

By: Wentworth

S.B. No. 2096

Substitute the following for S.B. No. 2096:

By: McClendon

C.S.S.B. No. 2096

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of and the powers of a comprehensive
3 multimodal urban transportation authority, including the power to
4 impose taxes, issue bonds, and exercise limited eminent domain
5 authority.

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

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

9 SUBCHAPTER R. URBAN TRANSPORTATION AUTHORITIES

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

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

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

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

18 (4) "Comprehensive advanced transportation" means the
19 design, construction, extension, expansion, improvement,
20 reconstruction, alteration, acquisition, financing, and
21 maintenance of mass transit, light rail, commuter rail, intercity
22 municipal rail, freight rail, fixed guideways, traffic management
23 systems, bus ways, bus lanes, technologically advanced bus transit
24 vehicles and systems, bus rapid transit vehicles and systems,

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

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

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

25 (B) traffic signal prioritization and street
26 lighting;

27 (C) monitoring systems;

1 (D) other mobility enhancement facilities,
2 equipment, systems, and services, including drainage improvements
3 or drainage-related measures reasonable and necessary for the
4 effective use of the transportation facility being constructed or
5 maintained;

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

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

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

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

20 (8) "Costs" means finance costs and construction
21 costs.

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

1 Government Code.

2 (10) "Finance costs" means any fee or expense
3 associated with the financing of a transportation project,
4 including any debt service requirement, capitalized interest,
5 reserve fund requirement, professional or administrative cost, or
6 other cost incurred by or relating to the issuance of debt under
7 this subchapter relating to the design, construction, extension,
8 expansion, improvement, reconstruction, alteration, financing,
9 acquisition, or maintenance of a transportation project.

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

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

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

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

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

26 (c) A word or phrase that is not defined in this subchapter
27 but is defined in Chapter 370 has the meaning in this subchapter

1 that is assigned by that chapter.

2 Sec. 451.902. LIBERAL CONSTRUCTION. This subchapter shall
3 be liberally construed to carry out its purposes. A provision of
4 this subchapter that conflicts with Subchapter A or O or with
5 Chapter 370 shall be construed to grant the broadest power.

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

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

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

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

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

1 (4) the governing body of the advanced transportation
2 district consents to the creation of the urban transportation
3 authority; and

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

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

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

13 (2) make adequate provision therefor by the applicable
14 entity.

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

1 (b) On the date the urban transportation authority is
2 considered to have been created, the urban transportation authority
3 becomes the successor entity to the authority, the advanced
4 transportation district, and the regional mobility authority. On
5 that date the authority, the advanced transportation district, and
6 the regional mobility authority cease to exist.

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

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

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

25 (c) An urban transportation authority has:

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

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

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

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

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

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

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

1 (h) An urban transportation authority may develop and
2 operate a turnpike project. The turnpike project must be developed
3 and operated under the provisions of Chapter 370, including any
4 provision relating to the setting of toll rates.

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

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

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

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

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

24 Sec. 451.906. NATURE OF URBAN TRANSPORTATION AUTHORITY.

25 (a) An urban transportation authority:

26 (1) is a body politic and corporate and a political
27 subdivision of this state;

1 (2) has perpetual succession; and
2 (3) exercises public and essential governmental
3 functions.

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

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

15 (d) An urban transportation authority is:

16 (1) a public entity under Section 222.1045; and

17 (2) a governmental agency under Subchapter A, Chapter
18 271, Local Government Code.

19 (e) The property, revenue, and income of an urban
20 transportation authority are exempt from state and local taxes.

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

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

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

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

10 (4) one member appointed by the governor.

11 (a-1) The members appointed under Subsection (a) shall
12 select by majority vote one member to serve as presiding officer of
13 the board.

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

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

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

1 removal applies to the board.

2 (e) Board meetings and actions are governed by the
3 provisions of this chapter that are applicable to the governing
4 body of an authority. Those meetings and actions are not governed
5 by Chapter 370.

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

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

10 (2) may not be:

11 (A) an elected official;

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

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

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

20 Sec. 451.908. PUBLIC ACCESS. An urban transportation
21 authority shall:

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

26 (2) prepare and maintain a written plan that describes
27 how an individual who does not speak English or who has a physical,

1 mental, or developmental disability may be provided reasonable
2 access to the urban transportation authority's programs.

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

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

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

26 Sec. 451.910. ESTABLISHMENT OF COMPREHENSIVE
27 TRANSPORTATION SYSTEM. (a) If the board determines that the

1 mobility needs of the county or counties in which the urban
2 transportation authority operates and of the surrounding region
3 could be most efficiently and economically met by jointly operating
4 two or more transportation projects as one operational and
5 financial enterprise, the board may create one or more
6 comprehensive transportation systems composed of those
7 transportation projects.

8 (b) The board may:

9 (1) create more than one comprehensive transportation
10 system; and

11 (2) combine two or more comprehensive transportation
12 systems into a single comprehensive transportation system.

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

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

19 (2) the transportation projects will benefit the
20 comprehensive transportation system.

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

27 (b) Debt, any portion of which is payable from taxes, may

1 not be issued by an urban transportation authority unless the
2 issuance is authorized by a majority of the votes cast at an
3 election ordered and held for that purpose.

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

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

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

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

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

1 provisions of this subchapter, the urban transportation authority
2 may pledge any revenue available to the urban transportation
3 authority under this subchapter, separately or in combination, for
4 the payment of a debt, agreement, or financial arrangement
5 described by Subsection (a).

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

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

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

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

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

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

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

1 (c) The allocation of the proceeds of the sales and use tax
2 adopted at the initial election of an advanced transportation
3 district may not be altered unless a proposition for the
4 reallocation is approved by a majority of the votes cast at an
5 election ordered and held for that purpose under this subchapter.

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

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

1 equipment, operations, system, or services;

2 (2) transportation project purposes in the territory
3 of the urban transportation authority as determined by the
4 governing bodies of each participating unit in proportion to the
5 amount of sales and use tax proceeds that were collected in that
6 participating unit; or

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

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

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

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

1 mass transit operations.

2 (b) Fare revenue generated by a rail operation of the urban
3 transportation authority may be used for any comprehensive advanced
4 transportation or comprehensive mobility enhancement purpose.

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

10 Sec. 451.916. PUBLIC UTILITY FACILITIES. An urban
11 transportation authority has the same powers and may use the same
12 procedures as a regional mobility authority operating under Chapter
13 370 with regard to public utility facilities.

14 Sec. 451.917. TOLL COLLECTION AND VIOLATIONS. An urban
15 transportation authority has the same powers and may use the same
16 procedures as a regional mobility authority operating under Chapter
17 370 with regard to toll collections, transponders, enforcement,
18 violations, and penalties.

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

26 (1) a construction manager agent;

27 (2) a construction manager-at-risk;

1 (3) use of design build;

2 (4) a pass-through agent; or

3 (5) a comprehensive development agreement.

4 Sec. 451.919. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES.

5 A municipality located in the territory served by an urban
6 transportation authority may:

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

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

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