

By: Solomons

H.B. No. 2884

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to coordinated county transportation authorities;  
3 creating an offense.

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

5 SECTION 1. Section 460.106(d), Transportation Code, is  
6 amended to read as follows:

7 (d) Except as provided by Subchapter I, a [A] service plan  
8 may be implemented in an area of the county participating in the  
9 authority only if a majority of votes received favor the  
10 authorization of a tax levy by the authority.

11 SECTION 2. Subchapter C, Chapter 460, Transportation Code,  
12 is amended by adding Sections 460.1091 and 460.1092 to read as  
13 follows:

14 Sec. 460.1091. ENFORCEMENT OF FARES AND OTHER CHARGES;  
15 PENALTIES. (a) A board of directors by resolution may prohibit the  
16 use of the public transportation system by a person without payment  
17 of the appropriate fare for the use of the system and may establish  
18 reasonable and appropriate methods to ensure that persons using the  
19 public transportation system pay the appropriate fare for that use.

20 (b) A board of directors by resolution may provide that a  
21 fare for or charge for the use of the public transportation system  
22 that is not paid incurs a reasonable administrative fee.

23 (c) An authority shall post signs designating each area in  
24 which a person is prohibited from using the transportation system

1 without payment of the appropriate fare.

2 (d) A person commits an offense if the person or another for  
3 whom the person is criminally responsible under Section 7.02, Penal  
4 Code, uses the public transportation system without paying the  
5 appropriate fare.

6 (e) If the person fails to provide proof that the person  
7 paid the appropriate fare for the use of the public transportation  
8 system and fails to pay any administrative fee assessed under  
9 Subsection (b) on or before the 30th day after the date the  
10 authority notifies the person that the person is required to pay the  
11 amount of the fare and the administrative fee, it is prima facie  
12 evidence that the person used the public transportation system  
13 without paying the appropriate fare.

14 (f) The notice required by Subsection (e) may be included in  
15 a citation issued to the person by a peace officer under Article  
16 14.06, Code of Criminal Procedure, or by a fare enforcement officer  
17 under Section 460.1092, in connection with an offense relating to  
18 the nonpayment of the appropriate fare for the use of the public  
19 transportation system.

20 (g) It is an exception to the application of Subsection (d)  
21 that on or before the 30th day after the date the authority notified  
22 the person that the person is required to pay the amount of the fare  
23 and any administrative fee assessed under Subsection (b), the  
24 person:

25 (1) provided proof that the person paid the  
26 appropriate fare at the time the person used the transportation  
27 system or at a later date or that the person was exempt from

1 payment; and

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

4 (h) An offense under Subsection (d) is:

5 (1) a misdemeanor punishable by a fine not to exceed  
6 \$100; and

7 (2) not a crime of moral turpitude.

8 Sec. 460.1092. FARE ENFORCEMENT OFFICERS. (a) An  
9 authority may employ persons to serve as fare enforcement officers  
10 to enforce the payment of fares for use of the public transportation  
11 system by:

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

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

17 (b) Before commencing duties as a fare enforcement officer,  
18 a person must complete at least eight hours of training approved by  
19 the authority that is appropriate to the duties required of a fare  
20 enforcement officer.

21 (c) While performing duties, a fare enforcement officer  
22 shall:

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

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

27 (d) A fare enforcement officer may:

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

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

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

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

14           (e) A fare enforcement officer may not carry a weapon while  
15 performing duties under this section unless the officer is a  
16 certified peace officer.

17           (f) A fare enforcement officer who is not a certified peace  
18 officer is not a peace officer and has no authority to enforce a  
19 criminal law, except as provided by this section.

20           SECTION 3. Section 460.406(c), Transportation Code, is  
21 amended to read as follows:

22           (c) The board of directors may authorize the negotiation of  
23 a contract without competitive sealed bids or proposals if:

24           (1) the aggregate amount involved in the contract is  
25 \$50,000 [~~\$25,000~~] or less;

26           (2) the contract is for construction for which not  
27 more than one bid or proposal is received;

1           (3) the contract is for services or property for which  
2 there is only one source or for which it is otherwise impracticable  
3 to obtain competition;

4           (4) the contract is to respond to an emergency for  
5 which the public exigency does not permit the delay incident to the  
6 competitive process;

7           (5) the contract is for personal or professional  
8 services or services for which competitive bidding is precluded by  
9 law;

