

BILL ANALYSIS

Senate Research Center

S.B. 1422
By: Nelson, Harris
Transportation & Homeland Security
9/6/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1422 amends current law relating to coordinated county transportation authorities, and creates an offense.

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 Section 460.106(d), Transportation Code, to authorize a service plan to be implemented in an area of the county participating in the coordinated county transportation authority (authority) only if a majority of votes received favor the authorization of a tax levy by the authority, except as provided by Subchapter I. Makes a nonsubstantive change.

SECTION 2. Amends Subchapter C, Chapter 460, Transportation Code, by adding Sections 460.1091 and 460.1092, as follows:

Sec. 460.1091. ENFORCEMENT OF FARES AND OTHER CHARGES; PENALTIES.

(a) Authorizes a governing body of an authority (board of directors) 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.

(b) 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.

(c) 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.

(d) Provides that a person commits an offense if the person or another for whom the person is criminally responsible under Section 7.02 (Criminal Responsibility for Conduct of Another), Penal Code, uses the public transportation system without paying the appropriate fare.

(e) Provides that it is 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 administrative fee assessed under Subsection (b) 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.

(f) Authorizes the notice required by Subsection (e) to be included in a citation issued to the person by a peace officer under Article 14.06 (Must Take Offender Before Magistrate), Code of Criminal Procedure, or by a fare enforcement officer under Section 460.1092, in connection with an offense relating to the nonpayment of the appropriate fare for the use of the public transportation system.

(g) Provides that it is an exception to the application of Subsection (d) 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 assessed under Subsection (b), the person:

(1) 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

(2) paid the administrative fee assessed under Subsection (b), if applicable.

(h) Provides that an offense under Subsection (d) is:

(1) a misdemeanor punishable by a fine not to exceed \$100; and

(2) not a crime of moral turpitude.

(i) Authorizes a justice court located in the service area of the authority to enter into an agreement with the authority to try all criminal cases that arise under Subsection (d). Provides that, notwithstanding Articles 4.12 (Misdemeanor Cases; Precinct in Which Defendant to be Tried in Justice Court) and 4.14 (Jurisdiction of Municipal Court), Code of Criminal Procedure, if a justice court enters into an agreement with the authority:

(1) a criminal case that arises under Subsection (d) is required to be tried in the justice court; and

(2) the justice court has exclusive jurisdiction in all criminal cases that arise under Subsection (d).

Sec. 460.1092. FARE ENFORCEMENT OFFICERS. (a) Authorizes an authority to 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

(2) issuing a citation to a person described by Section 460.1091(d).

(b) 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.

(c) Requires a fare enforcement officer, while performing duties, to:

(1) wear a distinctive uniform, badge, or insignia that identifies the person as a fare enforcement officer; and

(2) work under the direction of the authority's chief administrative officer.

(d) Authorizes a fare enforcement officer to:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system or evidence showing exemption from the payment requirement;

(2) request personal identification or other documentation designated by the authority from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) instruct a passenger to immediately leave the public transportation system if the passenger does not possess evidence showing payment or exemption from payment of the appropriate fare; or

(4) file a complaint in the appropriate court that charges the person with an offense under Section 460.1091(d).

(e) Prohibits a fare enforcement officer from carrying a weapon while performing duties under this section unless the officer is a certified peace officer.

(f) Provides 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 by this section.

SECTION 3. Amends Section 460.406(c), Transportation Code, as follows:

(c) Authorizes the board of directors to authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is \$50,000 or less, rather than \$25,000 or less; or

(2)-(12) Makes no changes to these subdivisions.

SECTION 4. Amends Chapter 460, Transportation Code, by adding Subchapter I, as follows:

SUBCHAPTER I. PARTICIPATION IN AUTHORITY THROUGH TAX INCREMENT PAYMENTS

Sec. 460.601. DEFINITION. Defines, in this subchapter, "tax increment."

