

By: Martinez

H.B. No. 2423

A BILL TO BE ENTITLED

AN ACT

relating to the creation of regional transit authorities; granting the power of eminent domain; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle K, Title 6, Transportation Code, is amended by adding Chapter 463 to read as follows:

CHAPTER 463. REGIONAL TRANSIT AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 463.001. DEFINITIONS. In this chapter:

(1) "Authority" means a regional transit authority created under this chapter.

(2) "Executive committee" means the authority directors who serve as the governing body of the authority.

(3) "Light rail mass transit system" means a system that:

(A) uses a fixed guideway rail with electric power propelling mass transit passenger vehicles; and

(B) is constructed by an authority.

(4) "Public transportation system" means:

(A) all property owned or held by an authority for public transportation service purposes;

(B) real property, facilities, and equipment for the protection and environmental enhancement of all the facilities;

1 and

2 (C) property held:

3 (i) in accordance with a contract with the
4 owner making the property subject to the control of or regulation by
5 the authority; and

6 (ii) for public transportation service
7 purposes.

8 (5) "Service plan" means an outline of the service
9 that would be provided by the authority to counties if confirmed at
10 an election.

11 Sec. 463.002. APPLICATION. This chapter applies to:

12 (1) a county contiguous to the Gulf of Mexico or a bay
13 or inlet opening into the gulf and bordering the United Mexican
14 States; and

15 (2) a county that borders a county described by
16 Subdivision (1).

17 Sec. 463.003. MUNICIPALITIES MAY PROVIDE TRANSPORTATION
18 SERVICES. This chapter does not prohibit a municipality from
19 providing public transportation services.

20 SUBCHAPTER B. POWERS OF AUTHORITIES

21 Sec. 463.051. POWERS APPLICABLE TO CONFIRMED AUTHORITY.
22 This subchapter applies only to an authority that has been
23 confirmed.

24 Sec. 463.052. NATURE OF AUTHORITY. (a) An authority:

25 (1) is a public political entity and corporate body;

26 (2) has perpetual succession; and

27 (3) exercises public and essential governmental

1 functions.

2 (b) The exercise of a power granted by this chapter,
3 including a power relating to a station or terminal complex, is for
4 a public purpose and is a matter of public necessity.

5 (c) An authority is a governmental unit under Chapter 101,
6 Civil Practice and Remedies Code, and the operations of the
7 authority are not proprietary functions for any purpose including
8 the application of Chapter 101, Civil Practice and Remedies Code.

9 Sec. 463.053. RESPONSIBILITY FOR CONTROL OF AUTHORITY.
10 Except as provided by Section 463.104, the executive committee is
11 responsible for the management, operation, and control of an
12 authority and its property.

13 Sec. 463.054. GENERAL POWERS OF AUTHORITY. (a) An
14 authority has any power necessary or convenient to carry out this
15 chapter or to effect a purpose of this chapter.

16 (b) An authority may sue and be sued. An authority may not
17 be required to give security for costs in a suit brought or
18 prosecuted by the authority and may not be required to give a
19 supersedeas or cost bond in an appeal of a judgment.

20 (c) An authority may hold, use, sell, lease, dispose of, and
21 acquire, by any means, property and licenses, patents, rights, and
22 other interests necessary, convenient, or useful to the exercise of
23 any power under this chapter.

24 (d) An authority may sell, lease, or dispose of in another
25 manner:

26 (1) any right, interest, or property of the authority
27 that is not needed for, or, if a lease, is inconsistent with, the

1 efficient operation and maintenance of the public transportation
2 system; or

3 (2) at any time, surplus materials or other property
4 that is not needed for the requirements of the authority or for
5 carrying out a power under this chapter.

6 Sec. 463.055. CONTRACTS; GRANTS AND LOANS. (a) An
7 authority may contract with any person.

8 (b) An authority may accept a grant or loan from any person.

9 (c) An authority may enter one or more agreements with any
10 municipality included in the area of the authority for the
11 distribution of the authority's revenues.

12 Sec. 463.056. OPERATION OF PUBLIC TRANSPORTATION SYSTEM.

13 (a) An authority may:

14 (1) acquire, construct, develop, plan, own, operate,
15 and maintain a public transportation system in the territory of the
16 authority, including the territory of a political subdivision;

17 (2) contract with a municipality, county, or other
18 political subdivision for the authority to provide public
19 transportation services outside the authority; and

20 (3) lease all or a part of the public transportation
21 system to, or contract for the operation of all or a part of the
22 public transportation system by, an operator.

