

By: McClendon

H.B. No. 4335

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of and the powers of a comprehensive
3 multimodal urban transportation authority.

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

5 SECTION 1. Chapter 451, Transportation Code, is amended by
6 adding Subchapter R to read as follows:

7 SUBCHAPTER R. URBAN TRANSPORTATION AUTHORITIES

8 Sec. 451.901. DEFINITIONS. (a) In this subchapter:

9 (1) "Advanced transportation district" means a
10 district created or operating under Subchapter O.

11 (2) "Authority" means a rapid transit authority
12 created or operating under this chapter.

13 (3) "Board" means the governing body of an urban
14 transportation authority, except as otherwise provided by this
15 subchapter.

16 (4) "Comprehensive advanced transportation" means the
17 design, construction, extension, expansion, improvement,
18 reconstruction, alteration, acquisition, financing, and
19 maintenance of mass transit, light rail, commuter rail, intercity
20 municipal rail, freight rail, fixed guideways, traffic management
21 systems, bus ways, bus lanes, technologically advanced bus transit
22 vehicles and systems, bus rapid transit vehicles and systems,
23 passenger amenities, transit centers, stations, parking facilities
24 and payment mechanisms, sidewalks, bicycle lanes, electronic

1 transit-related information, fare collection and operating
2 systems, high occupancy vehicle lanes, bridges, traffic signal
3 prioritization and coordination systems, monitoring systems,
4 tracks and rail line, switching and signaling equipment, operating
5 equipment, depots, locomotives, rolling stock, maintenance
6 facilities, other real and personal property associated with a rail
7 operation and transit-oriented development, and other
8 comprehensive advanced transportation facilities, equipment,
9 operations, comprehensive transportation systems, and services,
10 including planning, feasibility studies, operations, and
11 professional and other services in connection with those
12 facilities, equipment, operations, comprehensive transportation
13 systems, and services.

14 (5) "Comprehensive mobility enhancement" means the
15 design, construction, extension, expansion, improvement,
16 reconstruction, alteration, acquisition, financing, and
17 maintenance of:

18 (A) streets, roads, highways, high occupancy
19 vehicle lanes, toll lanes, turnpike projects, pedestrian or bicycle
20 facilities, bridges, grade separations, parking facilities and
21 payment mechanisms, and infrastructure designed to improve
22 mobility;

23 (B) traffic signal prioritization and street
24 lighting;

25 (C) monitoring systems;

26 (D) other mobility enhancement facilities,
27 equipment, systems, and services, including drainage improvements

1 or drainage-related measures reasonable and necessary for the
2 effective use of the transportation facility being constructed or
3 maintained;

4 (E) an intermodal hub, air quality improvement
5 initiative, and public utility facility; and

6 (F) a conveyance or acceptance of the exclusive
7 rights to develop tolled infrastructure or other mobility-related
8 assets, including concession fees.

9 (6) "Comprehensive transportation system" means a
10 transportation project or a combination of transportation projects
11 designated as a system by the board of an urban transportation
12 authority.

13 (7) "Construction costs" means the costs of
14 acquisition, construction, reconstruction, improvement,
15 extension, or expansion of a transportation project under this
16 subchapter. The term includes a construction cost as defined by
17 Chapter 370.

18 (8) "Costs" means finance costs and construction
19 costs.

20 (9) "Debt" means a bond, certificate, long-term or
21 short-term note, commercial paper, loan, certificate of
22 participation, agreement with a local government, or any other
23 obligation with a variable or fixed interest rate authorized by
24 this chapter or the constitution or another law of this state. The
25 term includes a credit agreement issued under Chapter 1371,
26 Government Code.

27 (10) "Finance costs" means any fee or expense

1 associated with the financing of a transportation project,
2 including any debt service requirement, capitalized interest,
3 reserve fund requirement, professional or administrative cost, or
4 other cost incurred by or relating to the issuance of debt under
5 this subchapter relating to the design, construction, extension,
6 expansion, improvement, reconstruction, alteration, financing,
7 acquisition, or maintenance of a transportation project.

8 (11) "Regional mobility authority" means a regional
9 mobility authority created or operating under Chapter 370.

