

1-1 By: Nelson S.B. No. 1422
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 26, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 April 26, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1422 By: Harris

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

1-10 relating to coordinated county transportation authorities;
1-11 creating an offense.

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

1-13 SECTION 1. Subsection (d), Section 460.106, Transportation
1-14 Code, is amended to read as follows:

1-15 (d) Except as provided by Subchapter I, a [A] service plan
1-16 may be implemented in an area of the county participating in the
1-17 authority only if a majority of votes received favor the
1-18 authorization of a tax levy by the authority.

1-19 SECTION 2. Subchapter C, Chapter 460, Transportation Code,
1-20 is amended by adding Sections 460.1091 and 460.1092 to read as
1-21 follows:

1-22 Sec. 460.1091. ENFORCEMENT OF FARES AND OTHER CHARGES;
1-23 PENALTIES. (a) A board of directors by resolution may prohibit
1-24 the use of the public transportation system by a person without
1-25 payment of the appropriate fare for the use of the system and may
1-26 establish reasonable and appropriate methods to ensure that persons
1-27 using the public transportation system pay the appropriate fare for
1-28 that use.

1-29 (b) A board of directors by resolution may provide that a
1-30 fare for or charge for the use of the public transportation system
1-31 that is not paid incurs a reasonable administrative fee.

1-32 (c) An authority shall post signs designating each area in
1-33 which a person is prohibited from using the transportation system
1-34 without payment of the appropriate fare.

1-35 (d) A person commits an offense if the person or another for
1-36 whom the person is criminally responsible under Section 7.02, Penal
1-37 Code, uses the public transportation system without paying the
1-38 appropriate fare.

1-39 (e) If the person fails to provide proof that the person
1-40 paid the appropriate fare for the use of the public transportation
1-41 system and fails to pay any administrative fee assessed under
1-42 Subsection (b) on or before the 30th day after the date the
1-43 authority notifies the person that the person is required to pay the
1-44 amount of the fare and the administrative fee, it is prima facie
1-45 evidence that the person used the public transportation system
1-46 without paying the appropriate fare.

1-47 (f) The notice required by Subsection (e) may be included in
1-48 a citation issued to the person by a peace officer under Article
1-49 14.06, Code of Criminal Procedure, or by a fare enforcement officer
1-50 under Section 460.1092, in connection with an offense relating to
1-51 the nonpayment of the appropriate fare for the use of the public
1-52 transportation system.

1-53 (g) It is an exception to the application of Subsection (d)
1-54 that on or before the 30th day after the date the authority notified
1-55 the person that the person is required to pay the amount of the fare
1-56 and any administrative fee assessed under Subsection (b), the
1-57 person:

1-58 (1) provided proof that the person paid the
1-59 appropriate fare at the time the person used the transportation
1-60 system or at a later date or that the person was exempt from
1-61 payment; and

1-62 (2) paid the administrative fee assessed under
1-63 Subsection (b), if applicable.

1-64 (h) An offense under Subsection (d) is:

2-1 (1) a misdemeanor punishable by a fine not to exceed
2-2 \$100; and

2-3 (2) not a crime of moral turpitude.

2-4 (i) A justice court located in the service area of the
2-5 authority may enter into an agreement with the authority to try all
2-6 criminal cases that arise under Subsection (d). Notwithstanding
2-7 Articles 4.12 and 4.14, Code of Criminal Procedure, if a justice
2-8 court enters into an agreement with the authority:

2-9 (1) a criminal case that arises under Subsection (d)
2-10 must be tried in the justice court; and

2-11 (2) the justice court has exclusive jurisdiction in
2-12 all criminal cases that arise under Subsection (d).

2-13 Sec. 460.1092. FARE ENFORCEMENT OFFICERS. (a) An
2-14 authority may employ persons to serve as fare enforcement officers
2-15 to enforce the payment of fares for use of the public transportation
2-16 system by:

2-17 (1) requesting and inspecting evidence showing
2-18 payment of the appropriate fare from a person using the public
2-19 transportation system; and

2-20 (2) issuing a citation to a person described by
2-21 Section 460.1091(d).

2-22 (b) Before commencing duties as a fare enforcement officer,
2-23 a person must complete at least eight hours of training approved by
2-24 the authority that is appropriate to the duties required of a fare
2-25 enforcement officer.

