

By: Miklos

H.B. No. 3341

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a transportation development corporation in certain municipalities; authorizing local option elections for funding mass transit projects.

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

SECTION 1. Subtitle C1, Title 12, Local Government Code, as effective April 1, 2009, is amended by adding Chapter 508 to read as follows:

CHAPTER 508. TRANSPORTATION DEVELOPMENT CORPORATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 508.001. DEFINITIONS. In this chapter:

(1) "Authorizing municipality" means a municipality that authorizes the creation of a transportation development corporation.

(2) "Complementary transportation services" includes:

(A) special transportation services for a person who is elderly or has a disability;

(B) medical transportation services;

(C) assistance in street modifications as necessary to accommodate the public transportation system;

(D) construction of new general aviation facilities or renovation or purchase of existing facilities not served by certificated air carriers to relieve air traffic congestion at existing facilities; and

1 (E) any other service that complements the public
2 transportation system, including providing parking garages.

3 (3) "Merged corporation" means a transportation
4 development corporation formed under Section 508.004 and governed
5 by this chapter.

6 (4) "Public transportation" means the conveyance of
7 passengers and hand-carried packages or baggage of a passenger by
8 any means of transit services made available to the public.

9 (5) "Public transportation system" means:

10 (A) all property owned or held by a
11 transportation development corporation for public transportation
12 or complementary transportation service purposes, including
13 vehicle parking areas and facilities and other facilities necessary
14 or convenient for the beneficial use of, and the access of persons
15 and vehicles to, public transportation;

16 (B) real property, facilities, and equipment for
17 the protection and environmental enhancement of all the facilities;
18 and

19 (C) property held:

20 (i) in accordance with a contract with the
21 owner making the property subject to the control of or regulation by
22 the corporation; and

23 (ii) for public transportation or
24 complementary transportation service purposes.

25 (6) "Transportation development corporation" means a
26 corporation governed by this chapter.

27 Sec. 508.002. APPLICABILITY OF CHAPTER. This chapter

1 applies only to a municipality that is located in a county:

2 (1) with a population of 1.4 million or more but less
3 than 3.4 million; or

4 (2) adjacent to a county with a population of 1.4
5 million or more but less than 3.4 million.

6 Sec. 508.003. AUTHORITY TO CREATE CORPORATION. (a) A
7 municipality may authorize the creation under this subtitle of a
8 transportation development corporation.

9 (b) A municipality may not authorize the creation of more
10 than one transportation development corporation in the
11 municipality.

12 Sec. 508.004. MERGER OF CORPORATIONS. (a) Two or more but
13 not more than nine transportation development corporations formed
14 under this chapter may merge and combine their assets, liabilities,
15 obligations, authority, and operations into one transportation
16 development corporation if:

17 (1) the board of directors of each corporation that is
18 a party to the merger adopts a plan of merger that states the terms
19 and conditions of the merger and includes the certificate of
20 formation of the corporation to be created by the plan of merger;

21 (2) the governing body of each authorizing
22 municipality approves the merger;

23 (3) the sales and use taxes imposed for the benefit of
24 each of the merging corporations are of an equal rate; and

25 (4) the merger would not impair the obligation of a
26 contract of a merging corporation that created debt for which the
27 proceeds of a sales and use tax imposed for the benefit of the

1 merging corporation were pledged wholly or partly for its payment.

2 (b) A merged corporation is a political subdivision solely
3 for purposes of imposing a sales and use tax for the benefit of the
4 merged corporation.

5 (c) When a merger takes effect, the separate existence of
6 each transportation development corporation that is a party to the
7 merger ceases.

8 Sec. 508.005. CONTENTS OF CERTIFICATE OF FORMATION. The
9 certificate of formation of a transportation development
10 corporation must state that the corporation is governed by this
11 chapter.

