

By: Watson

S.B. No. 1263

Substitute the following for S.B. No. 1263:

By: Pickett

C.S.S.B. No. 1263

A BILL TO BE ENTITLED

AN ACT

relating to certain mass transit entities.

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

SECTION 1. Sections 451.0611(e) and (f), Transportation Code, are amended to read as follows:

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person under Article 14.06, Code of Criminal Procedure, or under Section 451.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) An offense under Subsection (d) is:

(1) a Class C misdemeanor; and

(2) not a crime of moral turpitude.

SECTION 2. Subchapter B, Chapter 451, Transportation Code, is amended by adding Section 451.0612 to read as follows:

Sec. 451.0612. FARE ENFORCEMENT OFFICERS IN CERTAIN AUTHORITIES. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 may employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

1           (2) issuing a citation to a person described by  
2 Section 451.0611(d)(1).

3           (b) Before commencing duties as a fare enforcement officer a  
4 person must complete a 40-hour training course approved by the  
5 authority that is appropriate to the duties required of a fare  
6 enforcement officer.

7           (c) While performing duties, a fare enforcement officer  
8 shall:

9           (1) wear a distinctive uniform that identifies the  
10 officer as a fare enforcement officer; and

11           (2) work under the direction of the authority's  
12 manager of safety and security.

13           (d) A fare enforcement officer may:

14           (1) request evidence showing payment of the  
15 appropriate fare from passengers of the public transportation  
16 system;

17           (2) request personal identification from a passenger  
18 who does not produce evidence showing payment of the appropriate  
19 fare on request by the officer;

20           (3) request that a passenger leave the public  
21 transportation system if the passenger does not possess evidence of  
22 payment of the appropriate fare; and

23           (4) file a complaint in the appropriate court that  
24 charges the person with an offense under Section 451.0611(d).

25           (e) A fare enforcement officer may not carry a weapon while  
26 performing duties under this section.

27           (f) A fare enforcement officer is not a peace officer and

1 has no authority to enforce a criminal law, other than the authority  
2 possessed by any other person who is not a peace officer.

3 SECTION 3. Section 451.108(c), Transportation Code, is  
4 amended to read as follows:

5 (c) A peace officer commissioned under this section, except  
6 as provided by Subsections (d) and (e), or a peace officer  
7 contracted for employment by an authority confirmed before July 1,  
8 1985, in which the principal municipality has a population of less  
9 than 750,000, may:

10 (1) make an arrest in any county in which the transit  
11 authority system is located as necessary to prevent or abate the  
12 commission of an offense against the law of this state or a  
13 political subdivision of this state if the offense or threatened  
14 offense occurs on or involves the transit authority system;

15 (2) make an arrest for an offense involving injury or  
16 detriment to the transit authority system;

17 (3) enforce traffic laws and investigate traffic  
18 accidents that involve or occur in the transit authority system;  
19 and

20 (4) provide emergency and public safety services to  
21 the transit authority system or users of the transit authority  
22 system.

23 Section 451.061, Transportation Code, is amended by amending  
24 Subsection (d) and adding Subsection (d-1) to read as follows:

25 (d) Except as provided by Subsection (d-1), the ~~The~~ fares,  
26 tolls, charges, rents, and other compensation established by an  
27 authority in which the principal municipality has a population of

1 less than 1.2 million may not take effect until approved by a  
2 majority vote of a committee composed of:

3 (1) five members of the governing body of the  
4 principal municipality, selected by that governing body;

5 (2) three members of the commissioners court of the  
6 county having the largest portion of the incorporated territory of  
7 the principal municipality, selected by that commissioners court;  
8 and

9 (3) three mayors of municipalities, other than the  
10 principal municipality, located in the authority, selected by:

11 (A) the mayors of all the municipalities, except  
12 the principal municipality, located in the authority; or

13 (B) the mayor of the most populous municipality,  
14 other than the principal municipality, in the case of an authority  
15 in which the principal municipality has a population of less than  
16 300,000.