2-26 (c) While performing duties, a fare enforcement officer
2-27 shall:

2-28 (1) wear a distinctive uniform, badge, or insignia
2-29 that identifies the person as a fare enforcement officer; and

2-30 (2) work under the direction of the authority's chief
2-31 administrative officer.

2-32 (d) A fare enforcement officer may:

2-33 (1) request evidence showing payment of the
2-34 appropriate fare from passengers of the public transportation
2-35 system or evidence showing exemption from the payment requirement;

2-36 (2) request personal identification or other
2-37 documentation designated by the authority from a passenger who does
2-38 not produce evidence showing payment of the appropriate fare on
2-39 request by the officer;

2-40 (3) instruct a passenger to immediately leave the
2-41 public transportation system if the passenger does not possess
2-42 evidence showing payment or exemption from payment of the
2-43 appropriate fare; or

2-44 (4) file a complaint in the appropriate court that
2-45 charges the person with an offense under Section 460.1091(d).

2-46 (e) A fare enforcement officer may not carry a weapon while
2-47 performing duties under this section unless the officer is a
2-48 certified peace officer.

2-49 (f) A fare enforcement officer who is not a certified peace
2-50 officer is not a peace officer and has no authority to enforce a
2-51 criminal law, except as provided by this section.

2-52 SECTION 3. Subsection (c), Section 460.406, Transportation
2-53 Code, is amended to read as follows:

2-54 (c) The board of directors may authorize the negotiation of
2-55 a contract without competitive sealed bids or proposals if:

2-56 (1) the aggregate amount involved in the contract is
2-57 \$50,000 [~~\$25,000~~] or less;

2-58 (2) the contract is for construction for which not
2-59 more than one bid or proposal is received;

2-60 (3) the contract is for services or property for which
2-61 there is only one source or for which it is otherwise impracticable
2-62 to obtain competition;

2-63 (4) the contract is to respond to an emergency for
2-64 which the public exigency does not permit the delay incident to the
2-65 competitive process;

2-66 (5) the contract is for personal or professional
2-67 services or services for which competitive bidding is precluded by
2-68 law;

2-69 (6) the contract, without regard to form and which may

3-1 include bonds, notes, loan agreements, or other obligations, is for
3-2 the purpose of borrowing money or is a part of a transaction
3-3 relating to the borrowing of money, including:

3-4 (A) a credit support agreement, such as a line or
3-5 letter of credit or other debt guaranty;

3-6 (B) a bond, note, debt sale or purchase, trustee,
3-7 paying agent, remarketing agent, indexing agent, or similar
3-8 agreement;

3-9 (C) an agreement with a securities dealer,
3-10 broker, or underwriter; and

3-11 (D) any other contract or agreement considered by
3-12 the board of directors to be appropriate or necessary in support of
3-13 the authority's financing activities;

3-14 (7) the contract is for work that is performed and paid
3-15 for by the day as the work progresses;

3-16 (8) the contract is for the purchase of land or a
3-17 right-of-way;

3-18 (9) the contract is for the purchase of personal
3-19 property sold:

3-20 (A) at an auction by a state licensed auctioneer;

3-21 (B) at a going out of business sale held in
3-22 compliance with Subchapter F, Chapter 17, Business & Commerce Code;
3-23 or

3-24 (C) by a political subdivision of this state, a
3-25 state agency, or an entity of the federal government;

3-26 (10) the contract is for services performed by blind
3-27 or severely disabled persons;

3-28 (11) the contract is for the purchase of electricity;
3-29 or

3-30 (12) the contract is one awarded for alternate project
3-31 delivery under Sections 271.117-271.119, Local Government Code.

3-32 SECTION 4. Chapter 460, Transportation Code, is amended by
3-33 adding Subchapter I to read as follows:

3-34 SUBCHAPTER I. PARTICIPATION IN AUTHORITY THROUGH TAX INCREMENT

3-35 PAYMENTS

3-36 Sec. 460.601. DEFINITION. In this subchapter, "tax
3-37 increment" means the amount of revenue generated from ad valorem
3-38 taxes, sales and use taxes imposed by a municipality under Section
3-39 321.101(a), Tax Code, or both ad valorem and sales and use taxes
3-40 that are attributable to a public transportation financing area
3-41 designated under this subchapter that exceeds the amount
3-42 attributable to the area for the year in which the area was
3-43 designated.