12 Sec. 508.006. CORPORATION NOT SUBJECT TO CERTAIN
13 PROVISIONS. Sections 501.203, 501.205, 501.251-501.254,
14 501.255(a) and (b), 501.256, and 501.257 do not apply to a
15 corporation under this chapter.

16 [Sections 508.007-508.050 reserved for expansion]

17 SUBCHAPTER B. GOVERNANCE OF CORPORATION

18 Sec. 508.051. BOARD OF DIRECTORS. (a) The board of
19 directors of a transportation development corporation created by a
20 single authorizing municipality consists of at least five
21 directors.

22 (b) A director is appointed by the governing body of the
23 authorizing municipality. A director serves at the pleasure of the
24 governing body that appointed the director and may be removed by
25 that governing body at any time without cause.

26 (c) The governing body of the authorizing municipality
27 shall determine the number of directors and the length of each

1 director's term.

2 (d) The governing bodies of the authorizing municipalities
3 of a merged corporation shall determine by written agreement the
4 number of directors, the apportionment of directors for each
5 municipality, and the length of each director's term. The board
6 shall consist of as many directors as necessary so that each
7 authorizing municipality is represented by at least one director.

8 (e) The length of a director's term may not exceed six
9 years.

10 Sec. 508.052. OFFICERS. The board of directors of a
11 transportation development corporation shall appoint:

12 (1) a president;

13 (2) a secretary; and

14 (3) other officers of the corporation that:

15 (A) the governing body of the authorizing
16 municipality considers necessary; or

17 (B) the governing bodies of the authorizing
18 municipalities of a merged corporation authorize by written
19 agreement.

20 Sec. 508.053. QUORUM. A majority of the entire membership
21 of the board of directors of a transportation development
22 corporation is a quorum.

23 Sec. 508.054. LOCATION OF BOARD MEETINGS. (a) The board of
24 directors of a transportation development corporation shall
25 conduct each board meeting within the boundaries of the authorizing
26 municipality.

27 (b) The board of directors of a merged corporation shall

1 conduct each board meeting within the combined boundaries of each
2 authorizing municipality of the merged corporation.

3 Sec. 508.055. RESTRICTIONS ON REGISTERED AGENT AND OFFICE.

4 (a) The registered agent of a transportation development
5 corporation must be an individual who is a resident of this state.

6 (b) The registered office of a transportation development
7 corporation must be located within the boundaries of the
8 authorizing municipality.

9 (c) The registered office of a merged corporation must be
10 located within the combined boundaries of each authorizing
11 municipality of the merged corporation.

12 [Sections 508.056-508.100 reserved for expansion]

13 SUBCHAPTER C. GENERAL POWERS AND DUTIES

14 Sec. 508.101. APPLICABILITY OF OTHER LAW; CONFLICTS. A
15 transportation development corporation has the powers and is
16 subject to the limitations of a corporation created under another
17 provision of this subtitle outside of this chapter. To the extent
18 of a conflict between this chapter and another provision of this
19 subtitle, this chapter prevails.

20 Sec. 508.102. AUTHORITY OF CORPORATION TO OPERATE PUBLIC
21 TRANSPORTATION SYSTEM. A transportation development corporation
22 has:

23 (1) the same authority as a municipality to operate a
24 public transportation system; and

25 (2) the powers provided to a regional transportation
26 authority under Chapter 452, Transportation Code.

27 Sec. 508.103. CONTRACTS. A transportation development

1 corporation may contract with any person to:

2 (1) carry out a transportation development project or
3 objective; or

4 (2) assist with the development or operation of a
5 transportation development project or objective consistent with
6 the purposes of and duties provided by this subtitle.

7 Sec. 508.104. LIMITATION ON USE OF REVENUES FOR PROMOTIONAL
8 PURPOSE. A transportation development corporation may spend not
9 more than 10 percent of the corporate revenues for promotional
10 purposes.