23 (b) An authority, as the authority determines advisable,
24 shall determine routes.

25 (c) The executive committee may submit a referendum for the
26 approval of a power granted by Subsection (a) or (b).

27 (d) A private operator who contracts with an authority under

1 this chapter is not a public entity for purposes of any law of this
2 state.

3 Sec. 463.057. ACQUISITION OF PROPERTY BY AGREEMENT. An
4 authority may acquire rolling stock or other property under a
5 contract or trust agreement, including a conditional sales
6 contract, lease, and equipment trust certificate.

7 Sec. 463.058. USE AND ACQUISITION OF PROPERTY OF OTHERS.

8 (a) For a purpose described by Section 463.056(a)(1) and as
9 necessary or useful in the construction, repair, maintenance, or
10 operation of the public transportation system, an authority may:

11 (1) use a public way, including an alley; and
12 (2) directly, or indirectly by another person,
13 relocate or reroute the property of another person or alter the
14 construction of the property of another person.

15 (b) For an act authorized by Subsection (a)(2), an authority
16 may contract with the owner of the property to allow the owner to
17 make the relocation, rerouting, or alteration by the owner's own
18 means or through a contractor of the owner. The contract may
19 provide for reimbursement of the owner for costs or payment to the
20 contractor.

21 (c) An authority may acquire by eminent domain any interest
22 in real property, including a fee simple interest, except the right
23 of eminent domain may not be exercised:

24 (1) in a municipality without the approval of each
25 proposed acquisition by the governing body of the municipality or
26 in an unincorporated area without the approval of each proposed
27 acquisition by the commissioners court of the county in which the

1 property to be condemned is located; or

2 (2) in a manner that would:

3 (A) unduly impair the existing neighborhood
4 character of property surrounding, or adjacent to, the property to
5 be condemned;

6 (B) unduly interfere with interstate commerce;
7 or

8 (C) authorize the authority to run an authority
9 vehicle on a railroad track that is used to transport property.

10 (d) If an authority, through the exercise of a power under
11 this chapter, makes necessary the relocation or rerouting of, or
12 alteration of the construction of, a road, alley, overpass,
13 underpass, railroad track, bridge, or associated property, an
14 electric, telegraph, telephone, or television cable line, conduit,
15 or associated property, or a water, sewer, gas, or other pipeline,
16 or associated property, the relocation or rerouting or alteration
17 of the construction must be accomplished at the sole cost and
18 expense of the authority, and damages that are incurred by an owner
19 of the property must be paid by the authority.

20 (e) Unless the power of eminent domain is exercised, an
21 authority may not begin an activity authorized under Subsection (a)
22 to alter or damage property of others, including this state or a
23 political subdivision of this state, without having first received
24 the written permission of the owner.

25 Sec. 463.059. EMINENT DOMAIN PROCEEDINGS. (a) An eminent
26 domain proceeding by an authority is initiated by the adoption by
27 the executive committee of a resolution that:

1 (1) describes the property interest to be acquired by
2 the authority;

3 (2) declares the public necessity for and interest in
4 the acquisition; and

5 (3) states that the acquisition is necessary and
6 proper for the construction, extension, improvement, or
7 development of the public transportation system.

8 (b) A resolution adopted under this section and approved by
9 resolution of the appropriate municipal governing body or
10 commissioners court is conclusive evidence of the public necessity
11 for the acquisition described in the resolution and that the
12 property interest is necessary for public use.

13 (c) Except as otherwise provided by this chapter, Chapter
14 21, Property Code, applies to an eminent domain proceeding by an
15 authority.

16 Sec. 463.060. AGREEMENT WITH UTILITIES; CARRIERS. An
17 authority may agree with any other public or private utility,
18 communication system, common carrier, or transportation system
19 for:

20 (1) the joint use in the authority of the property of
21 the agreeing entities; or

22 (2) the establishment of through routes, joint fares,
23 or transfers of passengers.

24 Sec. 463.061. FARES AND OTHER CHARGES. (a) An authority
25 shall impose reasonable and nondiscriminatory fares, tolls,
26 charges, rents, and other compensation for the use of the public
27 transportation system sufficient to produce revenue, together with

1 tax revenue and grants received by the authority, in an amount
2 adequate to:

3 (1) pay all expenses necessary to operate and maintain
4 the public transportation system;

5 (2) pay when due the principal of and interest on, and
6 sinking fund and reserve fund payments agreed to be made with
7 respect to, all bonds that are issued by the authority and payable
8 wholly or partly from the revenue; and

9 (3) fulfill the terms of any other agreement with the
10 holders of bonds described by Subdivision (2) or with a person
11 acting on behalf of the bondholders.