Sec. 460.602. PARTICIPATION IN SERVICE PLAN; AGREEMENT WITH MUNICIPALITY. 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:

(1) the authorization by the municipality of the authority's sales and use tax levy, when combined with the rates of all sales and use taxes imposed by other political subdivisions in the municipality, would exceed two percent in any location in the municipality; and

(2) the municipality has entered into an agreement with the authority to provide public transportation services in a public transportation financing area designated under this subchapter in exchange for all or a portion of the tax increment in the area.

Sec. 460.603. DESIGNATION OF PUBLIC TRANSPORTATION FINANCING AREA. 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. Provides that the geographic area:

(1) is required 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;

(2) is authorized to include any territory located in the municipality's jurisdiction; and

(3) is required to include an area one-half mile on either side of the proposed service route served by the structure under Subdivision (1), to the extent that that area is included in the municipality's boundaries.

Sec. 460.604. HEARING. (a) Requires a municipality, before adopting an ordinance designating a public transportation financing area, to hold a public hearing on the creation of the public transportation financing area and its benefits to the municipality and to property in the proposed public transportation financing area. Authorizes an interested person to speak for or against the designation of the public transportation financing area at the hearing.

(b) Requires that notice of the hearing be published in a newspaper having general circulation in the municipality not later than the 30th day before the date of the hearing.

Sec. 460.605. DESIGNATION OF TAX INCREMENT. (a) Requires the municipality, in the ordinance designating an area as a public transportation financing area, to:

(1) designate a portion or amount of the tax increment to be paid to the authority and deposited in the tax increment account under Section 460.606; and

(2) state whether the tax increment will be generated from ad valorem tax revenue, sales and use tax revenue, or both.

(b) 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 and use tax levy.

(c) Authorizes the authority to request and requires the municipality, notwithstanding Subsection (b), 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 and use 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 public transportation financing area have been paid if the amount designated under Subsection (b) is not sufficient to compensate the authority for the maintenance and operating expenses of providing service to the public transportation financing area and for any capital cost incurred for the benefit of the public transportation financing area.

Sec. 460.606. TAX INCREMENT ACCOUNT; USE OF TAXES. (a) Requires an 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.

(b) Authorizes the taxes to be deposited into the tax increment account to be disbursed from the account only to:

(1) compensate 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 public transportation financing area;

(2) compensate the authority for any capital cost incurred for the benefit of the public transportation financing area;

(3) notwithstanding Section 321.506 (Use of Tax Revenue by Municipality), Tax Code, satisfy 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

(4) pay any capital recovery fee required by the authority.

Sec. 460.607. AGREEMENT WITH COMPTROLLER. Requires the governing body of a municipality, before pledging or otherwise committing money in the tax increment account under Section 460.606, to enter into an agreement under Subchapter E (State Intercept to Increase Credit Rating), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, to authorize and direct the comptroller of public accounts to:

(1) withhold from any payment to which the municipality may be entitled the amount of the payment due to the tax increment account;

(2) deposit that amount into the tax increment account; and

(3) 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.

Sec. 460.608. ACCOUNTING OF MAINTENANCE AND OPERATING EXPENSES. Requires an authority to, under an agreement under Section 460.602:

(1) 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

(2) 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 public transportation financing area have been fully paid.

Sec. 460.609. CAPITAL RECOVERY FEE. Authorizes an agreement to provide services to a public transportation financing area to require the municipality to pay the authority a capital recovery fee. Requires an authority that requires a capital recovery fee to:

(1) 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:

(A) 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

(B) any capital cost incurred for the benefit of the public transportation financing area; and

(2) notify the municipality when the amount owed for the capital recovery fee has been fully paid.

Sec. 460.610. USE OF SURPLUS TAX INCREMENT PAYMENT AMOUNTS. Requires the authority and the 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. Authorizes the 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.

Sec. 460.611. TERMINATION OF PUBLIC TRANSPORTATION FINANCING AREA. Prohibits the public transportation financing area or an agreement for services under Section 460.602 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 public transportation financing 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:

- (1) the principal of, premium, if any, and interest on all bonds issued on behalf of the public transportation financing area at maturity or at the date fixed for redemption of the bonds; and
- (2) 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 public transportation financing area.

SECTION 5. Effective date: September 1, 2011.