10 (12) "Revenue" means revenue available to an urban
11 transportation authority under this subchapter, including any
12 source of taxes or revenue available under Chapter 370 or this
13 chapter, including Subchapter O.

14 (13) "Transportation project" means a comprehensive
15 advanced transportation project or a comprehensive mobility
16 enhancement project.

17 (14) "Urban transportation authority" means an entity
18 that has the powers of an authority, a regional mobility authority,
19 and an advanced transportation district and is created under this
20 subchapter.

21 (b) A word or phrase that is not defined in this subchapter
22 but is defined in Subchapter O has the meaning in this subchapter
23 that is assigned by that subchapter.

24 (c) A word or phrase that is not defined in this subchapter
25 but is defined in Chapter 370 has the meaning in this subchapter
26 that is assigned by that chapter.

27 Sec. 451.902. LIBERAL CONSTRUCTION. This subchapter shall

1 be liberally construed to carry out its purposes. A provision of
2 this subchapter that conflicts with Subchapter A or O or with
3 Chapter 370 shall be construed to grant the broadest power.

4 Sec. 451.903. CREATION OF URBAN TRANSPORTATION AUTHORITY
5 AUTHORIZED. (a) The governing body of an authority in which the
6 principal municipality has a population of more than 700,000 and in
7 the territory of which both an advanced transportation district and
8 a regional mobility authority exist may approve and submit a
9 petition to the governing bodies of the advanced transportation
10 district and the regional mobility authority that seeks consent to
11 the creation of an urban transportation authority under this
12 subchapter.

13 (b) Creation of an urban transportation authority under
14 this subchapter may occur if:

15 (1) the governing body of the principal municipality
16 in the authority and the commissioners court of each county in which
17 the authority is located and in which a sales and use tax is
18 collected under this chapter consent to the creation of the urban
19 transportation authority;

20 (2) the governing body of the regional mobility
21 authority consents to the creation of the urban transportation
22 authority;

23 (3) the commissioners court of each county in which
24 the regional mobility authority is located consents to the creation
25 of the urban transportation authority;

26 (4) the governing body of the advanced transportation
27 district consents to the creation of the urban transportation

1 authority; and

2 (5) the commissioners court of each county and the
3 governing body of the principal municipality in which the advanced
4 transportation district is located consent to the creation of the
5 urban transportation authority.

6 (c) The petition of the authority and the consents described
7 in Subsection (b) must:

8 (1) approve the transfer of the assets, liabilities,
9 rights, and obligations of each entity to the urban transportation
10 authority; or

11 (2) make adequate provision therefor by the applicable
12 entity.

13 Sec. 451.904. EFFECT OF CREATION OF URBAN TRANSPORTATION
14 AUTHORITY. (a) An urban transportation authority is created only
15 after the occurrence of the actions required by Section 451.903. On
16 the first day of the calendar month after the month in which the
17 final action required by that section is taken, an urban
18 transportation authority is considered to have been created. The
19 urban transportation authority has the rights, powers, duties, and
20 privileges granted to an authority under this chapter, to an urban
21 transportation authority under this subchapter, to an advanced
22 transportation district under Subchapter O, and to a regional
23 mobility authority under Chapter 370, including the right to plan
24 and develop transportation projects in any county in which the
25 urban transportation authority is located.

26 (b) On the date the urban transportation authority is
27 considered to have been created, the urban transportation authority

1 becomes the successor entity to the authority, the advanced
2 transportation district, and the regional mobility authority. On
3 that date the authority, the advanced transportation district, and
4 the regional mobility authority cease to exist.

5 (c) The urban transportation authority succeeds to and is
6 obligated for all assets, liabilities, rights, and obligations not
7 otherwise provided for of the authority, the advanced
8 transportation district, and the regional mobility authority, on
9 terms and conditions that, upon succession, are no less beneficial
10 to employees than those extant immediately before the creation of
11 the urban transportation authority, including continuation of all
12 rights, privileges, and benefits such as pension rights and
13 benefits, wages, and working conditions, afforded to employees
14 under an existing agreement.

15 Sec. 451.905. POWERS. (a) An urban transportation
16 authority has the powers necessary or convenient to implement this
17 subchapter or to effect a purpose of this subchapter.