10           (6) the contract, without regard to form and which may  
11 include bonds, notes, loan agreements, or other obligations, is for  
12 the purpose of borrowing money or is a part of a transaction  
13 relating to the borrowing of money, including:

14                   (A) a credit support agreement, such as a line or  
15 letter of credit or other debt guaranty;

16                   (B) a bond, note, debt sale or purchase, trustee,  
17 paying agent, remarketing agent, indexing agent, or similar  
18 agreement;

19                   (C) an agreement with a securities dealer,  
20 broker, or underwriter; and

21                   (D) any other contract or agreement considered by  
22 the board of directors to be appropriate or necessary in support of  
23 the authority's financing activities;

24           (7) the contract is for work that is performed and paid  
25 for by the day as the work progresses;

26           (8) the contract is for the purchase of land or a  
27 right-of-way;

1 (9) the contract is for the purchase of personal  
2 property sold:

3 (A) at an auction by a state licensed auctioneer;

4 (B) at a going out of business sale held in  
5 compliance with Subchapter F, Chapter 17, Business & Commerce Code;  
6 or

7 (C) by a political subdivision of this state, a  
8 state agency, or an entity of the federal government;

9 (10) the contract is for services performed by blind  
10 or severely disabled persons;

11 (11) the contract is for the purchase of electricity;  
12 or

13 (12) the contract is one awarded for alternate project  
14 delivery under Sections 271.117-271.119, Local Government Code.

15 SECTION 4. Chapter 460, Transportation Code, is amended by  
16 adding Subchapter I to read as follows:

17 SUBCHAPTER I. PARTICIPATION IN AUTHORITY THROUGH TAX INCREMENT

18 PAYMENTS

19 Sec. 460.601. DEFINITION. In this subchapter, "tax  
20 increment" means the amount of revenue generated from ad valorem  
21 taxes or from sales and use taxes imposed by a municipality under  
22 Section 321.101(a), Tax Code, that are attributable to a public  
23 transportation financing area designated under this subchapter  
24 that exceeds the amount attributable to the area for the year in  
25 which the area was designated.

26 Sec. 460.602. PARTICIPATION IN SERVICE PLAN; AGREEMENT WITH  
27 MUNICIPALITY. A service plan may be implemented in an area of a

1 municipality that has not authorized the authority's tax levy if:

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

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

12 Sec. 460.603. DESIGNATION OF PUBLIC TRANSPORTATION  
13 FINANCING AREA. The governing body of a municipality by ordinance  
14 may designate a contiguous geographic area in the jurisdiction of  
15 the municipality to be a public transportation financing area. The  
16 geographic area:

17 (1) must have one or more transit facilities that  
18 include a structure provided for or on behalf of the authority for  
19 embarkation on and disembarkation from public transportation  
20 services provided by the authority, which may include a transit  
21 stop, transit shelter, transit garage, or transit terminal; and

22 (2) may include any territory located in the  
23 municipality's jurisdiction within one-half mile from the proposed  
24 service route served by the structure under Subdivision (1).

25 Sec. 460.604. HEARING. (a) Before adopting an ordinance  
26 designating a public transportation financing area, the  
27 municipality must hold a public hearing on the creation of the area

1 and its benefits to the municipality and to property in the proposed  
2 area. At the hearing, an interested person may speak for or against  
3 the designation of the area.

4 (b) Not later than the seventh day before the date of the  
5 hearing, notice of the hearing must be published in a newspaper  
6 having general circulation in the municipality.

7 Sec. 460.605. DESIGNATION OF TAX INCREMENT. (a) In the  
8 ordinance designating an area as a public transportation financing  
9 area, the municipality must:

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

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

15 (b) The amount designated for deposit may not exceed the  
16 equivalent of the amount that would be collected by the authority if  
17 the municipality had authorized the authority's sales and use tax  
18 levy in the area.

19 (c) Notwithstanding Subsection (b), if the amount  
20 designated under Subsection (b) is not sufficient to compensate the  
21 authority for the maintenance and operating expenses of providing  
22 service to the financing area and for any capital cost incurred for  
23 the benefit of the financing area, the authority may request and the  
24 municipality shall designate that the entire portion or amount of  
25 the tax increment be deposited in the tax increment account,  
26 regardless of whether that amount exceeds the authority's sales and  
27 use tax levy equivalent, until any amounts owed for all previous

1 years' maintenance and operating expenses and for any capital cost  
2 incurred for the benefit of the financing area have been paid.