17 (d-1) The establishment of or a change to fares, tolls,  
18 charges, rents, and other compensation by an authority confirmed  
19 before July 1, 1985, in which the principal municipality has a  
20 population of less than 750,000, takes effect immediately on  
21 approval by a majority vote of the board, except that the  
22 establishment of or a change to a single-ride base fare takes effect  
23 on the 60th day after the date the board approves the fare or change  
24 to the fare, unless the policy board of the metropolitan planning  
25 organization that serves the area of the authority disapproves the  
26 fare or change to the fare by a majority vote.

27 SECTION 4. Section 451.071, Transportation Code, is amended

1 by adding Subsections (g) and (h) to read as follows:

2 (g) This section does not require the authority to hold a  
3 referendum on a proposal to enter into a contract or interlocal  
4 agreement to build, operate, or maintain a fixed rail transit  
5 system for another entity. Notwithstanding Subsection (d) the  
6 authority may spend funds of the authority to enter into a contract  
7 and operate under that contract to build, operate, or maintain a  
8 fixed rail transit system if the other entity will reimburse the  
9 authority for the funds.

10 (h) A referendum held by a political subdivision, the  
11 authority or an entity other than the authority at which funding is  
12 approved for a fixed rail transit system is considered to meet the  
13 requirements of Subsections (d) and (e) and Section 451.3625 if the  
14 notice for the election called by the political subdivision, the  
15 authority or other entity contains the description required by  
16 Subsection (c). The referendum may allow for financial  
17 participation of more than one political subdivision or entity.  
18 The authority may only spend funds of the authority if the  
19 referendum authorizes that expenditure.

20 SECTION 5. Subchapter J, Chapter 451, Transportation Code,  
21 is amended by adding Sections 451.458, 451.459, and 451.460 to read  
22 as follows:

23 Sec. 451.458. INTERNAL AUDITOR. (a) This section applies  
24 only to an authority confirmed before July 1, 1985, in which the  
25 principal municipality has a population of less than 750,000.

26 (b) The board shall appoint a qualified individual to  
27 perform internal auditing services for a term of five years. The

1 board may remove the auditor only on the affirmative vote of at  
2 least three-fourths of the members of the board.

3 (c) The auditor shall report directly to the board.

4 Sec. 451.459. SUNSET REVIEW. (a) An authority confirmed  
5 before July 1, 1985, in which the principal municipality has a  
6 population of less than 750,000 is subject to review under Chapter  
7 325, Government Code (Texas Sunset Act), as if it were a state  
8 agency but may not be abolished under that chapter. The review  
9 shall be conducted as if the authority were scheduled to be  
10 abolished September 1, 2011. In addition, another review shall be  
11 conducted as if the authority were scheduled to be abolished  
12 September 1, 2017. The reviews conducted under this section must  
13 include an assessment of the governance, management, and operating  
14 structure of the authority and the authority's compliance with the  
15 duties and requirements placed on it by the legislature.

16 (b) The authority shall pay the cost incurred by the Sunset  
17 Advisory Commission in performing a review of the authority under  
18 this section. The Sunset Advisory Commission shall determine the  
19 cost, and the authority shall pay the amount promptly on receipt of  
20 a statement from the Sunset Advisory Commission detailing the cost.

21 Sec. 451.460. ANNUAL REPORT. (a) This section applies only  
22 to an authority confirmed before July 1, 1985, in which the  
23 principal municipality has a population of less than 750,000.

24 (b) The authority shall provide an annual report to each  
25 governing body of a municipality or county in the authority  
26 regarding the status of any financial obligation of the authority  
27 to the municipality or county.

1 SECTION 6. Section 451.5021, Transportation Code, is  
2 amended by amending Subsections (a), (b), (d), and (e) and adding  
3 Subsections (b-1), (d-1), (d-2), (d-3), and (e-1) to read as  
4 follows:

5 (a) This section applies only to the board of an authority  
6 created before July 1, 1985, in which the principal municipality  
7 has a population of less than 750,000 [~~in which each member of the~~  
8 ~~governing body of the principal municipality is elected at large~~].