18 (b) An urban transportation authority through its board may
19 plan, study, evaluate, design, finance, acquire, construct,
20 maintain, repair, and operate a transportation project,
21 individually or as one or more comprehensive transportation
22 systems.

23 (c) An urban transportation authority has:

24 (1) all of the rights, powers, duties, and privileges
25 granted to an authority by this chapter;

26 (2) all of the rights, powers, duties, and privileges
27 granted to a regional mobility authority by Chapter 370; and

1 (3) all of the rights, powers, duties, and privileges
2 granted to an advanced transportation district by Subchapter O.

3 (d) A right, power, duty, or privilege of an urban
4 transportation authority described in Subsection (c) may be
5 exercised independently or in combination to effect the purposes of
6 this subchapter. Except as otherwise provided by this subchapter,
7 in the event of a conflict, the most liberal provision applies.

8 (e) In the manner and to the extent that an authority is
9 authorized by this chapter, an urban transportation authority may
10 develop and operate a transit system, set fares and other charges,
11 and develop stations or terminal complexes for the use of the
12 transit system and related right-of-way.

13 (f) An urban transportation authority has any right, power,
14 duty, or privilege granted by Chapter 370 to a regional mobility
15 authority that relates to mass transit or a transit system and that
16 is not in conflict with this subchapter.

17 (g) An urban transportation authority may impose any kind of
18 tax or fee other than an ad valorem tax, including a sales and use
19 tax. The applicable provisions of this chapter, including
20 Subchapter O, and Chapter 370 apply to the imposition of a fee or
21 tax by the urban transportation authority. If the legislature
22 enacts provisions for local option transportation financing
23 through a transportation finance authority or a centralized
24 transportation finance entity, an urban transportation authority
25 may serve as such an entity.

26 (h) An urban transportation authority may develop and
27 operate a turnpike project. The turnpike project must be developed

1 and operated under the provisions of Chapter 370, including any
2 provision relating to the setting of toll rates.

3 (i) Unless otherwise provided by this subchapter, the board
4 shall allocate the proceeds of the advanced transportation district
5 sales and use tax in compliance with Subchapter O.

6 (j) Unless otherwise provided by this subchapter, an
7 election relating to the sales and use tax or the boundaries of an
8 advanced transportation district is governed by the provisions of
9 Subchapter O relating to such an election of an advanced
10 transportation district.

11 (k) An urban transportation authority may create a
12 transportation corporation or local government corporation under
13 Chapter 431.

14 (l) An urban transportation authority is a toll project
15 entity and a local toll project entity to the same extent as a
16 regional mobility authority under the provisions of this code.

17 (m) In its selection and prioritization of transportation
18 projects, the board shall consider the geographic location of other
19 transportation projects funded by this state or the United States
20 so as to foster geographic equity in the planning and development of
21 the projects.

22 Sec. 451.906. NATURE OF URBAN TRANSPORTATION AUTHORITY.

23 (a) An urban transportation authority:

24 (1) is a body politic and corporate and a political
25 subdivision of this state;

26 (2) has perpetual succession; and

27 (3) exercises public and essential governmental

1 functions.

2 (b) The exercise of a right, power, or privilege granted by
3 this subchapter is for a public purpose and is a matter of public
4 necessity and is, in all respects, for the benefit of the people of
5 the territory in which an urban transportation authority operates
6 and of the people of this state, for the increase of their commerce
7 and prosperity, and for the improvement of their health, living
8 conditions, and public safety.

9 (c) An urban transportation authority is a governmental
10 unit under Chapter 101, Civil Practice and Remedies Code. The
11 operations of the metropolitan transit and mobility authority are
12 not proprietary functions for any purpose.

13 (d) An urban transportation authority is:

- 14 (1) a public entity under Section 222.1045; and
15 (2) a governmental agency under Subchapter A, Chapter
16 271, Local Government Code.

17 (e) The property, revenue, and income of a metropolitan
18 transit and mobility authority are exempt from state and local
19 taxes.

