

BILL ANALYSIS

C.S.H.B. 2884
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Legislation enacted a decade ago provided for the creation of coordinated county transportation authorities to facilitate mass transportation in certain counties. Among other provisions, C.S.H.B. 2884 provides for the enforcement of fares and for participation in an authority through tax increment payments.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2884 amends the Transportation Code to authorize the board of directors of a coordinated county transportation authority by resolution to prohibit the use of the public transportation system by a person without payment of the appropriate fare for the use of the system and to establish reasonable and appropriate methods to ensure that persons using the public transportation system pay the appropriate fare for that use. The bill authorizes a board of directors by resolution to provide that a fare for or charge for the use of the public transportation system that is not paid incurs a reasonable administrative fee. The bill requires an authority to post signs designating each area in which a person is prohibited from using the transportation system without payment of the appropriate fare. The bill makes it a misdemeanor offense punishable by a fine not to exceed \$100 if the person or another for whom the person is criminally responsible uses the public transportation system without paying the appropriate fare and specifies that such an offense is not a crime of moral turpitude. The bill authorizes a justice court located in the service area of an authority to enter into an agreement with the authority to try all the criminal cases that arise when a person or another for whom the person is criminally responsible uses the public transportation system without paying the appropriate fare. The bill requires a criminal case that arises from such a violation, if a justice court enters into an agreement with an authority, to be tried in the justice court and grants the justice court exclusive jurisdiction in all such criminal cases.

C.S.H.B. 2884 makes it prima facie evidence that a person used the public transportation system without paying the appropriate fare if the person fails to provide proof that the person paid the appropriate fare for the use of the public transportation system and fails to pay any assessed administrative fee on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare and the administrative fee. The bill authorizes the notice to the person to be included in a citation issued to the person by a peace officer under certain statutory provisions or by a fare enforcement officer under the bill's provisions, in connection with an offense relating to the nonpayment of the appropriate fare for the use of the public transportation system. The bill makes it an exception to the application of the offense that, on or before the 30th day after the date the authority notified the person that the person is required to pay the amount of the fare and any administrative fee, the person provided proof that the person paid the appropriate fare at the time the person used the transportation

system or at a later date or that the person was exempt from payment and that the person paid the administrative fee, if applicable.

C.S.H.B. 2884 authorizes a coordinated county transportation authority to employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system and by issuing a citation to a person committing the misdemeanor offense. The bill requires a person, before commencing duties as a fare enforcement officer, to complete at least eight hours of training approved by the authority that is appropriate to the duties required of a fare enforcement officer. The bill requires a fare enforcement officer, while performing duties, to wear a distinctive uniform, badge, or insignia that identifies the person as a fare enforcement officer and to work under the direction of the authority's chief administrative officer.

C.S.H.B. 2884 authorizes a fare enforcement officer to perform certain specified duties and prohibits a fare enforcement officer from carrying a weapon while performing the duties unless the officer is a certified peace officer. The bill specifies that a fare enforcement officer who is not a certified peace officer is not a peace officer and has no authority to enforce a criminal law, except as provided under the bill's provisions.

C.S.H.B. 2884 increases from \$25,000 to \$50,000 the aggregate amount involved in a contract below which the board of directors of a coordinated county transportation authority may authorize the negotiation of the contract without competitive sealed bids or proposals.

C.S.H.B. 2884 creates an exception for a service plan implemented in an area of a municipality that has not authorized a coordinated county transportation authority's sales and use tax levy and is participating in the authority through tax increment payments to provisions of law authorizing a service plan to be implemented in an area of the county participating in the authority only if a majority of votes received favor the authorization of a tax levy by the authority. The bill authorizes a service plan to be implemented in an area of a municipality that has not authorized the authority's sales and use tax levy if the authorization by the municipality of the authority's sales tax levy, when combined with the rates of all sales taxes imposed by other political subdivisions in the municipality, would exceed two percent in any location in the municipality and if the municipality has entered into an agreement with the authority to provide public transportation services in a public transportation financing area in exchange for all or a portion of the tax increment in the area. The bill defines "tax increment."

C.S.H.B. 2884 authorizes the governing body of a municipality by ordinance to designate a contiguous geographic area in the jurisdiction of the municipality to be a public transportation financing area. The bill requires the geographic area to have one or more transit facilities that include a structure provided for or on behalf of the authority for embarkation on and disembarkation from public transportation services provided by the authority, which may include a transit stop, transit shelter, transit garage, or transit terminal, and to include an area one-half mile on either side of the proposed service route served by the structure, to the extent that that area is included in the municipality's boundaries. The bill authorizes the geographic area to include any territory located in the municipality's jurisdiction.

C.S.H.B. 2884 requires a municipality, before adopting an ordinance designating a public transportation financing area, to hold a public hearing on the creation of the area and its benefits to the municipality and to property in the proposed area. The bill authorizes an interested person to speak for or against the designation of the area at the hearing. The bill requires notice of the hearing to be published in a newspaper having general circulation in the municipality not later than the 30th day before the date of the hearing.

C.S.H.B. 2884 requires a municipality, in the ordinance designating an area as a public transportation financing area, to designate a portion or amount of the tax increment to be paid to

the authority and deposited in the tax increment account and to state whether the tax increment will be generated from property tax revenue, sales tax revenue, or both. The bill prohibits the amount designated for payment and deposit from exceeding the equivalent of the amount that would be collected by the authority if the municipality had authorized the authority's sales tax levy. The bill, if the designated amount is not sufficient to compensate the authority for the maintenance and operating expenses of providing service to the financing area and for any capital cost incurred for the benefit of the financing area, authorizes the authority to request and requires the municipality to designate that the entire portion or amount of the tax increment be deposited in the tax increment account, regardless of whether that amount exceeds the authority's sales tax levy equivalent, until any amounts owed for all previous years' maintenance and operating expenses and for any capital cost incurred for the benefit of the financing area have been paid.

