

BILL ANALYSIS

Senate Research Center

S.B. 650
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Transportation & Homeland Security
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 650 is the result of the Sunset Advisory Commission's (Sunset) review of the Capital Metropolitan Transportation Authority (Capital Metro). Capital Metro had significant financial problems, prompting a recommendation that the agency undergo Sunset review. Capital Metro has made progress on implementing a number of corrective initiatives, but statutory changes are needed to ensure continued progress.

S.B. 650 amends current law relating to management of certain metropolitan rapid transit authorities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 451, Transportation Code, by adding Subchapter C-1, as follows:

SUBCHAPTER C-1. ADDITIONAL MANAGEMENT PROVISIONS FOR CERTAIN AUTHORITIES

Sec. 451.131. **APPLICABILITY.** Provides that this subchapter applies only to a rapid transit authority created under this chapter or under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (authority), confirmed before July 1, 1985, in which the principal municipality has a population of less than one million.

Sec. 451.132. **FIVE-YEAR CAPITAL IMPROVEMENT PLAN.** (a) Requires the governing body of the authority (board) to adopt a five-year plan for capital improvement projects that supports the strategic goals outlined in Section 451.135 and that:

- (1) describes planned projects, including type and scope;
- (2) prioritizes the projects;
- (3) addresses proposed project financing, including any effect a project may have on ongoing operational costs;
- (4) identifies sources of funding for projects, including local and federal funds; and
- (5) establishes policies for projects, including policies on planning, approval, cost estimation, project reports, expense tracking, participation of historically underutilized businesses, and cost-benefit analyses.

(b) Requires the board to hold a public meeting on a proposed capital improvement plan before adopting the plan and to make the proposed plan available to the public for review and comment.

(c) Requires the board to annually reevaluate and, if necessary, amend the capital improvement plan to ensure compliance with this section.

(d) Provides that the capital improvement plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

(e) Prohibits the board from adopting a plan for participation of historically underutilized businesses in capital improvement projects that require a quota or any similar requirement. Prohibits the board from conducting a capital improvement project in a way that has the effect of creating a quota for the participation of historically underutilized businesses.

Sec. 451.133. OPERATING EXPENSES AND CAPITAL EXPENDITURES. (a) Prohibits an authority from spending for capital improvements money in excess of the total amount allocated for major capital expenditures in the annual budget.

(b) Requires the board to adopt rules requiring each major department of the authority to report quarterly on operating expenses and capital expenditures of the department.

(c) Requires the board to establish a system for tracking the progress of the authority's capital improvement projects.

(d) Requires the board to maintain, update, and post on the authority's Internet website accounting records for each authority account, including the account's balance at the end of the fiscal year, deposits to the account, account expenditures, and interest income to the account.

Sec. 451.134. OPERATING RESERVE ACCOUNT. (a) Requires the board to establish, in an account separate from other funds, a reserve account in an amount that is not less than an amount equal to actual operating expenses for two months.

(b) Requires the board to adjust the amount held in the reserve account at least once annually based on the authority's actual operating reserves for the 12 months immediately preceding the adjustment.

(c) Authorizes the board to make an expenditure from the reserve account that causes the balance in the account to be less than the amount required under Subsection (b) only if the board considers the expense necessary to address emergency circumstances that could not have been planned for or anticipated. Requires the board to adopt criteria for expenditures under this subsection.

(d) Requires the board, if reserve funds are spent under Subsection (c), to, as soon as practicable, restore the balance of the reserve account to at least the amount in the account at the beginning of the fiscal year in which the spending occurred.

(e) Requires the board to maintain, update, and post on the authority's Internet website accounting records of the reserve account's balance at the end of the fiscal year, deposits, expenditures, and interest income.

Sec. 451.135. STRATEGIC PLAN. (a) Requires the board to adopt a strategic plan that establishes the authority's mission and goals and summarizes planned activities to achieve the mission and goals.

(b) Requires that the plan set policies and service priorities to guide the authority in developing a budget and allocating resources.

(c) Provides that the plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

(d) Requires the board to annually reevaluate and, if necessary, amend the plan to ensure compliance with this section.