9 (b) Members of the [The] board [~~is composed of seven members~~  
10 ~~who~~] are appointed as follows:

11 (1) one member, who is an elected official, [~~two~~  
12 ~~members representing the general public~~] appointed by the  
13 metropolitan planning organization designated by the governor that  
14 serves the area of the authority;

15 (2) one member, who is an elected official, [~~two~~  
16 ~~members~~] appointed by the governing body of the principal  
17 municipality;

18 (3) one member jointly appointed by:

19 (A) the governing body of the principal  
20 municipality; and

21 (B) the commissioners court of the principal  
22 county;

23 (4) one member jointly appointed by:

24 (A) the governing body of the principal  
25 municipality; and

26 (B) the commissioners court of the county,  
27 excluding the principal county, that has the largest population of

1 the counties in the authority [~~a panel composed of the mayors of all~~  
2 ~~the municipalities in the authority located in the principal county~~  
3 ~~of the authority, excluding the mayor of the principal~~  
4 ~~municipality~~]; [~~and~~]

5 (5) one member, who is an elected official, appointed  
6 by a panel composed of [~~+~~

7 [~~(A)~~] the mayors of all municipalities in the  
8 authority [~~located outside the principal county of the authority~~],  
9 excluding the mayor of the principal municipality;

10 (6) one member, who has at least 10 years of experience  
11 as a financial or accounting professional, appointed by the  
12 metropolitan planning organization that serves the area in which  
13 the authority is located;

14 (7) one member, who has at least 10 years of experience  
15 in an executive-level position in a public or private organization,  
16 including a governmental entity, appointed by the metropolitan  
17 planning organization that serves the area in which the authority  
18 is located; and

19 (8) two members appointed by the metropolitan planning  
20 organization that serves the area in which the authority is  
21 located, if according to the most recent federal decennial census  
22 more than 35 percent of the population in the territory of the  
23 authority resides outside the principal municipality [~~(B) the~~  
24 ~~county judges of the counties having unincorporated area in the~~  
25 ~~authority, excluding the county judge of the principal county, and~~

26 [~~(C) the presiding officer of each municipal~~  
27 ~~utility district that.~~



1                   ~~[(i) has a majority of its territory~~  
2 ~~located outside the principal county; and~~  
3                   ~~[(ii) is located wholly or partly in the~~  
4 ~~authority].~~

5           (b-1) Notwithstanding Section 451.505, members of the board  
6 serve staggered three-year terms, with the terms of two or three  
7 members, as applicable, expiring June 1 of each year.

8           (d) A person appointed under Subsection (b)(1), (2)  
9 [(b)(2), (3), (4)], or (5):

10                   (1) must be a member of the governing body:

11                           (A) of the political subdivision that is entitled  
12 to make the appointment; or

13                           (B) over which a member of the panel entitled to  
14 make an appointment presides;

15                   (2) vacates the office of board member if the person  
16 ceases to be a member of the governing body described by Subdivision  
17 (1);

18                   (3) serves on the board as an additional duty of the  
19 office held on the governing body described by Subdivision (1); and

20                   (4) is not entitled to compensation for serving as a  
21 member of the board.

22           (d-1) At least two members appointed under Subsections  
23 (b)(1), (6), and (7) must be qualified voters residing in the  
24 principal municipality.

25           (d-2) A person appointed under Subsection (b)(3) must:

26                   (1) have the person's principal place of occupation or  
27 employment in:

1                   (A) the principal municipality; or  
2                   (B) the portion of the authority's service area  
3 that is located in the principal county; or

4                   (2) be a qualified voter of:  
5                   (A) the principal municipality; or  
6                   (B) the portion of the authority's service area  
7 that is located in the principal county.

8           (d-3) A person appointed under Subsection (b)(4) must:

9                   (1) have the person's principal place of occupation or  
10 employment in:

11                   (A) the principal municipality; or  
12                   (B) the portion of the authority's service area  
13 that is located in the county, other than the principal county, that  
14 has the largest population of the counties in the authority; or

15                   (2) be a qualified voter of:  
16                   (A) the principal municipality; or  
17                   (B) the portion of the authority's service area  
18 that is located in the county, other than the principal county, that  
19 has the largest population of the counties in the authority.