11 Sec. 508.105. BOND REPAYMENT. (a) Bonds or other
12 obligations that mature in 30 years or less and that are issued to
13 pay the costs of projects may be made payable from any source of
14 funds available to the transportation development corporation,
15 including the proceeds of a sales and use tax imposed under this
16 chapter.

17 (b) Bonds or other obligations that by their terms are
18 payable from the tax proceeds:

19 (1) may not be paid wholly or partly from any property
20 taxes imposed or to be imposed by an authorizing municipality; and

21 (2) are not a debt of and do not give rise to a claim
22 for payment against an authorizing municipality, except as to sales
23 and use tax revenue held by the municipality and required under this
24 chapter to be delivered to the transportation development
25 corporation.

26 Sec. 508.106. EMINENT DOMAIN. A transportation development
27 corporation may exercise the power of eminent domain inside and

1 outside the corporate limits of an authorizing municipality or
2 municipalities.

3 Sec. 508.107. LIABILITY. (a) The following are not liable
4 for damages arising from the performance of a governmental function
5 of a transportation development corporation or an authorizing
6 municipality:

7 (1) the corporation;

8 (2) a director of the corporation;

9 (3) the municipality;

10 (4) a member of the governing body of the
11 municipality; or

12 (5) an employee of the corporation or municipality.

13 (b) For purposes of Chapter 101, Civil Practice and Remedies
14 Code, a transportation development corporation is a governmental
15 unit and the corporation's actions are governmental functions.

16 Sec. 508.108. CALLING OF ELECTIONS. (a) The board of the
17 transportation development corporation may call an election on the
18 issue of authorizing a tax under Section 508.251 for one or more
19 public transportation system projects.

20 (b) The corporation shall call an election on the issue
21 described by Subsection (a) on receipt of a petition requesting
22 that the election be called signed by a number of registered voters
23 in one or more authorizing municipalities equal to at least 10
24 percent of the total number of votes cast in the municipality or
25 municipalities for all candidates for governor in the most recent
26 gubernatorial general election.

27 (c) The corporation may adopt an order under this section

1 only after holding a public hearing on the issue.

2 [Sections 508.109-508.150 reserved for expansion]

3 SUBCHAPTER D. AUTHORIZED PROJECTS

4 Sec. 508.151. AUTHORIZED PROJECTS. (a) In this chapter,
5 "project" means land, buildings, equipment, facilities,
6 expenditures, and improvements found by the board of directors to
7 be required or suitable for use for the acquisition, construction,
8 creation, operation, or maintenance of a public transportation
9 system.

10 (b) A corporation may finance and undertake one or more
11 projects.

12 Sec. 508.152. PUBLIC PURPOSE DESIGNATION; EXEMPTION FROM
13 TAXATION. (a) The legislature finds for all constitutional and
14 statutory purposes that:

15 (1) a project under this chapter is owned, used, and
16 held for a public purpose for and on behalf of an authorizing
17 municipality or municipalities or a merged corporation, as
18 appropriate; and

19 (2) except as otherwise provided by this section,
20 Section 501.160 of this subtitle and Section 25.07(a), Tax Code, do
21 not apply to a leasehold or other possessory interest granted by a
22 transportation development corporation during the period the
23 corporation owns projects on behalf of an authorizing municipality
24 or municipalities or a merged corporation, as appropriate.

25 (b) A project is exempt from ad valorem taxation under
26 Section 11.11, Tax Code, for the period described by Subsection
27 (a)(2) of this section.

1 (c) This subsection applies only if the voters of an
2 authorizing municipality of a transportation development
3 corporation or the authorizing municipalities of a merged
4 corporation have not approved the adoption of a sales and use tax
5 for the benefit of the corporation under Section 508.251. An
6 ownership, leasehold, or other possessory interest of a person
7 other than the corporation in real property constituting a project
8 of the corporation described by this section is subject to ad
9 valorem taxation under Section 25.07(a), Tax Code.