12 (b) It is intended by this chapter that the compensation
13 imposed under Subsection (a) and taxes imposed by the authority not
14 exceed the amounts necessary to produce revenue sufficient to meet
15 the obligations of the authority under this chapter.

16 (c) Compensation for the use of the public transportation
17 system may be set according to a zone system or to another
18 classification that the authority determines to be reasonable.

19 (d) This section does not limit the state's power to
20 regulate taxes imposed by an authority or other compensation
21 authorized under this section. The state agrees with holders of
22 bonds issued under this chapter, however, not to alter the power
23 given to an authority under this section to impose taxes, fares,
24 tolls, charges, rents, and other compensation in amounts sufficient
25 to comply with Subsection (a), or to impair the rights and remedies
26 of an authority bondholder, or a person acting on behalf of a
27 bondholder, until the bonds, interest on the bonds, interest on

1 unpaid installments of interest, costs and expenses in connection
2 with an action or proceeding by or on behalf of a bondholder, and
3 other obligations of the authority in connection with the bonds are
4 discharged.

5 Sec. 463.062. ENFORCEMENT OF FARES AND OTHER CHARGES. (a)

6 An executive committee by resolution may prohibit the use of the
7 public transportation system by a person who fails to possess
8 evidence showing that the appropriate fare for the use of the system
9 has been paid and may establish reasonable and appropriate methods,
10 using transit police officers or fare enforcement officers under
11 Section 463.063, to ensure that persons using the public
12 transportation system pay the appropriate fare for that use.

13 (b) The authority shall post signs designating each area in
14 which a person is prohibited from using the transportation system
15 without possession of evidence showing that the appropriate fare
16 has been paid.

17 Sec. 463.063. FARE ENFORCEMENT OFFICERS. (a) The

18 authority may employ persons to serve as fare enforcement officers
19 to enforce the payment of fares for use of the public transportation
20 system by requesting and inspecting evidence showing payment of the
21 appropriate fare from a person using the public transportation
22 system.

23 (b) Before commencing duties as a fare enforcement officer a
24 person must complete a 40-hour training course approved by the
25 authority that is appropriate to the duties required of a fare
26 enforcement officer.

27 (c) While performing duties, a fare enforcement officer

1 shall:

2 (1) wear a distinctive uniform that identifies the
3 officer as a fare enforcement officer; and

4 (2) work under the direction of the chief of police of
5 the authority.

6 (d) A fare enforcement officer may:

7 (1) request evidence showing payment of the
8 appropriate fare from passengers of the public transportation
9 system;

10 (2) request personal identification from a passenger
11 who does not produce evidence showing payment of the appropriate
12 fare on request by the officer; and

13 (3) request that a passenger leave the public
14 transportation system if the passenger does not possess evidence of
15 payment of the appropriate fare.

16 (e) A fare enforcement officer may not carry a weapon while
17 performing duties under this section.

18 (f) A fare enforcement officer is not a peace officer and
19 has no authority to enforce a criminal law, other than the authority
20 possessed by any other person who is not a peace officer.

21 Sec. 463.064. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANE
22 USAGE. (a) An executive committee by resolution may regulate or
23 prohibit improper entrance into, exit from, and vehicle occupancy
24 in high occupancy vehicle lanes operated, managed, or maintained by
25 the authority.

26 (b) An executive committee by resolution may establish
27 reasonable and appropriate methods to enforce regulations or

1 prohibitions established under Subsection (a).

2 Sec. 463.065. INSURANCE. (a) An authority may insure,
3 through purchased insurance policies or self-insurance programs,
4 or both, the legal liability of the authority and of its contractors
5 and subcontractors arising from the acquisition, construction, or
6 operation of the programs and facilities of the authority for:

7 (1) personal or property damage; and

8 (2) officers' and employees' liability.

9 (b) An authority may use contracts, rating plans, and risk
10 management programs designed to encourage accident prevention.

11 (c) In developing an insurance or self-insurance program,
12 an authority may consider the peculiar hazards, indemnity
13 standards, and past and prospective loss and expense experience of
14 the authority and of its contractors and subcontractors.

15 Sec. 463.066. TAX EXEMPTION. The property, revenue, and
16 income of an authority are exempt from state and local taxes.