20 Sec. 451.907. GOVERNANCE OF URBAN TRANSPORTATION
21 AUTHORITY; INITIAL BOARD OF DIRECTORS. (a) An urban
22 transportation authority is governed by a board of directors. The
23 board consists of:

24 (1) five members appointed by the governing body of
25 the principal municipality, with one member designated to represent
26 the interests of the transportation disadvantaged;

27 (2) five members appointed by the commissioners courts

1 of the county in which the urban transportation authority is
2 located, or if the urban transportation authority is located in
3 more than one county, jointly appointed by the commissioners courts
4 of those counties;

5 (3) two members appointed by a panel composed of the
6 mayors of the municipalities, other than the principal
7 municipality, that are inside the boundaries of the authority and
8 contribute sales and use tax revenue to the authority; and

9 (4) one member, who serves as presiding officer of the
10 board, appointed by a majority of the members appointed under
11 Subdivisions (1), (2), and (3).

12 (b) On the creation of the urban transportation authority,
13 the initial board of the urban transportation authority shall be
14 appointed from among the memberships of the governing body of the
15 authority, the governing body of the advanced transportation
16 district, and the governing body of the regional mobility
17 authority, as extant immediately before the urban transportation
18 authority was created.

19 (c) The board is responsible for the management, operation,
20 and control of the urban transportation authority and the property
21 of the urban transportation authority.

22 (d) A provision of this chapter that is applicable to the
23 governing body of an authority and relates to vacancies, term
24 limitations, residency requirements, compensation, surety bonds,
25 nepotism, financial disclosure, indemnification, insurance, or
26 removal, applies to the board.

27 (e) Board meetings and actions are governed by the

1 provisions of this chapter that are applicable to the governing
2 body of an authority. Those meetings and actions are not governed
3 by Chapter 370.

4 (f) To be eligible to serve as a director, an individual:

5 (1) may be a representative of an entity that is also
6 represented on a metropolitan planning organization in the region
7 where the principal municipality is located; and

8 (2) may not be:

9 (A) an elected official;

10 (B) an officer or employee of the department;

11 (C) an employee of a county or a municipality,
12 including the principal municipality, that contributes sales and
13 use tax revenue to the urban transportation authority; or

14 (D) a person who owns an interest in real
15 property that will be acquired for a transportation project, if it
16 is known at the time of the person's proposed appointment that the
17 property will be acquired for the transportation project.

18 Sec. 451.908. PUBLIC ACCESS. An urban transportation
19 authority shall:

20 (1) make and implement policies that provide the
21 public with a reasonable opportunity to appear before the board to
22 speak on any issue under the jurisdiction of the urban
23 transportation authority; and

24 (2) prepare and maintain a written plan that describes
25 how an individual who does not speak English or who has a physical,
26 mental, or developmental disability may be provided reasonable
27 access to the urban transportation authority's programs.

1 Sec. 451.909. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An
2 urban transportation authority shall develop a strategic plan for
3 its operations. Before December 31 of each even-numbered year, the
4 urban transportation authority shall issue a plan that covers the
5 succeeding five fiscal years of the urban transportation authority,
6 beginning with the next odd-numbered fiscal year.

7 (b) Not later than March 31 of each year, an urban
8 transportation authority shall file with each county in which the
9 urban transportation authority is located, the principal
10 municipality, and the panel composed of the mayors of the
11 municipalities in the urban transportation authority that
12 contribute sales and use tax revenue to the authority, a written
13 report on the urban transportation authority's activities that
14 includes a description of anticipated issuances of debt during the
15 next fiscal year, a description of the financial condition of the
16 urban transportation authority, schedules for the development of
17 approved projects, and the status of the urban transportation
18 authority's performance under the most recent strategic plan.

19 (c) Notwithstanding Subsection (b), a failure to identify a
20 debt issuance or a change in a project development schedule in a
21 written report does not prevent the issuance of the debt or the
22 change in the project development schedule, including the
23 commencement of the operation of a project.

24 Sec. 451.910. ESTABLISHMENT OF COMPREHENSIVE
25 TRANSPORTATION SYSTEM. (a) If the board determines that the
26 mobility needs of the county or counties in which the urban
27 transportation authority operates and of the surrounding region

1 could be most efficiently and economically met by jointly operating
2 two or more transportation projects as one operational and
3 financial enterprise, the board may create one or more
4 comprehensive transportation systems composed of those
5 transportation projects.