3-44 Sec. 460.602. PARTICIPATION IN SERVICE PLAN; AGREEMENT WITH
3-45 MUNICIPALITY. A service plan may be implemented in an area of a
3-46 municipality that has not authorized the authority's sales and use
3-47 tax levy if:

3-48 (1) the authorization by the municipality of the
3-49 authority's sales and use tax levy, when combined with the rates of
3-50 all sales and use taxes imposed by other political subdivisions in
3-51 the municipality, would exceed two percent in any location in the
3-52 municipality; and

3-53 (2) the municipality has entered into an agreement
3-54 with the authority to provide public transportation services in a
3-55 public transportation financing area designated under this
3-56 subchapter in exchange for all or a portion of the tax increment in
3-57 the area.

3-58 Sec. 460.603. DESIGNATION OF PUBLIC TRANSPORTATION
3-59 FINANCING AREA. The governing body of a municipality by ordinance
3-60 may designate a contiguous geographic area in the jurisdiction of
3-61 the municipality to be a public transportation financing area. The
3-62 geographic area:

3-63 (1) must have one or more transit facilities that
3-64 include a structure provided for or on behalf of the authority for
3-65 embarkation on and disembarkation from public transportation
3-66 services provided by the authority, which may include a transit
3-67 stop, transit shelter, transit garage, or transit terminal;

3-68 (2) may include any territory located in the
3-69 municipality's jurisdiction; and

4-1 (3) must include an area one-half mile on either side
 4-2 of the proposed service route served by a structure under
 4-3 Subdivision (1), to the extent that that area is included in the
 4-4 municipality's boundaries.

4-5 Sec. 460.604. HEARING. (a) Before adopting an ordinance
 4-6 designating a public transportation financing area, the
 4-7 municipality must hold a public hearing on the creation of the
 4-8 public transportation financing area and its benefits to the
 4-9 municipality and to property in the proposed public transportation
 4-10 financing area. At the hearing, an interested person may speak for
 4-11 or against the designation of the public transportation financing
 4-12 area.

4-13 (b) Not later than the 30th day before the date of the
 4-14 hearing, notice of the hearing must be published in a newspaper
 4-15 having general circulation in the municipality.

4-16 Sec. 460.605. DESIGNATION OF TAX INCREMENT. (a) In the
 4-17 ordinance designating an area as a public transportation financing
 4-18 area, the municipality must:

4-19 (1) designate a portion or amount of the tax increment
 4-20 to be paid to the authority and deposited in the tax increment
 4-21 account under Section 460.606; and

4-22 (2) state whether the tax increment will be generated
 4-23 from ad valorem tax revenue, sales and use tax revenue, or both.

4-24 (b) The amount designated for payment and deposit may not
 4-25 exceed the equivalent of the amount that would be collected by the
 4-26 authority if the municipality had authorized the authority's sales
 4-27 and use tax levy.

4-28 (c) Notwithstanding Subsection (b), if the amount
 4-29 designated under Subsection (b) is not sufficient to compensate the
 4-30 authority for the maintenance and operating expenses of providing
 4-31 service to the public transportation financing area and for any
 4-32 capital cost incurred for the benefit of the public transportation
 4-33 financing area, the authority may request and the municipality
 4-34 shall designate that the entire portion or amount of the tax
 4-35 increment be deposited in the tax increment account, regardless of
 4-36 whether that amount exceeds the authority's sales and use tax levy
 4-37 equivalent, until any amounts owed for all previous years'
 4-38 maintenance and operating expenses and for any capital cost
 4-39 incurred for the benefit of the public transportation financing
 4-40 area have been paid.

4-41 Sec. 460.606. TAX INCREMENT ACCOUNT; USE OF TAXES. (a) An
 4-42 authority that enters into an agreement with a municipality to
 4-43 provide services to a public transportation financing area must
 4-44 establish a tax increment account and maintain the account as a
 4-45 fiduciary of the municipality.

4-46 (b) The taxes to be deposited into the tax increment account
 4-47 may be disbursed from the account only to:

4-48 (1) compensate the authority for maintenance and
 4-49 operating expenses of providing services to the public
 4-50 transportation financing area, including compensation for
 4-51 expansion, improvement, rehabilitation, or enhancement amounts
 4-52 owed for previous years' maintenance and operating expenses for the
 4-53 public transportation financing area;

4-54 (2) compensate the authority for any capital cost
 4-55 incurred for the benefit of the public transportation financing
 4-56 area;

4-57 (3) notwithstanding Section 321.506, Tax Code,
 4-58 satisfy claims of holders of tax increment bonds, notes, or other
 4-59 obligations issued or incurred for projects or services that
 4-60 directly or indirectly benefit the public transportation financing
 4-61 area through the expansion, improvement, rehabilitation, or
 4-62 enhancement of transportation service by the authority under the
 4-63 service plan; and

4-64 (4) pay any capital recovery fee required by the
 4-65 authority.

