

By: Cook

H.B. No. 3755

A BILL TO BE ENTITLED

AN ACT

relating to management of certain metropolitan rapid transit authorities.

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

SECTION 1. Chapter 451, Transportation Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. ADDITIONAL MANAGEMENT PROVISIONS FOR CERTAIN
AUTHORITIES

Sec. 451.131. APPLICABILITY. This subchapter applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000.

Sec. 451.132. BUDGET. (a) The board shall include in the budget adopted under Section 451.102:

(1) operating expenses and capital expenditures; and
(2) amounts budgeted and sources of funding for each major department of the authority.

(b) Before adoption of a budget the board shall consider detailed information from each major department of the authority on capital improvement projects proposed for the applicable fiscal year and budget needs for those projects. The considered information must include:

(1) project purposes;
(2) project benefits;
(3) project funding sources;

1 (4) project implementation costs; and

2 (5) any operational costs resulting from a project.

3 Sec. 451.133. FIVE-YEAR CAPITAL IMPROVEMENT PLAN. (a) The
4 board shall adopt a five-year plan for capital improvement projects
5 that supports the strategic goals outlined in Section 451.137 and
6 that:

7 (1) describes planned projects, including type and
8 scope;

9 (2) prioritizes the projects;

10 (3) addresses proposed project financing, including
11 any effect a project may have on ongoing operational costs;

12 (4) identifies sources of funding for projects,
13 including local and federal funds; and

14 (5) establishes policies for projects, including
15 policies on:

16 (A) planning;

17 (B) approval;

18 (C) cost estimation;

19 (D) project reports; and

20 (E) expense tracking.

21 (b) The board shall hold a public meeting on a proposed
22 capital improvement plan before adopting the plan and must make the
23 proposed plan available to the public for review and comment.

24 (c) The board shall annually reevaluate and, if necessary,
25 amend the capital improvement plan to ensure compliance with this
26 section.

27 (d) The capital improvement plan should, as appropriate,

1 align with the long-range transportation plan of the metropolitan
2 planning organization that serves the area of the authority.

3 Sec. 451.134. OPERATING EXPENSES AND CAPITAL EXPENDITURES.

4 (a) An authority may not spend for capital improvements money in
5 excess of the total amount allocated for major capital expenditures
6 in the annual budget.

7 (b) The board shall adopt rules requiring each major
8 department of the authority to report quarterly on operating
9 expenses and capital expenditures of the department. A report must
10 include status information on:

11 (1) any completions of capital improvement projects;
12 (2) work completed on capital improvement projects in
13 relation to money spent on those projects; and

14 (3) problems or concerns regarding contract
15 management for capital improvement projects.

16 (c) The board shall establish a system for tracking the
17 progress of the authority's capital improvement projects,
18 including:

19 (1) baseline budgets;
20 (2) contract awards;
21 (3) contract changes; and
22 (4) expenditures to date.

23 Sec. 451.135. OPERATING RESERVE ACCOUNT. (a) The board
24 shall establish, in an account separate from other funds, a reserve
25 account in an amount that is not less than an amount equal to
26 budgeted operating expenses for two months.

27 (b) Except as provided by Subsection (c), the board must

1 maintain in the reserve account a balance that is not less than the
2 amount in the account at the beginning of the fiscal year.

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

9 (d) If reserve funds are spent under Subsection (c), the
10 board shall, as soon as practicable, restore the balance of the
11 reserve account to at least the amount in the account at the
12 beginning of the fiscal year in which the emergency spending
13 occurred.

14 (e) The board shall maintain, update, and post on the
15 authority's Internet website accounting records of the reserve
16 account's:

- 17 (1) balance at the end of the fiscal year;
18 (2) deposits;
19 (3) expenditures; and
20 (4) interest income.

21 Sec. 451.136. GENERAL MANAGER PERFORMANCE EVALUATION. (a)
22 The board shall adopt a policy of regular evaluation of the general
23 manager's performance. In accordance with Section 551.074,
24 Government Code, the board may discuss an evaluation of the general
25 manager's performance in a closed meeting.

26 (b) The board shall adopt a policy regarding discussion of
27 general manager compensation at public meetings. The board must

1 vote on proposed changes in the general manager's compensation,
2 including raises and bonuses, in a public meeting.

3 Sec. 451.137. FIVE-YEAR STRATEGIC PLAN. (a) The board
4 shall adopt a strategic five-year plan that establishes the
5 authority's mission and goals and summarizes planned activities to
6 achieve the mission and goals.

7 (b) The plan must set policies and service priorities to
8 guide the authority in developing a budget and allocating
9 resources.

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

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

15 Sec. 451.138. RAIL DIRECTOR. (a) The board shall employ a
16 rail director to oversee and be accountable for all rail system
17 development, operations, maintenance, and safety. The rail
18 director shall:

19 (1) oversee all personnel and contractors responsible
20 for operating and maintaining commuter rail and freight rail
21 systems and equipment;

22 (2) oversee rail safety activities, including testing
23 to ensure a safe and effective signal system and operations and
24 control center;

25 (3) develop a plan that specifies a division of rail
26 system responsibilities between rail capital improvement project
27 activities and rail maintenance activities and that ensures the

1 safety of railroad bridges;

2 (4) ensure compliance with any applicable federal,
3 state, and local rail safety regulations or requirements;

4 (5) coordinate with the authority's engineering and
5 construction department or equivalent department to design and
6 construct any new rail projects; and

7 (6) report to the general manager and board on the rail
8 system's safety, performance, and financial status.

