

1-1 By: Hegar S.B. No. 650
1-2 (In the Senate - Filed February 22, 2011; March 1, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 4, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9,
1-6 Nays 0; April 4, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 650 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to management of certain metropolitan rapid transit
1-11 authorities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 451, Transportation Code, is amended by
1-14 adding Subchapter C-1 to read as follows:

1-15 SUBCHAPTER C-1. ADDITIONAL MANAGEMENT PROVISIONS FOR CERTAIN
1-16 AUTHORITIES

1-17 Sec. 451.131. APPLICABILITY. This subchapter applies only
1-18 to an authority confirmed before July 1, 1985, in which the
1-19 principal municipality has a population of less than one million.

1-20 Sec. 451.132. FIVE-YEAR CAPITAL IMPROVEMENT PLAN. (a) The
1-21 board shall adopt a five-year plan for capital improvement projects
1-22 that supports the strategic goals outlined in Section 451.135 and
1-23 that:

1-24 (1) describes planned projects, including type and
1-25 scope;

1-26 (2) prioritizes the projects;

1-27 (3) addresses proposed project financing, including
1-28 any effect a project may have on ongoing operational costs;

1-29 (4) identifies sources of funding for projects,
1-30 including local and federal funds; and

1-31 (5) establishes policies for projects, including
1-32 policies on:

1-33 (A) planning;

1-34 (B) approval;

1-35 (C) cost estimation;

1-36 (D) project reports; and

1-37 (E) expense tracking.

1-38 (b) The board shall hold a public meeting on a proposed
1-39 capital improvement plan before adopting the plan and must make the
1-40 proposed plan available to the public for review and comment.

1-41 (c) The board shall annually reevaluate and, if necessary,
1-42 amend the capital improvement plan to ensure compliance with this
1-43 section.

1-44 (d) The capital improvement plan should, as appropriate,
1-45 align with the long-range transportation plan of the metropolitan
1-46 planning organization that serves the area of the authority.

1-47 Sec. 451.133. OPERATING EXPENSES AND CAPITAL EXPENDITURES.

1-48 (a) An authority may not spend for capital improvements money in
1-49 excess of the total amount allocated for major capital expenditures
1-50 in the annual budget.

1-51 (b) The board shall adopt rules requiring each major
1-52 department of the authority to report quarterly on operating
1-53 expenses and capital expenditures of the department.

1-54 (c) The board shall establish a system for tracking the
1-55 progress of the authority's capital improvement projects.

1-56 Sec. 451.134. OPERATING RESERVE ACCOUNT. (a) The board
1-57 shall establish, in an account separate from other funds, a reserve
1-58 account in an amount that is not less than an amount equal to
1-59 budgeted operating expenses for two months.

1-60 (b) Except as provided by Subsection (c), the board must
1-61 maintain in the reserve account a balance that is not less than the
1-62 amount in the account at the beginning of the fiscal year.

1-63 (c) The board may make an expenditure from the reserve

2-1 account that causes the balance in the account to be less than the
 2-2 amount required under Subsection (b) only if the board considers
 2-3 the expense necessary to address circumstances that could not have
 2-4 been planned for or anticipated. The board shall adopt criteria for
 2-5 expenditures under this subsection.

2-6 (d) If reserve funds are spent under Subsection (c), the
 2-7 board shall, as soon as practicable, restore the balance of the
 2-8 reserve account to at least the amount in the account at the
 2-9 beginning of the fiscal year in which the spending occurred.

2-10 (e) The board shall maintain, update, and post on the
 2-11 authority's Internet website accounting records of the reserve
 2-12 account's:

2-13 (1) balance at the end of the fiscal year;

2-14 (2) deposits;

2-15 (3) expenditures; and

2-16 (4) interest income.

2-17 Sec. 451.135. STRATEGIC PLAN. (a) The board shall adopt a
 2-18 strategic plan that establishes the authority's mission and goals
 2-19 and summarizes planned activities to achieve the mission and goals.

2-20 (b) The plan must set policies and service priorities to
 2-21 guide the authority in developing a budget and allocating
 2-22 resources.

2-23 (c) The plan should, as appropriate, align with the
 2-24 long-range transportation plan of the metropolitan planning
 2-25 organization that serves the area of the authority.

2-26 (d) The board shall annually reevaluate and, if necessary,
 2-27 amend the plan to ensure compliance with this section.

2-28 Sec. 451.136. RAIL SAFETY PLAN AND REPORTS. (a) The board
 2-29 shall adopt and the general manager shall implement a rail safety
 2-30 plan in accordance with federal and industry standards for all
 2-31 authority rail activities, including commuter and freight rail
 2-32 activities.

2-33 (b) The plan must address and emphasize ongoing maintenance
 2-34 and safety of the authority's railroad bridges.

2-35 (c) To ensure that contractor services on the authority's
 2-36 rail system meet safety obligations, the plan must include
 2-37 specifics regarding monitoring of contractors for safety-related
 2-38 performance, including regular:

2-39 (1) hazard analyses;

2-40 (2) risk assessments; and

2-41 (3) safety audits.

2-42 (d) The general manager shall report quarterly to the board
 2-43 on the safety of the authority's rail system. The authority shall
 2-44 provide to the Texas Department of Transportation all reports
 2-45 provided to the Federal Railroad Administration or Federal Transit
 2-46 Administration regarding any aspect of the rail system's safety at
 2-47 the time the reports are delivered to the Federal Railroad
 2-48 Administration or Federal Transit Administration.