17 Sec. 463.067. LIGHT RAIL SYSTEM: REGULATORY EXEMPTION.

18 (a) An authority that constructs or operates or contracts with
19 another entity to construct or operate a light rail mass transit
20 system is not subject to any state law regulating or governing the
21 design, construction, or operation of a railroad, railway, street
22 railway, street car, or interurban railway.

23 (b) For purposes of ownership or transfer of ownership of an
24 interest in real property, a light rail mass transit system line
25 operating on property previously used by a railroad, railway,
26 street railway, or interurban railway is a continuation of existing
27 rail use.

1 Sec. 463.068. ELECTIONS. (a) In an election ordered by the
2 executive committee:

3 (1) the executive committee shall give notice of the
4 election by publication in a newspaper of general circulation in
5 the authority at least once each week for three consecutive weeks,
6 with the first publication occurring at least 21 days before the
7 date of election; and

8 (2) a resolution ordering the election and the
9 election notice must show, in addition to the requirements of the
10 Election Code, the hours of the election and polling places in
11 election precincts.

12 (b) Subsection (a) does not apply to an election under
13 Section 463.359.

14 (c) A copy of the notice of each election held under this
15 chapter shall be furnished to the Texas Transportation Commission
16 and the comptroller.

17 SUBCHAPTER C. MANAGEMENT OF AUTHORITY

18 Sec. 463.101. EXECUTIVE COMMITTEE: POWERS. The executive
19 committee may:

20 (1) employ and prescribe the compensation for a chief
21 executive officer whom the committee may designate as the general
22 manager or the executive director;

23 (2) appoint auditors and attorneys and prescribe their
24 duties, compensation, and tenure;

25 (3) adopt a seal for the authority;

26 (4) set the fiscal year for the authority;

27 (5) establish a complete system of accounts for the

1 authority;

2 (6) designate by resolution an authorized
3 representative of the authority to, according to terms prescribed
4 by the executive committee:

5 (A) invest authority funds; and

6 (B) withdraw money from authority accounts for
7 investments; and

8 (7) designate by resolution an authorized
9 representative of the authority to supervise the substitution of
10 securities pledged to secure authority funds.

11 Sec. 463.102. INVESTMENTS. The executive committee may
12 invest authority funds in any investment authorized for an entity
13 under Chapter 2256, Government Code.

14 Sec. 463.103. DEPOSITORY; DEPOSIT OF FUNDS. (a) The
15 executive committee shall designate one or more banks as
16 depositories for authority funds.

17 (b) All funds of an authority that are not otherwise
18 invested shall be deposited in one or more of the authority's
19 depository banks unless otherwise required by an order or
20 resolution authorizing the issuance of an authority bond or note or
21 other contractual undertaking.

22 (c) Funds in a depository, to the extent that those funds
23 are not insured by the Federal Deposit Insurance Corporation, shall
24 be secured in the manner provided by law for the security of county
25 funds.

26 Sec. 463.104. CHIEF EXECUTIVE: DUTIES. (a) The general
27 manager or executive director shall administer the daily operation

1 of an authority.

2 (b) In conformity with the policy of the executive
3 committee, the general manager or executive director may:

4 (1) employ persons to conduct the affairs of the
5 authority, including any operating or management company; and

6 (2) remove any employee.

7 (c) The general manager or executive director shall
8 prescribe the duties, tenure, and compensation of each person
9 employed.

10 Sec. 463.105. RULES. (a) The executive committee by
11 resolution may adopt rules for the:

12 (1) safe and efficient operation and maintenance of
13 the public transportation system;

14 (2) use of the public transportation system and the
15 authority's services by the public and the payment of fares, tolls,
16 and other charges; and

17 (3) regulation of privileges on property owned,
18 leased, or otherwise controlled by the authority.

19 (b) The authority shall encourage to the maximum extent
20 feasible the participation of private enterprise.

21 (c) A notice of each rule adopted by the executive committee
22 shall be published in a newspaper with general circulation in the
23 area in which the authority is located once each week for two
24 consecutive weeks after adoption of the rule. The notice must
25 contain a condensed statement of the substance of the rule and must
26 advise that a copy of the complete text of the rule is filed in the
27 principal office of the authority where the text may be read by any

1 person.

2 (d) A rule becomes effective 10 days after the date of the
3 second publication of the notice under this section.

4 Sec. 463.106. PURCHASES: COMPETITIVE BIDDING. (a) An
5 authority may not award a contract for construction, services, or
6 property, other than real property, except through the solicitation
7 of competitive sealed bids or proposals, including the reverse
8 auction procedure, ensuring full and open competition.