9 (b) The rail director may stop rail operations at any time
10 if the rail director believes the stop is necessary to protect
11 public safety.

12 Sec. 451.139. RAIL SAFETY PLAN AND REPORTS. (a) The board
13 shall adopt and implement a rail safety plan in accordance with
14 federal and industry standards for all authority rail activities,
15 including commuter and freight rail activities.

16 (b) The plan must address and emphasize ongoing maintenance
17 and safety of the authority's railroad bridges.

18 (c) To ensure that contractor services on the authority's
19 rail system meet safety obligations, the plan must include
20 specifics regarding monitoring of contractors for safety-related
21 performance, including regular:

22 (1) hazard analyses;

23 (2) risk assessments; and

24 (3) safety audits.

25 (d) The rail director shall report quarterly to the board on
26 the safety of the authority's rail system. The authority shall
27 report quarterly to the Texas Department of Transportation on the

1 safety of the authority's rail system and shall report on any aspect
2 of the safety of the rail system on request from that department.

3 Sec. 451.140. COMPETITIVE BIDS FOR AND PURCHASE OF TRANSIT
4 SERVICES. (a) Except as provided by Subsection (f), after
5 providing notice of a proposal, a board must submit to competitive
6 bids a contract for and must purchase transit services that:

7 (1) include:

8 (A) administration of motor bus or sedan transit
9 services;

10 (B) motor bus or sedan driving, maintenance, or
11 repair;

12 (C) transit services for persons who have
13 disabilities, including through a program established under
14 Section 451.254; or

15 (D) rail transit services; and

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

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

24 (c) Notice under Subsection (a) must be published in a
25 newspaper of general circulation in the area in which the authority
26 is located at least once each week for two consecutive weeks before
27 the date set for receiving the bids. The first notice must be

1 published at least 15 days before the date set for receiving bids.

2 (d) A contract let under this section must include:

3 (1) performance control measures;

4 (2) incentives for performance;

5 (3) penalties for noncompliance; and

6 (4) a contract termination date.

7 (e) The board shall adopt rules on:

8 (1) the taking of bids;

9 (2) the awarding of contracts; and

10 (3) the waiver of the competitive bidding requirement

11 if there is:

12 (A) an emergency; or

13 (B) only one source for the service or purchase.

14 (f) Subsection (a) does not apply to a contract or purchase:

15 (1) in an amount of \$25,000 or less;

16 (2) for personal or professional services; or

17 (3) for the acquisition of an existing transit system.

18 Sec. 451.141. PUBLIC INVOLVEMENT POLICY. (a) The board

19 shall adopt a policy of involving the public in board decisions

20 regarding authority policies. The policy must:

21 (1) ensure that the public has an opportunity to

22 comment on board matters before a vote on the matters;

23 (2) ensure that any consent agenda or expedition of

24 consideration of board matters at board meetings is used only for

25 routine, noncontroversial matters;

26 (3) establish a time frame and mechanism for the board

27 to obtain public input throughout the year, including input on:

- 1 (A) strategic planning;
- 2 (B) budgeting;
- 3 (C) capital improvement project planning;
- 4 (D) transit initiatives; and
- 5 (E) service changes; and
- 6 (4) plan for dissemination of information on how the
7 public can be involved in board matters.

8 (b) The board shall post the policy adopted under this
9 section on the authority's Internet website.

10 SECTION 2. Sections 451.132 and 451.134(a), Transportation
11 Code, as added by this Act, apply only to a budget adopted on or
12 after September 1, 2012.

13 SECTION 3. Not later than September 1, 2014, a metropolitan
14 rapid transit authority required to establish a reserve account
15 under Section 451.135, Transportation Code, as added by this Act,
16 shall establish the account.

17 SECTION 4. Not later than September 30, 2012, a
18 metropolitan rapid transit authority required by Sections 451.133,
19 451.134(c), 451.136, 451.137, 451.139, and 451.141, Transportation
20 Code, as added by this Act, to establish a five-year capital
21 improvement plan, a capital improvement projects tracking system,
22 general manager policies, a five-year strategic plan, a rail safety
23 plan, and a public involvement policy, respectively, shall develop
24 the plans, policies, and system.

25 SECTION 5. Not later than September 1, 2012, individuals
26 providing for a metropolitan rapid transit authority transit
27 services described by Section 451.140, Transportation Code, as

1 added by this Act, must be providing those services as employees of
2 the authority or under a contract or agreement that complies with
3 the competitive bidding and purchase requirements of that section.

4 SECTION 6. Not later than September 30, 2012, a
5 metropolitan rapid transit authority required to hire a rail
6 director under Section 451.138, Transportation Code, as added by
7 this Act, shall hire that director.

8 SECTION 7. Not later than September 30, 2012, a
9 metropolitan rapid transit authority required to adopt rules under
10 Section 451.134(b), Transportation Code, as added by this Act,
11 shall adopt those rules.

12 SECTION 8. This Act takes effect September 1, 2011.