Sec. 451.136. RAIL SAFETY PLAN AND REPORTS. (a) Requires the board to adopt and the general manager to implement a rail safety plan in accordance with federal and industry standards for all authority rail activities, including commuter and freight rail activities.

(b) Requires that the plan address and emphasize ongoing maintenance and safety of the authority's railroad bridges.

(c) Requires that the plan, to ensure that contractor services on the authority's rail system meet safety obligations, include specifics regarding monitoring of contractors for safety-related performance, including regular hazard analyses, risk assessments, and safety audits.

(d) Requires the general manager to report quarterly to the board on the safety of the authority's rail system. Requires the authority to provide quarterly to the Texas Department of Transportation (TxDOT) all reports provided to the Federal Railroad Administration or Federal Transit Administration regarding any aspect of the rail system's safety at the time the reports are delivered to the Federal Railroad Administration or Federal Transit Administration.

Sec. 451.137. COMPETITIVE BIDS FOR AND PURCHASE OF TRANSIT SERVICES. (a) Requires a board, except as provided by Subsection (f), after providing notice of a proposal, to submit to competitive bids a contract for and to purchase transit services that:

(1) include administration of motor bus or sedan transit services; motor bus or sedan driving, maintenance, or repair; transit services for persons who have disabilities, including through a program established under Section 451.254 (Program for Persons with Physical Disabilities: Certain Authorities); or rail transit services; and

(2) are not provided wholly by an employee of the authority who is directly paid by the authority and works under the daily supervision of the authority's general manager.

(b) Provides that, for the purposes of Subsection (a)(2), services are not provided wholly by an employee of the authority if the person is an employee of an entity incorporated as a state nonprofit by the board and with which the authority contracts for transit or employee services.

(c) Requires that notice under Subsection (a) be published in a newspaper of general circulation in the area in which the authority is located at least once each week for eight consecutive weeks before the date set for receiving the bids. Requires that the first notice be published at least 60 days before the date set for receiving bids.

(d) Requires that a contract let under this section include performance control measures, incentives for performance, penalties for noncompliance, and a contract termination date.

(e) Requires the board to adopt rules on the taking of bids; the awarding of contracts; and the waiver of the competitive bidding requirement if there is an emergency, or only one source for the service or purchase.

(f) Provides that Subsection (a) does not apply to a contract or purchase in an amount of \$25,000 or less, for personal or professional services, or for the acquisition of an existing transit system.

Sec. 451.138. PUBLIC INVOLVEMENT POLICY. (a) Requires the board to adopt a policy of involving the public in board decisions regarding authority policies. Requires that the policy:

(1) ensure that the public has an opportunity to comment on board matters before a vote on the matters;

(2) ensure that any consent agenda or expedition of consideration of board matters at board meetings is used only for routine, noncontroversial matters;

(3) establish a time frame and mechanism for the board to obtain public input throughout the year; and

(4) plan for dissemination of information on how the public can be involved in board matters.

(b) Requires the board to post the policy adopted under this section on the authority's Internet website.

Sec. 451.139. ISSUANCE OF BONDS FOR SELF-INSURANCE OR RETIREMENT OR PENSION FUND RESERVES. (a) Authorizes an authority to issue bonds only in an amount necessary for managing or funding retiree pension benefit obligations for pension plans existing as of January 1, 2011, and that result from the competitive bidding of transit services required by Section 451.137.

(b) Provides that Section 451.352(c) (relating to prohibiting bonds, any portion of which is payable from taxes, from being issued until authorized by a majority of the votes received in an election) does not apply to bonds described by Subsection (a).

SECTION 2. Amends Section 451.610, Transportation Code, as follows:

Sec. 451.610. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES. (a) Creates this subsection from existing text. Makes no further changes.

(b) Requires an authority to provide the same level of transportation services under Subsection (a) to persons with disabilities in a unit of election that withdrew from the authority before January 1, 2011, as those persons received on January 1, 2011. Provides that this subsection applies only to an authority to which Subchapter C-1 applies.

