urban transportation authority, schedules for the development of approved projects, and the status of the urban transportation authority's performance under the most recent strategic plan. The bill additionally provides that a failure to identify a debt issuance or a change in a project development schedule in a written report does not prevent the issuance of the debt or the change in the project development schedule, including the commencement of the operation of a project.

C.S.S.B. 2096 authorizes the board of an urban transportation authority to create one or more comprehensive transportation systems composed of two or more transportation projects, if the board determines that the mobility needs of the county or counties in which the urban transportation authority operates and of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise.

C.S.S.B. 2096 authorizes the board to create more than one comprehensive transportation system and to combine two or more comprehensive transportation systems into a single comprehensive transportation system. The bill authorizes an urban transportation authority to finance, acquire, construct, cross-collateralize, and operate a comprehensive transportation system if the board determines that the transportation projects could most efficiently and economically be acquired or constructed as part of the comprehensive transportation system, and the transportation projects will benefit the comprehensive transportation system.

C.S.S.B. 2096 authorizes an urban transportation authority, or an entity created by the urban

transportation authority for the purposes of issuing debt, by resolution of the board or the governing body of the entity, as applicable, to authorize the issuance of debt payable solely from revenue. The bill prohibits debt, any portion of which is payable from taxes, from being issued by an urban transportation authority unless the issuance is authorized by a majority of the votes cast at an election ordered and held for that purpose.

C.S.S.B. 2096 establishes that debt issued by an urban transportation authority is fully negotiable, and authorizes the authority to make the debt redeemable before maturity at the price and subject to the terms and conditions provided in the proceedings that authorized the issuance or in a related legal document. The bill provides that debt issued by an urban transportation authority may be sold at a public or private sale as determined by the board to be most advantageous and may have a maturity of not longer than 50 years. The bill provides that costs attributable to a transportation project that were incurred before the issuance of debt to finance the transportation project may be reimbursed from the proceeds of debt that is subsequently issued.

C.S.S.B. 2096 authorizes an urban transportation authority to exercise the powers of a regional mobility authority, a metropolitan rapid transit authority, and an advanced transportation district and to issue debt or enter into other agreements or financial arrangements to pay all or part of the costs of a transportation project or to refund any debt previously issued for a transportation project. The bill provides that these powers are cumulative and may be exercised independently or in combination to develop, finance, operate, and pay the costs of a transportation project. The bill authorizes the urban transportation authority to pledge any revenue available to the urban transportation authority, separately or in combination, for the payment of such debt, agreement, or financial arrangement, subject to other provisions of the bill.

C.S.S.B. 2096 authorizes TxDOT to provide for or contribute to the payment of the costs of a financial or engineering and traffic feasibility study for a transportation project, as authorized by the Regional Mobility Authority Act in connection with a regional mobility authority.

C.S.S.B. 2096 provides that when a rapid transit authority that collects a sales and use tax becomes part of an urban transportation authority, the sales and use tax remains subject to provisions in state law that relate to the sales and use tax of a rapid transit authority, and any restriction, covenant, obligation, or pledge attributed to that sales and use tax remains in effect.

C.S.S.B. 2096 provides that when an advanced transportation district that collects a sales and use tax becomes part of an urban transportation authority, the sales and use tax remains subject to provisions for an advanced transportation district that relate to the sales and use tax of an advanced transportation district; and any restriction, covenant, obligation, allocation, or pledge attributed to that sales and use tax remains in effect until the voters elect to increase, decrease, or otherwise alter the terms of the sales and use tax. The bill prohibits the allocation of the proceeds of the sales and use tax adopted at the initial election of an advanced transportation district from being altered unless a proposition for the reallocation is approved by a majority of the votes cast at an election ordered and held for that purpose.

C.S.S.B. 2096 authorizes an urban transportation authority to order a subsequent advanced transportation district sales and use tax election to reallocate the proceeds of the tax or to increase or decrease the rate of the tax collected by the urban transportation authority. The bill provides that such an election must be held for one or more transportation projects, and that the combined rate of all sales and use taxes imposed by the urban transportation authority and all other political subdivisions of Texas may not exceed the statutory sales and use tax cap in any location in the urban transportation authority.