C.S.H.B. 2884 requires a coordinated county transportation authority that enters into an agreement with a municipality to provide services to a public transportation financing area to establish a tax increment account and maintain the account as a fiduciary of the municipality. The bill limits the disbursement of taxes deposited into the tax increment account to the following: compensating the authority for maintenance and operating expenses of providing services to the public transportation financing area, including compensation for expansion, improvement, rehabilitation, or enhancement amounts owed for previous years' maintenance and operating expenses for the area; compensating the authority for any capital cost incurred for the benefit of the financing area; satisfying claims of holders of tax increment bonds, notes, or other obligations issued or incurred for projects or services that directly or indirectly benefit the public transportation financing area through the expansion, improvement, rehabilitation, or enhancement of transportation service by the authority under the service plan; and paying any capital recovery fee required by the authority.

C.S.H.B. 2884 requires the governing body of a municipality that establishes a tax increment account under an agreement with a coordinated county transportation authority, before pledging or otherwise committing money in the tax increment account, to enter into an agreement with the Bond Review Board to authorize and direct the comptroller of public accounts to withhold from any payment to which the municipality may be entitled the amount of the payment due to the tax increment account, deposit that amount into the tax increment account, and continue withholding and making additional payments into the tax increment account until an amount sufficient to satisfy the amount due to the account has been met.

C.S.H.B. 2884 requires a coordinated county transportation authority, under an agreement with a municipality to participate in a service plan, to provide to the municipality an annual accounting, with supporting documentation, of the annual maintenance and operating expenses of providing service to the public transportation financing area and to notify the municipality when amounts owed for all previous years' maintenance and operating expenses and for any capital cost incurred for the benefit of the financing area have been fully paid.

C.S.H.B. 2884 authorizes an agreement to provide services to a public transportation financing area to require the municipality to pay the coordinated county transportation authority a capital recovery fee. The bill requires an authority that requires a capital recovery fee to apply toward the amount owed for the capital recovery fee any amount in the tax increment account that exceeds the amount necessary to compensate the authority for the following: the annual maintenance and operating expenses of providing service to the public transportation financing area, including amounts for expansion, improvement, rehabilitation, or enhancement that may be owed for previous years' maintenance and operating expenses, and any capital cost incurred for the benefit of the financing area. The bill requires the authority to notify the municipality when the amount owed for the capital recovery fee has been fully paid.

C.S.H.B. 2884 requires a coordinated county transportation authority and a municipality, after any applicable capital recovery fee has been paid, to negotiate to determine use of the amount of

tax increment payments that exceeds the amount necessary to compensate the authority for the annual maintenance and operating expenses of providing service to the public transportation financing area. The bill authorizes excess amounts to be used to develop infrastructure enhancement, replacement, or improvement projects in the public transportation financing area that benefit both the municipality and the authority.

C.S.H.B. 2884 prohibits the public transportation financing area or an agreement to provide services in exchange for all or a portion of the tax increment in the area from being terminated by agreement of the parties if the tax increment is pledged to the payment of bonds and interest on the bonds or to the payment of any other obligations unless the municipality that created the area deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay the following: the principal of, premium, if any, and interest on all bonds issued on behalf of the area at maturity or at the date fixed for redemption of the bonds; and any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent, as well as to pay the principal of and interest on any other obligations incurred on behalf of the area. The bill makes a conforming change.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2884 contains a provision not included in the original authorizing a justice court located in the service area of a coordinated county transportation authority to enter into an agreement with the authority to try all the criminal cases that arise when a person or another for whom the person is criminally responsible uses the public transportation system without paying the appropriate fare. The substitute contains a provision not included in the original requiring a criminal case that arises from such a violation to be tried in the justice court and granting the justice court exclusive jurisdiction in all such criminal cases.

C.S.H.B. 2884 differs from the original by defining "tax increment" as the amount of revenue generated from property taxes, sales and use taxes imposed by a municipality, or both property and sales and use taxes that are attributable to a public financing transportation financing area that exceeds the amount attributable to the area for the year in which the area was designated, whereas the original specifies the amount of revenue generated from property taxes or sales and use taxes. The substitute differs from the original by authorizing a service plan to be implemented in an area of a municipality that has not authorized the authority's sales and use tax levy, if certain conditions are met, whereas the original authorizes such implementation in an area of a municipality that has not authorized the authority's tax levy.

C.S.H.B. 2884 differs from the original by authorizing a contiguous geographic area designated as a public transportation financing area to include any territory located in the municipality's jurisdiction and requiring the geographic area to include an area one-half mile on either side of the proposed service route served by a certain structure used for public transportation services, to the extent that the area is included in the municipality's boundaries, whereas the original authorizes the area to include any territory located in the municipality's jurisdiction within one-half mile from the proposed transportation service route served by such a structure.

C.S.H.B. 2884 requires the notice of a public hearing on the creation of public transportation financing area and its benefits to be published not later than the 30th day before the hearing date, rather than the seventh day before the date of the hearing, as in the original.

C.S.H.B. 2884 differs from the original by requiring a municipality, in designating an area as a

public transportation financing area, to designate a portion or amount of the tax increment to be paid to the authority and deposited in the tax increment account, whereas the original requires the portion or amount to be deposited in the tax increment account. The substitute contains conforming and nonsubstantive changes not included in the original.