4-66 Sec. 460.607. AGREEMENT WITH COMPTROLLER. Before pledging
 4-67 or otherwise committing money in the tax increment account under
 4-68 Section 460.606, the governing body of a municipality must enter
 4-69 into an agreement under Subchapter E, Chapter 271, Local Government

5-1 Code, to authorize and direct the comptroller to:
5-2 (1) withhold from any payment to which the
5-3 municipality may be entitled the amount of the payment due to the
5-4 tax increment account;
5-5 (2) deposit that amount into the tax increment
5-6 account; and
5-7 (3) continue withholding and making additional
5-8 payments into the tax increment account until an amount sufficient
5-9 to satisfy the amount due to the account has been met.

5-10 Sec. 460.608. ACCOUNTING OF MAINTENANCE AND OPERATING
5-11 EXPENSES. An authority shall, under an agreement under Section
5-12 460.602:

5-13 (1) provide to the municipality an annual accounting,
5-14 with supporting documentation, of the annual maintenance and
5-15 operating expenses of providing service to the public
5-16 transportation financing area; and

5-17 (2) notify the municipality when amounts owed for all
5-18 previous years' maintenance and operating expenses and for any
5-19 capital cost incurred for the benefit of the public transportation
5-20 financing area have been fully paid.

5-21 Sec. 460.609. CAPITAL RECOVERY FEE. An agreement to
5-22 provide services to a public transportation financing area may
5-23 require the municipality to pay the authority a capital recovery
5-24 fee. An authority that requires a capital recovery fee shall:

5-25 (1) apply toward the amount owed for the capital
5-26 recovery fee any amount in the tax increment account that exceeds
5-27 the amount necessary to compensate the authority for:

5-28 (A) the annual maintenance and operating
5-29 expenses of providing service to the public transportation
5-30 financing area, including amounts for expansion, improvement,
5-31 rehabilitation, or enhancement that may be owed for previous years'
5-32 maintenance and operating expenses; and

5-33 (B) any capital cost incurred for the benefit of
5-34 the public transportation financing area; and

5-35 (2) notify the municipality when the amount owed for
5-36 the capital recovery fee has been fully paid.

5-37 Sec. 460.610. USE OF SURPLUS TAX INCREMENT PAYMENT AMOUNTS.
5-38 After any applicable capital recovery fee has been paid, the
5-39 authority and the municipality shall negotiate to determine use of
5-40 the amount of tax increment payments that exceeds the amount
5-41 necessary to compensate the authority for the annual maintenance
5-42 and operating expenses of providing service to the public
5-43 transportation financing area. The excess amounts may be used to
5-44 develop infrastructure enhancement, replacement, or improvement
5-45 projects in the public transportation financing area that benefit
5-46 both the municipality and the authority.

5-47 Sec. 460.611. TERMINATION OF PUBLIC TRANSPORTATION
5-48 FINANCING AREA. If the tax increment is pledged to the payment of
5-49 bonds and interest on the bonds or to the payment of any other
5-50 obligations, the public transportation financing area or an
5-51 agreement for services under Section 460.602 may not be terminated
5-52 by agreement of the parties unless the municipality that created
5-53 the public transportation financing area deposits or causes to be
5-54 deposited with a trustee or other escrow agent authorized by law
5-55 funds in an amount that, together with the interest on the
5-56 investment of the funds in direct obligations of the United States,
5-57 will be sufficient to pay:

5-58 (1) the principal of, premium, if any, and interest on
5-59 all bonds issued on behalf of the public transportation financing
5-60 area at maturity or at the date fixed for redemption of the bonds;
5-61 and

5-62 (2) any other amounts that may become due, including
5-63 compensation due or to become due to the trustee or escrow agent, as
5-64 well as to pay the principal of and interest on any other
5-65 obligations incurred on behalf of the public transportation
5-66 financing area.

5-67 SECTION 5. This Act takes effect September 1, 2011.

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