SECTION 3. Amends Subchapter M, Chapter 451, Transportation Code, by adding Section 451.6101, as follows:

Sec. 451.6101. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES; ALTERNATIVE PROGRAM. (a) Provides that this section applies only to an authority to which Subchapter C-1 applies.

(b) Requires an authority, notwithstanding Section 451.610, to establish an alternative program to provide transportation services to persons with disabilities in a withdrawn unit of election who are eligible to receive services under the program. Requires an authority to require interested persons with disabilities to

apply to be program participants. Requires that the program be available to a person with a disability who:

(1) resides, at the time of application to the program, in a withdrawn unit of election;

(2) can prove, at the time of application, residence in the corporate limits of the withdrawn unit of election as those limits existed at the time of the withdrawal and continuous residence in the corporate limits of the withdrawn unit of election since withdrawal;

(3) meets eligibility criteria established by the authority for demand-responsive transportation service for persons with disabilities and can prove, at the time of application, that the person has had the same disability since the unit of election withdrew; and

(4) applies to the program before January 1, 2012.

(c) Requires that the program to include only transportation services that meet the requirements of all applicable federal laws, rules, or regulations; and include transportation services between the residence of a program participant and a destination with the authority's service area or a destination within the withdrawn unit of election where the person with a disability resides that is the participant's place of work or place where the participant is seeking employment, a physician's office, a pharmacy, the participant's place of voting, a grocery store within five miles of the participant's residence or within the withdrawn unit of election, or a government building.

(d) Provides that Subsection (c)(1) does not expand the service area or add to the destinations in Subsection (c)(2).

(e) Provides that the requirement for transportation services to a grocery store under Subsection (c)(2)(E) is for services once per week. Provides that the requirement for transportation services to a government building under Subsection (c)(2)(F) is for services twice per week.

(f) Requires that a withdrawn unit of election reimburse the authority for the costs of all services in the manner provided by Section 451.616 unless otherwise agreed to in a memorandum of understanding between the authority and the withdrawn unit of election.

(g) Requires that a withdrawn unit of election that does not provide transportation services to a program participant in the withdrawn unit of election through a third-party service provider to provide the participant with use of the authority's transportation services. Authorizes the authority, if a withdrawn unit of election chooses to have a third-party service provider provide services under this subsection, with the withdrawn unit's consent to:

(1) provide necessary dispatch services; and

(2) ensure the provider receives payment from the withdrawn unit of election.

(h) Prohibits an individual from receiving transportation services under the program and subsequently receiving transportation services under Section 451.610.

(i) Prohibits a person who ceases to reside in the withdrawn unit of election from continuing as a program participant.

(j) Provides that this section and any program established under this section expire on January 1, 2020.

SECTION 4. Provides that Section 451.133(a), Transportation Code, as added by this Act, applies only to a budget adopted on or after September 1, 2012.

SECTION 5. Requires a metropolitan authority required to establish a reserve account under Section 451.134, Transportation Code, as added by this Act, to establish the account not later than September 1, 2016. Requires the authority, not later than December 31, 2014, to file a report on the authority's progress in fulfilling this requirement with the lieutenant governor, speaker of the house of representatives, and each member of the legislature.

SECTION 6. Requires a metropolitan authority required by Sections 451.132, 451.133(c), 451.135, 451.136, and 451.138, Transportation Code, as added by this Act, to establish a five-year capital improvement plan, a capital improvement projects tracking system, a strategic plan, a rail safety plan, and a public involvement policy, respectively, to develop the plans, policy, and system not later than September 30, 2012.

SECTION 7. Requires individuals providing for a metropolitan authority transit services described by Section 451.137, Transportation Code, as added by this Act, to be providing those services as employees of the authority or under a contract or agreement that complies with the competitive bidding and purchase requirements of that section, not later than September 1, 2012.

SECTION 8. Requires a metropolitan authority required to adopt rules under Section 451.133(b), Transportation Code, as added by this Act, to adopt those rules not later than September 30, 2012.

SECTION 9. Effective date: upon passage or September 1, 2011.