10 Sec. 508.153. HEARING REQUIRED TO UNDERTAKE PROJECT. A
11 transportation development corporation shall hold at least one
12 public hearing on a proposed project before spending money to
13 undertake the project.

14 [Sections 508.154-508.250 reserved for expansion]

15 SUBCHAPTER E. SALES AND USE TAX

16 Sec. 508.251. TAX AUTHORIZED. (a) An authorizing
17 municipality may adopt a sales and use tax for the benefit of a
18 transportation development corporation if the tax is approved by a
19 majority of the voters of the municipality voting at an election
20 held for that purpose.

21 (b) Except as provided by Subsection (c), a merged
22 corporation may adopt a sales and use tax under this subchapter only
23 if a majority of voters of each authorizing municipality approve
24 the tax in an election held in each municipality.

25 (c) If the imposition of a sales and use tax was previously
26 approved at an election held by the authorizing municipality of
27 each corporation included in a merged corporation, the previous

1 elections are considered as an election to approve the imposition
2 of the tax for use by the merged corporation and an additional
3 election under Subsection (b) is not required.

4 (d) Each authorizing municipality of a merged corporation
5 shall receive for the benefit of the corporation the revenue from
6 the tax imposed by the corporation within the municipality.

7 Sec. 508.252. SALES TAX. (a) If an authorizing
8 municipality or merged corporation adopts the tax under Section
9 508.251, a tax is imposed on the receipts from the sale at retail of
10 taxable items within the municipality or merged corporation at the
11 rate approved by the voters.

12 (b) The rate of the tax imposed under Subsection (a) must be
13 equal to one-eighth, one-fourth, three-eighths, one-half,
14 five-eighths, three-fourths, or seven-eighths of one percent or one
15 percent.

16 Sec. 508.253. USE TAX. (a) If an authorizing municipality
17 or merged corporation adopts the tax under Section 508.251, an
18 excise tax is imposed on the use, storage, or other consumption
19 within the municipality or corporation of taxable items purchased,
20 leased, or rented from a retailer during the period that the tax is
21 effective within the municipality or corporation.

22 (b) The rate of the excise tax is the same as the rate of the
23 sales tax portion of the sales and use tax and is applied to the
24 sales price of the taxable items.

25 Sec. 508.254. SALES AND USE TAXES NOT COUNTED IN COMBINED
26 LOCAL TAX RATE. Notwithstanding any other law, the rate of a sales
27 and use tax imposed by a municipality or merged corporation under

1 this chapter may not be considered in determining the combined or
2 overlapping rate of sales and use taxes imposed in the municipality
3 or corporation for any purpose other than as provided by Section
4 328.004, Tax Code.

5 Sec. 508.255. APPLICABILITY OF TAX CODE. (a) Chapter 321,
6 Tax Code, governs an election to approve the adoption of the sales
7 and use tax under this chapter and governs the imposition,
8 computation, administration, governance, use, and abolition of the
9 tax except as inconsistent with this chapter.

10 (b) Except as provided by this subsection, the tax imposed
11 under this chapter takes effect as provided by Section 321.102(a),
12 Tax Code. If an election is held under this chapter at the same
13 time an election is held to impose or change the rate of the
14 additional municipal sales and use tax, the tax under this chapter
15 and the imposition or change in rate of the additional municipal
16 sales and use tax take effect as provided by Section 321.102(b), Tax
17 Code.

18 (c) After the effective date of the taxes imposed under this
19 chapter, the adoption of a sales and use tax or the attempted
20 adoption of a sales and use tax by an authorizing municipality or a
21 merged corporation or another taxing jurisdiction having territory
22 in the municipality or corporation does not impair the taxes
23 imposed under this chapter.

24 Sec. 508.256. BALLOT. In an election to adopt the sales
25 and use tax under this chapter, the ballot shall be printed to
26 provide for voting for or against the proposition: "The adoption
27 of a sales and use tax for the acquisition, construction, creation,

1 operation, or maintenance of a public transportation system at the
2 rate of _____" (one-eighth, one-fourth, three-eighths,
3 one-half, five-eighths, three-fourths, or seven-eighths of one
4 percent or one percent to be inserted as appropriate).