20           (e) A panel appointing a member under Subsection (b)(5)  
21 [~~this section~~] operates in the manner prescribed by Section  
22 451.503.

23           (e-1) A joint appointment to fill a vacancy in a position  
24 under Subsection (b)(3) or (4) shall be made not later than the 60th  
25 day after the date a position becomes vacant.

26           SECTION 7. Section 451.505(b), Transportation Code, is  
27 amended to read as follows:

1 (b) The terms of members of a board are staggered if the  
2 authority was[+]

3 [~~(1)~~] created before 1980 and has a principal  
4 municipality with a population of less than 1.2 million[~~+ or~~

5 [~~(2) confirmed before July 1, 1985, and has a~~  
6 ~~principal municipality with a population of less than 750,000~~].

7 SECTION 8. Subsections (g) and (h), Section 451.5021,  
8 Transportation Code, are repealed.

9 SECTION 9. (a) This section applies only to a member of the  
10 board of a metropolitan rapid transit authority created before July  
11 1, 1985, in which the principal municipality has a population of  
12 750,000 or less.

13 (b) The term of a board member that is scheduled, under the  
14 law as it existed before the effective date of this Act, to expire:

15 (1) after the effective date of this Act but before  
16 January 1, 2010, is extended to December 31, 2009; and

17 (2) on or after January 1, 2010, expires on the date  
18 the term was scheduled to expire under this law as it existed before  
19 the effective date of this Act.

20 (c) As soon as practicable on or after the effective date of  
21 this Act, but not later than December 31, 2009, the persons and  
22 entities specified in Section 451.5021, Transportation Code, as  
23 amended by this Act, shall appoint the members of the board in  
24 compliance with that section, as amended, to serve terms that  
25 begin, as applicable and as subject to Subsection (d) of this  
26 section:

27 (1) January 1, 2010; or

1           (2) the day after a term expires under Subsection  
2 (b)(2) of this section.

3           (d) A vacancy created because of the expiration of a term  
4 under Subsection (b) of this section is filled in the following  
5 manner:

6           (1) for a member appointed under Section  
7 451.5021(b)(1), Transportation Code, under the law as it existed  
8 before the effective date of this Act:

9           (A) one vacancy shall be filled by the appointing  
10 person or entity specified by Section 451.5021(b)(6),  
11 Transportation Code, as amended by this Act; and

12           (B) one vacancy shall be filled by the appointing  
13 person or entity specified by Section 451.5021(b)(7),  
14 Transportation Code, as amended by this Act;

15           (2) for a member appointed under Section  
16 451.5021(b)(2), Transportation Code, under the law as it existed  
17 before the effective date of this Act:

18           (A) one vacancy shall be filled by the appointing  
19 person or entity specified by Section 451.5021(b)(1),  
20 Transportation Code, as amended by this Act; and

21           (B) one vacancy shall be filled by the appointing  
22 person or entity specified by Section 451.5021(b)(2),  
23 Transportation Code, as amended by this Act;

24           (3) for a member appointed under Section  
25 451.5021(b)(3), Transportation Code, under the law as it existed  
26 before the effective date of this Act, the vacancy shall be filled  
27 by the appointing person or entity specified by Section

1 451.5021(b)(3), Transportation Code, as amended by this Act;

2 (4) for a member appointed under Section  
3 451.5021(b)(4), Transportation Code, under the law as it existed  
4 before the effective date of this Act, the vacancy shall be filled  
5 by the appointing person or entity specified by Section  
6 451.5021(b)(5), Transportation Code, as amended by this Act; and

7 (5) for a member appointed under Section  
8 451.5021(b)(5), Transportation Code, under the law as it existed  
9 before the effective date of this Act, the vacancy shall be filled  
10 by the appointing person or entity specified by Section  
11 451.5021(b)(4), Transportation Code, as amended by this Act.

12 (e) The members of the board appointed under Subsection (c)  
13 of this section shall draw lots to determine which terms of two  
14 members expire June 1, 2011, which terms of two members expire June  
15 1, 2012, and which terms of three members expire June 1, 2013.