9 (b) The authority shall describe in a solicitation each
10 factor to be used to evaluate a bid or proposal and give the
11 factor's relative importance.

12 Sec. 463.107. DURATION OF CONTRACTS. An authority may
13 contract for payment with debt obligations and for performance and
14 payments to extend longer than one fiscal year if the contract
15 provides for the discharge of the authority's contractual
16 obligations by any method, including:

17 (1) committing current year funds, future tax
18 revenues, or cancellation charges; and

19 (2) making the contract subject to the future
20 availability of funds.

21 Sec. 463.108. SECURITY. The executive committee may
22 establish a security force and provide for the employment of
23 security personnel.

24 Sec. 463.109. BUDGET RECOMMENDATIONS. The executive
25 committee shall make a proposed annual budget available to the
26 commissioners courts of the counties in the authority at least 30
27 days before the date of the adoption of the final annual budget.

1 Sec. 463.110. FINANCIAL AUDITS. (a) The executive
2 committee of an authority shall have an annual audit of the affairs
3 of the authority prepared by an independent certified public
4 accountant or a firm of independent certified public accountants.

5 (b) The audit is open to public inspection.

6 SUBCHAPTER D. STATION OR TERMINAL COMPLEX SYSTEMS

7 Sec. 463.151. STATION OR TERMINAL COMPLEX: SYSTEM PLAN.

8 (a) An authority may not acquire an interest in real property for a
9 station or terminal complex unless the station or terminal complex
10 is included in the public transportation system in a comprehensive
11 service plan approved by a resolution of the executive committee. A
12 mass transit facility of an authority is not a station or terminal
13 complex under this subchapter unless the facility is included in
14 the authority's comprehensive service plan under this section.

15 (b) A station or terminal complex may not be included in a
16 public transportation system unless the executive committee first
17 finds that the station or complex:

18 (1) will encourage and provide for efficient and
19 economical public transportation;

20 (2) will facilitate access to public transportation
21 and provide for other public transportation purposes;

22 (3) will reduce vehicular congestion and air
23 pollution; and

24 (4) is reasonably essential to the successful
25 operation of the public transportation system.

26 (c) On making a finding under Subsection (b), the executive
27 committee may amend the authority's comprehensive service plan to

1 include a station or terminal complex.

2 Sec. 463.152. STATION OR TERMINAL COMPLEX: FACILITIES. A
3 station or terminal complex of an authority:

4 (1) must include adequate provisions for the transfer
5 of passengers among the various means of transportation available
6 to the complex; and

7 (2) may include provisions for residential,
8 institutional, recreational, commercial, and industrial
9 facilities.

10 Sec. 463.153. APPROVAL OF MUNICIPALITY. The location of a
11 station or terminal complex in a municipality or in the
12 extraterritorial jurisdiction of a municipality must be approved,
13 as to conformity with the comprehensive or general plan of the
14 municipality, by a motion, resolution, or ordinance adopted by the
15 governing body of the municipality.

16 Sec. 463.154. TRANSFER OF REAL PROPERTY IN STATION OR
17 TERMINAL COMPLEX. (a) An authority may transfer to any person by
18 any means, including sale or lease, an interest in real property in
19 a station or terminal complex and may contract with respect to it,
20 in accordance with the comprehensive service plan approved by the
21 executive committee, and subject to terms:

22 (1) the executive committee finds to be in the public
23 interest or necessary to carry out this section; and

24 (2) specified in the instrument transferring the title
25 or right of use.

26 (b) A transfer must be at the fair value of the interest
27 transferred considering the use designated for the real property in

1 the authority's comprehensive service plan.

2 SUBCHAPTER E. BONDS

3 Sec. 463.201. DEFINITION. In this subchapter, "bond"
4 includes a note.

5 Sec. 463.202. POWER TO ISSUE BONDS. (a) An authority may
6 issue bonds at any time and for any amounts it considers necessary
7 or appropriate for:

8 (1) the acquisition, construction, repair, equipping,
9 improvement, or extension of its public transportation system; or

10 (2) creating or funding self-insurance or retirement
11 or pension fund reserves.

12 (b) A bond any portion of which is secured by a pledge of
13 sales and use tax revenues and that has a maturity longer than five
14 years from the date of issuance may not be issued by an authority
15 until an election has been held and the proposition proposing the
16 issue has been approved by a majority of the votes received on the
17 issue in accordance with Section 463.212.

18 (c) Subsection (b) does not apply to:

19 (1) refunding bonds; or

20 (2) bonds described by Subsection (a)(2).