5 Sec. 508.257. LIMITATION ON DURATION OF TAX. (a) At an
6 election held under Section 508.251, an authorizing municipality or
7 merged corporation may also allow the voters to vote on a ballot
8 proposition to limit the period for imposition of a sales and use
9 tax.

10 (b) An authorizing municipality or merged corporation that
11 has imposed a tax for a limited time under this section may extend
12 the period of the tax's imposition or reimpose the tax only if the
13 extension or reimposition is approved by a majority of the voters of
14 the municipality or corporation voting at an election held for that
15 purpose in the same manner as an election held under Section
16 504.257.

17 Sec. 508.258. LIMITED SALES AND USE TAX FOR SPECIFIC
18 PROJECT. (a) At an election held under Section 508.251, an
19 authorizing municipality or merged corporation may also allow the
20 voters to vote on a ballot proposition to limit the use of the sales
21 and use tax to a specific project.

22 (b) A transportation development corporation created to
23 perform a specific project as provided by this section may retain
24 its corporate existence and perform any other project approved by
25 the voters of an authorizing municipality or merged corporation at
26 an election held for that purpose in the same manner as Section
27 504.260 provides for an election held under Section 504.251.

1 Before spending money to undertake a project, a transportation
2 development corporation shall hold a public hearing as otherwise
3 provided by this chapter.

4 Sec. 508.259. ELECTIONS AFFECTING MERGED CORPORATIONS. (a)
5 A ballot proposition under Section 508.257 affecting a merged
6 corporation is approved only if a majority of the voters of each
7 authorizing municipality approves the same proposition at an
8 election held in each municipality for that purpose in the same
9 manner as an election held under Section 504.257.

10 (b) A ballot proposition under Section 508.258 affecting a
11 merged corporation is approved only if a majority of the voters of
12 each authorizing municipality approves the same proposition at an
13 election held in each municipality for that purpose in the same
14 manner as Section 504.260 provides for an election held under
15 Section 504.251.

16 Sec. 508.260. CESSATION OF COLLECTION OF TAXES. A sales
17 and use tax imposed under this chapter may not be collected after
18 the last day of the first calendar quarter that occurs after the
19 transportation development corporation notifies the comptroller
20 that:

21 (1) all bonds or other obligations of the corporation,
22 including any refunding bonds, payable wholly or partly from the
23 proceeds of the sales and use tax imposed under this chapter, have
24 been paid in full; or

25 (2) the total amount, exclusive of guaranteed
26 interest, necessary to pay in full the bonds and other obligations
27 has been set aside in a trust account dedicated to the payment of

1 the bonds and other obligations.

2 [Sections 508.261-508.300 reserved for expansion]

3 SUBCHAPTER F. USE OF TAX PROCEEDS

4 Sec. 508.301. DELIVERY OF TAX PROCEEDS. On an authorizing
5 municipality's receipt from the comptroller of the proceeds of the
6 sales and use tax imposed under this chapter, the municipality
7 shall deliver the proceeds to the transportation development
8 corporation.

9 Sec. 508.302. PAYMENT OF PROJECT COSTS, BONDS, OR OTHER
10 OBLIGATIONS. The proceeds of the sales and use tax imposed under
11 this chapter may be used to:

12 (1) pay the costs of projects authorized by Section
13 508.151; or

14 (2) pay the principal of, interest on, and other costs
15 relating to bonds or other obligations issued by the transportation
16 development corporation to:

17 (A) pay the costs of projects; or

18 (B) refund bonds or other obligations issued to
19 pay the costs of projects.