6 (b) The board may:

7 (1) create more than one comprehensive transportation
8 system; and

9 (2) combine two or more comprehensive transportation
10 systems into a single comprehensive transportation system.

11 (c) An urban transportation authority may finance, acquire,
12 construct, cross-collateralize, and operate a comprehensive
13 transportation system if the board determines that:

14 (1) the transportation projects could most
15 efficiently and economically be acquired or constructed as part of
16 the comprehensive transportation system; and

17 (2) the transportation projects will benefit the
18 comprehensive transportation system.

19 Sec. 451.911. ISSUANCE OF DEBT. (a) An urban
20 transportation authority, or an entity created by the urban
21 transportation authority for the purposes of issuing debt, by
22 resolution of the board or the governing body of the entity, as
23 applicable, may authorize the issuance of debt payable solely from
24 revenue.

25 (b) Debt, any portion of which is payable from taxes, may
26 not be issued by an urban transportation authority unless the
27 issuance is authorized by a majority of the votes cast at an

1 election ordered and held for that purpose.

2 (c) Debt issued by an urban transportation authority is
3 fully negotiable. An urban transportation authority may make the
4 debt redeemable before maturity at the price and subject to the
5 terms and conditions provided in the proceedings that authorized
6 the issuance or in a related legal document.

7 (d) Debt issued by an urban transportation authority under
8 this subchapter may be sold at a public or private sale as
9 determined by the board to be most advantageous and may have a
10 maturity of not longer than 50 years.

11 (e) Costs attributable to a transportation project that
12 were incurred before the issuance of debt to finance the
13 transportation project may be reimbursed from the proceeds of debt
14 that is subsequently issued.

15 Sec. 451.912. TRANSPORTATION PROJECT FINANCING. (a) An
16 urban transportation authority may exercise the powers of a
17 regional mobility authority, an authority, and an advanced
18 transportation district and may issue debt or enter into other
19 agreements or financial arrangements to pay all or part of the costs
20 of a transportation project or to refund any debt previously issued
21 for a transportation project.

22 (b) The powers described in Subsection (a) are cumulative
23 and may be exercised by an urban transportation authority
24 independently or in combination to develop, finance, operate, and
25 pay the costs of a transportation project. Subject to other
26 provisions of this subchapter, the urban transportation authority
27 may pledge any revenue available to the urban transportation

1 authority under this subchapter, separately or in combination, for
2 the payment of a debt, agreement, or financial arrangement
3 described by Subsection (a).

4 (c) As authorized by Chapter 370 in connection with a
5 regional mobility authority, the department may provide for or
6 contribute to the payment of the costs of a financial or engineering
7 and traffic feasibility study for a transportation project.

8 Sec. 451.913. SALES AND USE TAX. (a) When an authority
9 that collects a sales and use tax becomes part of an urban
10 transportation authority:

11 (1) the sales and use tax remains subject to the
12 provisions of this chapter that relate to the sales and use tax of
13 an authority; and

14 (2) any restriction, covenant, obligation, or pledge
15 attributed to that sales and use tax remains in effect.

16 (b) When an advanced transportation district that collects
17 a sales and use tax becomes part of an urban transportation
18 authority:

19 (1) the sales and use tax remains subject to the
20 provisions of Subchapter O that relate to the sales and use tax of
21 an advanced transportation district; and

22 (2) any restriction, covenant, obligation,
23 allocation, or pledge attributed to that sales and use tax remains
24 in effect until the voters elect to increase, decrease, or
25 otherwise alter the terms of the sales and use tax.

26 (c) The allocation of the proceeds of the sales and use tax
27 adopted at the initial election of an advanced transportation

1 district may not be altered unless a proposition for the
2 reallocation is approved by a majority of the votes cast at an
3 election ordered and held for that purpose under this subchapter.