21 Sec. 463.203. BOND TERMS. An authority's bonds are fully
22 negotiable. An authority may make the bonds redeemable before
23 maturity at the price and subject to the terms and conditions that
24 are provided in the authority's resolution authorizing the bonds.

25 Sec. 463.204. SALE. An authority's bonds may be sold at a
26 public or private sale as determined by the executive committee to
27 be the more advantageous.

1 Sec. 463.205. APPROVAL; REGISTRATION. (a) An authority's
2 bonds and the records relating to their issuance shall be submitted
3 to the attorney general for examination before the bonds may be
4 delivered.

5 (b) If the attorney general finds that the bonds have been
6 issued in conformity with the constitution and this chapter and
7 that the bonds will be a binding obligation of the issuing
8 authority, the attorney general shall approve the bonds.

9 (c) After the bonds are approved by the attorney general,
10 the comptroller shall register the bonds.

11 Sec. 463.206. INCONTESTABILITY. Bonds are incontestable
12 after they are:

13 (1) approved by the attorney general;

14 (2) registered by the comptroller; and

15 (3) sold and delivered to the purchaser.

16 Sec. 463.207. SECURITY PLEDGED. (a) To secure the payment
17 of an authority's bonds, the authority may:

18 (1) pledge all or part of revenue realized from any tax
19 that the authority may impose;

20 (2) pledge any part of the revenue of the public
21 transportation system;

22 (3) mortgage any part of the public transportation
23 system, including any part of the system subsequently acquired;

24 (4) pledge all or part of funds the federal government
25 has committed to the authority as grants in aid; and

26 (5) provide that a pledge of revenue described by
27 Subdivision (1) or (2) is a first lien or charge against that

1 revenue.

2 (b) Under Subsection (a)(3) an authority may, subject to the
3 terms of the bond indenture or the resolution authorizing the
4 issuance of the bonds, encumber a separate item of the public
5 transportation system and acquire, use, hold, or contract for the
6 property by lease, chattel mortgage, or other conditional sale
7 including an equipment trust transaction.

8 (c) An authority may not issue bonds secured by ad valorem
9 tax revenue.

10 (d) An authority is not prohibited by this subchapter from
11 encumbering one or more public transportation systems to purchase,
12 construct, extend, or repair one or more other public
13 transportation systems of the authority.

14 (e) The authority may pledge funds described by Subsection
15 (a)(4):

16 (1) as the sole security for the bonds; or

17 (2) in addition to any other security described by
18 this section.

19 Sec. 463.208. USE OF REVENUE. Revenue in excess of amounts
20 pledged under Section 463.207(a)(1) or (2) shall be used to:

21 (1) pay the expenses of operation and maintenance of a
22 public transportation system, including salaries, labor,
23 materials, and repairs necessary to provide efficient service and
24 every other proper item of expense; and

25 (2) fund operating reserves.

26 Sec. 463.209. REFUNDING BONDS. An authority may issue
27 refunding bonds for the purposes and in the manner authorized by

1 general law, including Chapter 1207, Government Code.

2 Sec. 463.210. BONDS AS AUTHORIZED INVESTMENTS. (a) An
3 authority's bonds are authorized investments for:

4 (1) a bank;

5 (2) a savings bank;

6 (3) a trust company;

7 (4) a savings and loan association; and

8 (5) an insurance company.

9 (b) The bonds, when accompanied by all appurtenant,
10 unmatured coupons and to the extent of the lesser of their face
11 value or market value, are eligible to secure the deposit of public
12 funds of this state, a political subdivision of this state, and any
13 other political corporation of this state.

14 Sec. 463.211. EXCHANGE OF BONDS FOR EXISTING SYSTEM. An
15 authority's revenue bonds may be exchanged, instead of cash, for
16 the property of all or part of an existing public transportation
17 system to be acquired by the authority. If the property is owned by
18 a corporation that will dissolve simultaneously with the exchange,
19 the authority may acquire the stock of the corporation.

20 Sec. 463.212. ELECTION TO PLEDGE TAXES. (a) The executive
21 committee may order an election to authorize the pledge of sales and
22 use tax revenue to the payment of a specified amount of long-term
23 bonds for the authority's public transportation system.

24 (b) Sales and use tax revenue at a rate higher than the
25 previously approved rate may not be pledged.

26 (c) The notice of election shall be published, the
27 proposition and ballot prepared, and the election held in

1 accordance with and at the times permitted by the law applicable to
2 a municipal bond election. The authority may publish, or
3 distribute in another manner, additional copies of the election
4 order to inform the voters fully of its content.