20 [Sections 508.303-508.350 reserved for expansion]

21 SUBCHAPTER G. WITHDRAWAL FROM MERGED CORPORATION

22 Sec. 508.351. WITHDRAWAL FROM MERGED CORPORATION. (a) A
23 municipality may withdraw from a merged corporation if all of the
24 municipality's obligations and entitlements relating to the merged
25 corporation have been properly settled.

26 (b) The municipality withdrawing from the merged
27 corporation may not receive any assets, including money or other

1 property, of the merged corporation until the existence of the
2 merged corporation is terminated as provided by Section 508.354.

3 Sec. 508.352. DISTRIBUTION OF NET EARNINGS. If the board
4 of directors of a merged corporation determines that sufficient
5 provisions have been made to pay the corporation's expenses, bonds,
6 and other obligations, any net earnings may be distributed among
7 the authorizing municipalities of the corporation as a percentage
8 of the per capita contributions made by each of the municipalities
9 during the corporation's existence, including sales and use tax
10 delivered to the corporation.

11 Sec. 508.353. EFFECT OF WITHDRAWAL OF MUNICIPALITY. A
12 merged corporation may not terminate its existence as a result of
13 the withdrawal of a municipality from the merged corporation if at
14 least two authorizing municipalities remain in the corporation.

15 Sec. 508.354. DISTRIBUTION OF ASSETS. (a) Subject to
16 Subsection (b), on termination of the existence of a merged
17 corporation, any assets of the corporation remaining after all the
18 corporation's obligations have been met shall be distributed among
19 the authorizing municipalities as a percentage of the per capita
20 contributions made by each of the municipalities during the
21 corporation's existence, including sales and use tax delivered to
22 the corporation.

23 (b) A municipality that withdraws from a merged corporation
24 is entitled to receive a distribution under Subsection (a) that is
25 reduced by one percent for each year the merged corporation
26 operated without the municipality's membership in the corporation.

27 [Sections 508.355-508.400 reserved for expansion]

1 SUBCHAPTER H. TERMINATION OF CORPORATION

2 Sec. 508.401. APPLICATION OF SUBCHAPTER. This subchapter
3 applies to a transportation development corporation or to a merged
4 corporation with one remaining authorizing municipality.

5 Sec. 508.402. ELECTION TO TERMINATE EXISTENCE OF
6 CORPORATION ON PETITION. (a) The governing body of an authorizing
7 municipality shall order an election on the termination of the
8 existence of the transportation development corporation on receipt
9 of a petition requesting the election that is signed by at least 10
10 percent of the registered voters of the municipality.

11 (b) The authorizing municipality shall hold the election on
12 the first available uniform election date that occurs after the
13 time required by Section 3.005, Election Code.

14 Sec. 508.403. BALLOT. The ballot for an election held
15 under Section 508.402 shall be printed to permit voting for or
16 against the proposition: "Termination of the _____ (name of
17 corporation)."

18 Sec. 508.404. TERMINATION OF EXISTENCE OF CORPORATION.
19 (a) If a majority of the votes cast at an election held under
20 Section 508.402 approve the termination, the transportation
21 development corporation shall:

22 (1) continue operations only as necessary to meet the
23 obligations the corporation incurred before the date of the
24 election, including paying the principal of and interest on the
25 corporation's bonds; and

26 (2) liquidate the corporation's assets and apply the
27 proceeds to satisfy the corporation's obligations, to the extent

1 practicable.

2 (b) After the transportation development corporation has
3 satisfied all of the corporation's obligations, any remaining
4 assets of the corporation shall be transferred to the authorizing
5 municipality, and the existence of the corporation is terminated.

6 (c) The authorizing municipality shall promptly notify the
7 comptroller and the secretary of state of the date the existence of
8 a transportation development corporation is terminated under this
9 subchapter.

10 (d) A tax imposed under this chapter may not be collected
11 after the last day of the first calendar quarter that begins after
12 the authorizing municipality provides notice under Subsection (c).

13 Sec. 508.405. ELECTION REJECTING TERMINATION. If less
14 than a majority of the votes cast at an election held under Section
15 508.402 approve the termination, Section 508.404 has no effect.