16 (f) As soon as practicable after the metropolitan planning  
17 organization specified by Section 451.5021(b)(8), Transportation  
18 Code, as added by this Act, determines that that subdivision  
19 applies to the metropolitan rapid transit authority, the  
20 metropolitan planning organization shall appoint:

21 (1) one member of the board of the authority for a term  
22 to expire June 1, 2011, or, if that date has passed, the following  
23 six-year anniversary of that date; and

24 (2) one member of the board of the authority for a term  
25 to expire June 1, 2013, or, if that date has passed, the following  
26 six-year anniversary of that date.

27 This subsection applies only to an authority created under Chapter

1 451, Transportation Code, that operates in an area in which the  
2 principal municipality has a population of 1.9 million or more.  
3 Notwithstanding any other law, an authority to which this  
4 subsection applies may not take private property through the use of  
5 eminent domain if the taking of the property is related to the  
6 construction of a segment of a fixed guideway transit system,  
7 including a light rail or bus rapid transit segment, authorized by  
8 the voters of the authority and:

9           (1) the planned route of the segment as approved in the  
10 ballot proposition submitted to the voters is changed by the  
11 authority after approval of the ballot proposition by the voters;  
12 or

13           (2) the ballot proposition submitted to the voters did  
14 not specifically describe the route of the segment.

15           (g) If a court in which a condemnation proceeding is  
16 initiated under Chapter 21, Property Code, determines that the  
17 condemnation proceeding was initiated in violation of Subsection  
18 (f), the court shall:

19           (1) determine that the condemnor does not have the  
20 right to condemn;

21           (2) dismiss the condemnation proceeding; and

22           (3) order the condemnor to pay all costs of the  
23 condemnation proceeding, including all reasonable attorney's fees  
24 incurred by the owner.

25           SECTION 10. Amend section 451.0711 (a) This Section applies  
26 only to an authority created under Chapter 451, Transportation  
27 Code, that operates in an area in which the principal municipality

1 has a population of 1.9 million or more. Notwithstanding any other  
2 law, an authority to which this subsection applies may not vote to  
3 authorize the initiation of condemnation proceedings under this  
4 section if the proposed condemnation proceedings are related to the  
5 construction of a segment of a fixed guideway transit system,  
6 including a light rail or bus rapid transit segment, authorized by  
7 the voters of the authority and:

8 (1) the planned route of the segment as approved in the  
9 ballot proposition submitted to the voters is changed by the  
10 authority after approval of the ballot proposition by the voters;  
11 or

12 (2) the ballot proposition submitted to the voters did  
13 not specifically describe the route of the segment.

14 (b) If a court in which a condemnation proceeding is  
15 initiated under Chapter 21, Property Code, determines that the  
16 condemnation proceeding was authorized or initiated in violation of  
17 Subsection (a), the court shall:

18 (1) determine that the condemnor does not have the  
19 right to condemn;

20 (2) dismiss the condemnation proceeding; and

21 (3) order the condemnor to pay all costs of the  
22 condemnation proceeding, including all reasonable attorney's fees  
23 incurred by the owner.

24 SECTION 11. (a) Except as provided by this section, the  
25 changes in law made by Chapter 2206, Government Code, and Chapter  
26 21, Property Code, as amended by this Act, apply only to a  
27 condemnation proceeding in which the petition is filed on or after

1 the effective date of this Act and to any property condemned through  
2 the proceeding. A condemnation proceeding in which the petition is  
3 filed before the effective date of this Act and any property  
4 condemned through the proceeding is governed by the law in effect  
5 immediately before that date, and that law is continued in effect  
6 for that purpose.

7 (b) Section 2206.051, Government Code, as added by this Act,  
8 applies to a condemnation proceeding in which the petition is filed  
9 on or after the effective date of this Act or a condemnation  
10 proceeding pending on the effective date of this Act in which the  
11 petition was filed on or after May 15, 2007.

12 (c) Section 2206.103, Government Code, as added by this Act,  
13 applies to a condemnation proceeding authorized or initiated on or  
14 after May 15, 2007.

15 SECTION 12. This Act takes effect September 1, 2009.