C.S.S.B. 2096 establishes that the proceeds of the sales and use tax under a subsequent election may be pledged only for: transportation project purposes as determined by the board, including debt service requirements, capitalized interest, reserve fund requirements, credit agreements,

administrative costs, or other debt-related costs incurred by or relating to the issuance of obligations by the urban transportation authority relating to the purchase, design, construction, extension, expansion, improvement, reconstruction, alteration, financing, and maintenance of an advanced transportation facility, equipment, operations, a comprehensive transportation system, and services, including feasibility studies, operations, and professional or other services in connection with the facility, equipment, operations, system, or services; transportation project purposes in the territory of the urban transportation authority as determined by the governing bodies of each participating unit in proportion to the amount of sales and use tax proceeds that were collected in that participating unit; or as a local match for, or the local share of, a state or federal grant for transportation project purposes in the territory of the urban transportation authority or in connection with the transfer of money by TxDOT or another entity of Texas or the United States under an agreement with a county or municipality or a local government corporation created by a county or municipality under the Texas Transportation Corporation Act, for transportation project purposes in the territory of the urban transportation authority.

C.S.S.B. 2096 provides that at an election relating to sales and use tax, the ballot must be prepared to permit voting for or against the proposition, and sets forth the required language for the ballot. The bill provides that after a favorable subsequent advanced transportation district sales and use tax election, an allocation specified by provisions for the advanced transportation district cease to be binding.

C.S.S.B. 2096 requires all fare revenue generated by the mass transit operations of the urban transportation authority, other than fare revenue generated by a rail operation, to be dedicated exclusively to the support of mass transit operations. The bill authorizes fare revenue generated by a rail operation of the urban transportation authority to be used for any comprehensive advanced transportation or comprehensive mobility enhancement purpose.

C.S.S.B. 2096 grants an urban transportation authority the same powers and authorizes it to use the same procedures as a regional mobility authority operating under the Regional Mobility Authority Act with regard to property acquisition, public utility facilities, and with regard to toll collections, transponders, enforcement, violations, and penalties.

C.S.S.B. 2096 authorizes an urban transportation authority to procure, develop, finance, design, construct, maintain, or operate a transportation project using the rights, powers, duties, and privileges that are granted by provisions for bids and contracts for highway projects, by the Regional Mobility Authority Act to a regional mobility authority, or by provisions for alternative project delivery methods for certain projects in the Local Government Code, including a right, power, duty, or privilege associated with a construction manager agent, a construction manager-at-risk, use of design build, a pass-through agent, or a comprehensive development agreement.

C.S.S.B. 2096 authorizes a municipality located in the territory served by an urban transportation authority to designate a municipal transportation reinvestment zone under state law to promote a transportation project and to use money deposited to the tax increment account for the reinvestment zone to pay the urban transportation authority for a portion of the costs of the transportation project.

C.S.S.B. 2096 requires its provisions to be liberally construed to carry out its purposes, establishing that a provision of the bill that conflicts with general provisions for a metropolitan rapid transit authority, provisions for an advanced transportation district, or with the Regional Mobility Authority Act is to be construed to grant the broadest power.

C.S.S.B. 2096 defines "advanced transportation district," "authority," "board," "comprehensive advanced transportation," "comprehensive mobility enhancement," "comprehensive transportation system," "construction costs," "costs," "debt," "finance costs," "regional mobility authority," "revenue," "transportation project," and "urban transportation authority." The bill assigns to a word or phrase that is not defined in the bill the meaning assigned in provisions for

an advanced transportation district or for the Regional Mobility Authority Act, as applicable.

**EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 2096 establishes that the board of directors of an urban transportation authority, among others, includes six members appointed by the governing body of the principal municipality and four members appointed by the commissioners court of the county in which the authority is located, rather than, among others, five members appointed by each of those entities as in the original.