16 SECTION 2. Subtitle C, Title 3, Tax Code, is amended by
17 adding Chapter 328 to read as follows:

18 CHAPTER 328. SALES AND USE TAX FOR TRANSPORTATION IN CERTAIN
19 MUNICIPALITIES

20 Sec. 328.001. DEFINITIONS. In this chapter:

21 (1) "Transit development district" means the
22 territory of one or more authorizing municipalities of a
23 transportation development corporation created under Chapter 508,
24 Local Government Code.

25 (2) "Transit sales and use tax" means a sales and use
26 tax imposed for the support of a transit development district or for
27 the support of transportation services authorized under the

1 Transportation Code.

2 Sec. 328.002. APPLICABILITY OF CHAPTER. This chapter
3 applies only to a transit development district located in a county:

4 (1) with a population of 1.4 million or more but less
5 than 3.4 million; or

6 (2) adjacent to a county with a population of 1.4
7 million or more but less than 3.4 million.

8 Sec. 328.003. TRANSIT SALES AND USE TAX NOT COUNTED IN
9 COMBINED LOCAL TAX RATE. Notwithstanding any other law, the rate of
10 a transit sales and use tax imposed within the territory of a
11 transit development district to which this chapter applies or a
12 municipality that is included within the boundaries of a rapid
13 transit authority created under Chapter 451 or 452, Transportation
14 Code, may not be considered in determining the combined or
15 overlapping rate of local sales and use taxes in the district for
16 any purpose other than as provided in Section 328.004.

17 Sec. 328.004. LIMITATION FOR TRANSIT SALES AND USE TAXES.
18 Notwithstanding any other law, the rate of all transit sales and
19 use taxes imposed within the territory of a transportation
20 development district to which this chapter applies or a
21 municipality that is included within the boundaries of a rapid
22 transit authority created under Chapter 451 or 452, Transportation
23 Code, may not exceed one percent at any location in the district.

24 SECTION 3. Sections 321.101(b) and (e), Tax Code, are
25 amended to read as follows:

26 (b) A municipality that is not disqualified may, by a
27 majority vote of the qualified voters of the municipality voting at

1 an election held for that purpose, adopt an additional sales and use
2 tax for the benefit of the municipality in accordance with this
3 chapter. A municipality, other than a municipality included in a
4 transportation development district to which Chapter 328 applies,
5 is disqualified from adopting the additional sales and use tax if
6 the municipality:

7 (1) is included within the boundaries of a rapid
8 transit authority created under Chapter 451, Transportation Code;

9 (2) is included within the boundaries of a regional
10 transportation authority created under Chapter 452, Transportation
11 Code, by a principal municipality having a population of less than
12 800,000, unless the municipality has a population of 400,000 or
13 more and is located in more than one county;

14 (3) is wholly or partly located in a county that
15 contains territory within the boundaries of a regional
16 transportation authority created under Chapter 452, Transportation
17 Code, by a principal municipality having a population in excess of
18 800,000, unless:

19 (A) the municipality is a contiguous
20 municipality; or

21 (B) the municipality is not included within the
22 boundaries of the authority and is located wholly or partly in a
23 county in which fewer than 250 persons are residents of both the
24 county and the authority according to the most recent federal
25 census; or

26 (C) the municipality is not and on January 1,
27 1993, was not included within the boundaries of the authority; or

1 (4) imposes a tax authorized by Chapter 453,
2 Transportation Code.

3 (e) An authority created under Chapter 451 or 452,
4 Transportation Code, is prohibited from imposing the tax provided
5 for by those chapters if within the boundaries of the authority
6 there is a municipality, other than a municipality included in a
7 transportation development district to which Chapter 328 applies,
8 that has adopted the additional sales and use tax provided for by
9 this section.

10 SECTION 4. This Act takes effect October 1, 2009.