5 (d) If the proposition is approved, the authority may issue
6 bonds in an amount not exceeding the amount approved.

7 Sec. 463.213. TAX EXEMPTION. The interest on bonds issued
8 by an authority is exempt from state and local taxes.

9 SUBCHAPTER F. TAXATION

10 Sec. 463.251. SALES AND USE TAX. (a) The executive
11 committee may impose for an authority a sales and use tax at the
12 rate of:

13 (1) one-quarter of one percent;

14 (2) one-half of one percent;

15 (3) three-quarters of one percent; or

16 (4) one percent.

17 (b) The imposition of an authority's sales and use tax must
18 be approved at an election under this chapter.

19 (c) Chapter 322, Tax Code, applies to an authority's sales
20 and use tax.

21 (d) Except to the extent that a provision of this chapter
22 applies, Chapter 323, Tax Code, applies to the tax authorized by
23 this section in the same manner as that chapter applies to the tax
24 authorized by that chapter.

25 (e) Sections 323.101(d) and (e) and 323.505, Tax Code, do
26 not apply to the tax authorized by this section.

27 (f) Revenue from the tax authorized by this section must be

1 spent as follows:

2 (1) 50 percent on a light rail mass transit system;

3 (2) 30 percent on bus transit; and

4 (3) 20 percent on the construction and maintenance of
5 roads in the area of the authority.

6 Sec. 463.252. RATE INCREASE: SALES AND USE TAX. The
7 executive committee may not increase the tax rate to a rate higher
8 than the rate approved by the voters at the confirmation election
9 without first receiving a majority vote in favor of the increase at
10 an authority-wide election.

11 Sec. 463.253. INITIAL SALES TAX: EFFECTIVE DATE. The
12 adoption of or the increase or decrease in the rate of an
13 authority's sales and use tax takes effect on the first day of the
14 second calendar quarter beginning after the date that the
15 comptroller receives a copy of the order required to be sent under
16 Section 463.361.

17 Sec. 463.254. RATE DECREASE: SALES AND USE TAX. (a) The
18 executive committee by order may direct the comptroller to collect
19 the authority's sales and use tax at a rate that is lower than the
20 rate approved by the voters at the confirmation election.

21 (b) The executive committee must file a certified copy of
22 the order with the comptroller.

23 Sec. 463.255. PROPERTY TAXES. An authority may not impose
24 an ad valorem property tax.

25 SUBCHAPTER G. EXECUTIVE COMMITTEE

26 Sec. 463.301. COMPOSITION. (a) The executive committee of
27 an authority is the board of directors of the regional planning

1 commission established for the area of the authority under Chapter
2 391, Local Government Code.

3 (b) Service on the executive committee by a public officer
4 or employee is an additional duty of the office or employment.

5 Sec. 463.302. OFFICERS. (a) The members of the executive
6 committee shall elect from among its membership a presiding
7 officer, assistant presiding officer, and secretary.

8 (b) The executive committee may appoint, as necessary,
9 members or nonmembers as assistant secretaries.

10 (c) The secretary or assistant secretary shall:

11 (1) keep permanent records of each proceeding and
12 transaction of the authority; and

13 (2) perform other duties assigned by the executive
14 committee.

15 Sec. 463.303. CONFLICTS OF INTEREST. Members of the
16 executive committee and officers of the authority are subject to
17 Chapter 171, Local Government Code.

18 Sec. 463.304. MEETINGS. (a) The executive committee shall
19 hold at least one regular meeting each month to transact the
20 business of an authority.

21 (b) On written notice, the presiding officer may call
22 special meetings as necessary.

23 (c) The executive committee by resolution shall:

24 (1) set the time, place, and day of the regular
25 meetings; and

26 (2) adopt rules and bylaws as necessary to conduct
27 meetings.

1 Sec. 463.305. VOTING REQUIREMENTS. An action of the
2 executive committee requires a vote of a majority of the members
3 present unless the bylaws require a larger number for a particular
4 action.

5 SUBCHAPTER H. CREATION OF AUTHORITIES

6 Sec. 463.351. CREATION OF AUTHORITY AUTHORIZED. The
7 commissioners courts of the counties to which this chapter applies
8 may agree to initiate the process to create a regional transit
9 authority to provide public transportation services within the
10 boundaries of the counties.

11 Sec. 463.352. INITIATING ORDER OR RESOLUTION: CONTENTS.
12 To initiate the process of creating an authority, each
13 commissioners court must adopt a resolution or order containing the
14 designation of each time and place for holding public hearings on
15 the proposal to create the authority.