2-49 Sec. 451.137. COMPETITIVE BIDS FOR AND PURCHASE OF TRANSIT
 2-50 SERVICES. (a) Except as provided by Subsection (f), after
 2-51 providing notice of a proposal, a board must submit to competitive
 2-52 bids a contract for and must purchase transit services that:

2-53 (1) include:

2-54 (A) administration of motor bus or sedan transit
 2-55 services;

2-56 (B) motor bus or sedan driving, maintenance, or
 2-57 repair;

2-58 (C) transit services for persons who have
 2-59 disabilities, including through a program established under
 2-60 Section 451.254; or

2-61 (D) rail transit services; and

2-62 (2) are not provided wholly by an employee of the
 2-63 authority who is directly paid by the authority and works under the
 2-64 daily supervision of the authority's general manager.

2-65 (b) For the purposes of Subsection (a)(2), services are not
 2-66 provided wholly by an employee of the authority if the person is an
 2-67 employee of an entity incorporated as a state nonprofit by the board
 2-68 of the authority and with which the authority contracts for transit
 2-69 or employee services.

3-1 (c) Notice under Subsection (a) must be published in a
3-2 newspaper of general circulation in the area in which the authority
3-3 is located at least once each week for two consecutive weeks before
3-4 the date set for receiving the bids. The first notice must be
3-5 published at least 15 days before the date set for receiving bids.

3-6 (d) A contract let under this section must include:
3-7 (1) performance control measures;
3-8 (2) incentives for performance;
3-9 (3) penalties for noncompliance; and
3-10 (4) a contract termination date.

3-11 (e) The board shall adopt rules on:
3-12 (1) the taking of bids;
3-13 (2) the awarding of contracts; and
3-14 (3) the waiver of the competitive bidding requirement
3-15 if there is:

3-16 (A) an emergency; or
3-17 (B) only one source for the service or purchase.

3-18 (f) Subsection (a) does not apply to a contract or purchase:
3-19 (1) in an amount of \$25,000 or less;
3-20 (2) for personal or professional services; or
3-21 (3) for the acquisition of an existing transit system.

3-22 Sec. 451.138. PUBLIC INVOLVEMENT POLICY. (a) The board
3-23 shall adopt a policy of involving the public in board decisions
3-24 regarding authority policies. The policy must:

3-25 (1) ensure that the public has an opportunity to
3-26 comment on board matters before a vote on the matters;

3-27 (2) ensure that any consent agenda or expedition of
3-28 consideration of board matters at board meetings is used only for
3-29 routine, noncontroversial matters;

3-30 (3) establish a time frame and mechanism for the board
3-31 to obtain public input throughout the year; and

3-32 (4) plan for dissemination of information on how the
3-33 public can be involved in board matters.

3-34 (b) The board shall post the policy adopted under this
3-35 section on the authority's Internet website.

3-36 Sec. 451.139. ISSUANCE OF BONDS FOR SELF-INSURANCE OR
3-37 RETIREMENT OR PENSION FUND RESERVES. (a) An authority may issue
3-38 bonds at any time and for any amounts it considers necessary or
3-39 appropriate for managing or funding self-insurance or for
3-40 retirement or pension fund reserves for pension plans existing as
3-41 of January 1, 2011.

3-42 (b) Section 451.352(c) does not apply to bonds described by
3-43 Subsection (a).

3-44 SECTION 2. Subsection (a), Section 451.133, Transportation
3-45 Code, as added by this Act, applies only to a budget adopted on or
3-46 after September 1, 2012.

3-47 SECTION 3. Not later than September 1, 2016, a metropolitan
3-48 rapid transit authority required to establish a reserve account
3-49 under Section 451.134, Transportation Code, as added by this Act,
3-50 shall establish the account.

3-51 SECTION 4. Not later than September 30, 2012, a
3-52 metropolitan rapid transit authority required by Section 451.132,
3-53 Subsection (c), Section 451.133, and Sections 451.135, 451.136, and
3-54 451.138, Transportation Code, as added by this Act, to establish a
3-55 five-year capital improvement plan, a capital improvement projects
3-56 tracking system, a strategic plan, a rail safety plan, and a public
3-57 involvement policy, respectively, shall develop the plans, policy,
3-58 and system.

3-59 SECTION 5. Not later than September 1, 2012, individuals
3-60 providing for a metropolitan rapid transit authority transit
3-61 services described by Section 451.137, Transportation Code, as
3-62 added by this Act, must be providing those services as employees of
3-63 the authority or under a contract or agreement that complies with
3-64 the competitive bidding and purchase requirements of that section.

3-65 SECTION 6. Not later than September 30, 2012, a
3-66 metropolitan rapid transit authority required to adopt rules under
3-67 Subsection (b), Section 451.133, Transportation Code, as added by
3-68 this Act, shall adopt those rules.

3-69 SECTION 7. This Act takes effect immediately if it receives

4-1 a vote of two-thirds of all the members elected to each house, as
4-2 provided by Section 39, Article III, Texas Constitution. If this
4-3 Act does not receive the vote necessary for immediate effect, this
4-4 Act takes effect September 1, 2011.

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