3 Sec. 460.606. TAX INCREMENT ACCOUNT; USE OF TAXES. (a) An  
4 authority that enters into an agreement with a municipality to  
5 provide services to a public transportation financing area must  
6 establish a tax increment account and maintain the account as a  
7 fiduciary of the municipality.

8 (b) The taxes to be deposited into the tax increment account  
9 may be disbursed from the account only to:

10 (1) compensate the authority for maintenance and  
11 operating expenses of providing services to the public  
12 transportation financing area, including compensation for  
13 expansion, improvement, rehabilitation, or enhancement amounts  
14 owed for previous years' maintenance and operating expenses for the  
15 area;

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

18 (3) notwithstanding Section 321.506, Tax Code,  
19 satisfy claims of holders of tax increment bonds, notes, or other  
20 obligations issued or incurred for projects or services that  
21 directly or indirectly benefit the public transportation financing  
22 area through the expansion, improvement, rehabilitation, or  
23 enhancement of transportation service by the authority under the  
24 service plan; and

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

27 Sec. 460.607. AGREEMENT WITH COMPTROLLER. Before pledging

1 or otherwise committing money in the tax increment account under  
2 Section 460.606, the governing body of a municipality must enter  
3 into an agreement under Subchapter E, Chapter 271, Local Government  
4 Code, to authorize and direct the comptroller to:

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

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

10 (3) continue withholding and making additional  
11 payments into the tax increment account until an amount sufficient  
12 to satisfy the amount due to the account has been met.

13 Sec. 460.608. ACCOUNTING OF MAINTENANCE AND OPERATING  
14 EXPENSES. An authority shall, under an agreement under Section  
15 460.602:

16 (1) provide to the municipality an annual accounting,  
17 with supporting documentation, of the annual maintenance and  
18 operating expenses of providing service to the public  
19 transportation financing area; and

20 (2) notify the municipality when amounts owed for all  
21 previous years' maintenance and operating expenses and for any  
22 capital cost incurred for the benefit of the financing area have  
23 been fully paid.

24 Sec. 460.609. CAPITAL RECOVERY FEE. An agreement to  
25 provide services to a public transportation financing area may  
26 require the municipality to pay the authority a capital recovery  
27 fee. An authority that requires a capital recovery fee shall:

1           (1) apply toward the amount owed for the capital  
2 recovery fee any amount in the tax increment account that exceeds  
3 the amount necessary to compensate the authority for:

4           (A) the annual maintenance and operating  
5 expenses of providing service to the public transportation  
6 financing area, including amounts for expansion, improvement,  
7 rehabilitation, or enhancement that may be owed for previous years'  
8 maintenance and operating expenses; and

9           (B) any capital cost incurred for the benefit of  
10 the financing area; and

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

13           Sec. 460.610. USE OF SURPLUS TAX INCREMENT PAYMENT AMOUNTS.  
14 After any applicable capital recovery fee has been paid, the  
15 authority and the municipality shall negotiate to determine use of  
16 the amount of tax increment payments that exceeds the amount  
17 necessary to compensate the authority for the annual maintenance  
18 and operating expenses of providing service to the public  
19 transportation financing area. The excess amounts may be used to  
20 develop infrastructure enhancement, replacement, or improvement  
21 projects in the public transportation financing area that benefit  
22 both the municipality and the authority.

23           Sec. 460.611. TERMINATION OF PUBLIC TRANSPORTATION  
24 FINANCING AREA. If the tax increment is pledged to the payment of  
25 bonds and interest on the bonds or to the payment of any other  
26 obligations, the public transportation financing area or an  
27 agreement for services under Section 460.602 may not be terminated

1 by agreement of the parties unless the municipality that created  
2 the area deposits or causes to be deposited with a trustee or other  
3 escrow agent authorized by law funds in an amount that, together  
4 with the interest on the investment of the funds in direct  
5 obligations of the United States, will be sufficient to pay:

6 (1) the principal of, premium, if any, and interest on  
7 all bonds issued on behalf of the area at maturity or at the date  
8 fixed for redemption of the bonds; and

9 (2) any other amounts that may become due, including  
10 compensation due or to become due to the trustee or escrow agent, as  
11 well as to pay the principal of and interest on any other  
12 obligations incurred on behalf of the area.

13 SECTION 5. This Act takes effect September 1, 2011.