4 (d) An urban transportation authority may order a
5 subsequent advanced transportation district sales and use tax
6 election to reallocate the proceeds of the tax or to increase or
7 decrease the rate of the tax collected by the urban transportation
8 authority. An election ordered under this section must be held for
9 one or more transportation projects, the combined rate of all sales
10 and use taxes imposed by the urban transportation authority and all
11 other political subdivisions of this state may not exceed the
12 statutory sales and use tax cap in any location in the urban
13 transportation authority, and the proceeds of the sales and use tax
14 under a subsequent election may be pledged only for:

15 (1) transportation project purposes as determined by
16 the board, including debt service requirements, capitalized
17 interest, reserve fund requirements, credit agreements,
18 administrative costs, or other debt-related costs incurred by or
19 relating to the issuance of obligations by the urban transportation
20 authority relating to the purchase, design, construction,
21 extension, expansion, improvement, reconstruction, alteration,
22 financing, and maintenance of an advanced transportation facility,
23 equipment, operations, a comprehensive transportation system, and
24 services, including feasibility studies, operations, and
25 professional or other services in connection with the facility,
26 equipment, operations, system, or services;

27 (2) transportation project purposes in the territory

1 of the urban transportation authority as determined by the
2 governing bodies of each participating unit in proportion to the
3 amount of sales and use tax proceeds that were collected in that
4 participating unit; or

5 (3) as a local match for, or the local share of, a
6 state or federal grant for transportation project purposes in the
7 territory of the urban transportation authority or in connection
8 with the transfer of money by the department or another entity of
9 this state or the United States under an agreement with a county or
10 municipality or a local government corporation created by a county
11 or municipality under Chapter 431, for transportation project
12 purposes in the territory of the urban transportation authority.

13 (e) At an election under this section, the ballot shall be
14 prepared to permit voting for or against the proposition: "The
15 imposition of a sales and use tax for comprehensive advanced
16 transportation and comprehensive mobility enhancement in the (name
17 of urban transportation authority), at the rate to be set by the
18 governing body of the urban transportation authority."

19 (f) After a favorable subsequent election held under this
20 subchapter, an allocation specified by Subchapter O ceases to be
21 binding.

22 Sec. 451.914. USE OF FARE REVENUE. (a) All fare revenue
23 generated by the mass transit operations of the urban
24 transportation authority, other than fare revenue generated by a
25 rail operation, must be dedicated exclusively to the support of
26 mass transit operations.

27 (b) Fare revenue generated by a rail operation of the urban

1 transportation authority may be used for any comprehensive advanced
2 transportation or comprehensive mobility enhancement purpose.

3 Sec. 451.915. POWERS AND PROCEDURES OF URBAN TRANSPORTATION
4 AUTHORITY IN ACQUIRING PROPERTY. An urban transportation authority
5 has the same powers and may use the same procedures as a regional
6 mobility authority operating under Chapter 370 in acquiring
7 property.

8 Sec. 451.916. PUBLIC UTILITY FACILITIES. An urban
9 transportation authority has the same powers and may use the same
10 procedures as a regional mobility authority operating under Chapter
11 370 with regard to public utility facilities.

12 Sec. 451.917. TOLL COLLECTION AND VIOLATIONS. An urban
13 transportation authority has the same powers and may use the same
14 procedures as a regional mobility authority operating under Chapter
15 370 with regard to toll collections, transponders, enforcement,
16 violations, and penalties.

17 Sec. 451.918. PROJECT DELIVERY. An urban transportation
18 authority may procure, develop, finance, design, construct,
19 maintain, or operate a transportation project using the rights,
20 powers, duties, and privileges that are granted by Chapter 223, by
21 Chapter 370 to a regional mobility authority, or by Subchapter H,
22 Chapter 271, Local Government Code, including a right, power, duty,
23 or privilege associated with:

- 24 (1) a construction manager agent;
25 (2) a construction manager-at-risk;
26 (3) use of design build;
27 (4) a pass-through agent; or

1 (5) a comprehensive development agreement.

2 Sec. 451.919. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES.

3 A municipality located in the territory served by an urban
4 transportation authority may:

5 (1) designate a municipal transportation reinvestment
6 zone under Section 222.106 to promote a transportation project
7 under this subchapter; and

8 (2) use money deposited to the tax increment account
9 for the reinvestment zone to pay the urban transportation authority
10 for a portion of the costs of the transportation project.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2009.