16 Sec. 463.353. NOTICE OF HEARING. (a) Notice of the time
17 and place of the public hearings on the creation of the authority
18 shall be published, beginning at least 30 days before the date of
19 the hearing, once a week for two consecutive weeks in a newspaper of
20 general circulation in each county.

21 (b) The commissioners courts shall give a copy of the notice
22 to the Texas Transportation Commission and the comptroller.

23 Sec. 463.354. CONDUCT OF HEARING. (a) Each commissioners
24 court creating an authority shall conduct public hearings on the
25 creation.

26 (b) Any person may appear at a hearing and offer evidence
27 on:

- 1 (1) the creation of the authority;
2 (2) the operation of a public transportation system;
3 (3) the public utility and public interest served in
4 the creation of an authority; or
5 (4) other facts bearing on the creation of an
6 authority.

7 (c) A hearing may be continued until completed.

8 Sec. 463.355. RESOLUTION OR ORDER. (a) After hearing the
9 evidence presented at the hearings, but not earlier than 75 days
10 after the date the process is initiated by the commissioners
11 courts, each commissioners court may adopt a resolution or order:

- 12 (1) designating the name of the authority; and
13 (2) authorizing the appointment of the interim
14 executive committee.

15 (b) After the hearing, the results of the hearing shall be
16 sent to the Texas Department of Transportation and the comptroller.

17 Sec. 463.356. INTERIM EXECUTIVE COMMITTEE. (a) The
18 interim executive committee is composed as provided by Section
19 463.301 for an executive committee except that the interim
20 executive committee must include an additional member who is a
21 member of the board of directors of a commuter rail district
22 described by Chapter 174.

23 (b) The interim executive committee, after its
24 organization, shall develop a service plan and determine a proposed
25 tax rate.

26 (c) Service on the interim executive committee by a public
27 officer or employee is an additional duty of the office or

1 employment.

2 Sec. 463.357. APPROVAL OF SERVICE PLAN AND TAX RATE. Not
3 later than the 45th day after the date the interim executive
4 committee approves the service plan and tax rate, the commissioners
5 court of each county creating an authority must approve, by
6 resolution or order, the service plan and tax rate.

7 Sec. 463.358. NOTICE OF INTENT TO ORDER ELECTION. Not
8 earlier than the 61st day after the date the interim executive
9 committee approves a service plan and tax rate, the interim
10 executive committee shall notify the commissioners court of each
11 county included in the boundaries of the authority of the interim
12 executive committee's intention to call a confirmation election.

13 Sec. 463.359. CONFIRMATION ELECTION. (a) The interim
14 executive committee in ordering the confirmation election shall
15 submit to the qualified voters of each county participating in the
16 election in the authority the following proposition: "Shall the
17 creation of (name of authority) be confirmed and shall the levy of
18 the proposed tax, not to exceed (rate), be authorized?"

19 (b) In addition to other information required by law, the
20 notice of the election must include a description of the nature and
21 rate of the proposed tax.

22 Sec. 463.360. CONDUCT OF ELECTION. The executive committee
23 shall canvass the returns and declare the results of the election
24 separately with respect to each county.

25 Sec. 463.361. RESULTS OF ELECTION; ORDER. (a) The
26 authority is confirmed if a majority of the votes received in each
27 county favor the proposition.

1 (b) If the authority continues, the interim executive
2 committee shall record the results in its minutes and adopt an
3 order:

4 (1) declaring that the creation of the authority is
5 confirmed;

6 (2) stating the date of the election;

7 (3) containing the proposition; and

8 (4) showing the number of votes cast for or against the
9 proposition in each county.

10 (c) A certified copy of the order shall be filed with:

11 (1) the Texas Department of Transportation; and

12 (2) the comptroller.

13 (d) If the authority does not continue, the interim
14 executive committee shall enter an order declaring that the result
15 of votes cast at the election is that the authority ceases in its
16 entirety. The order shall be filed with the Texas Department of
17 Transportation and the comptroller, and the authority is dissolved.

18 Sec. 463.362. EFFECT OF CREATION. On the creation of an
19 authority the boundaries of which overlap the territory of a
20 commuter rail district described by Chapter 174, the commuter rail
21 district is dissolved, and all assets, including property, and all
22 liabilities, including debt and other obligations, of the commuter
23 rail district transfer to and are assumed by the authority.

24 Sec. 463.363. COST OF ELECTION. The commissioners courts
25 creating an authority shall pay the cost of the confirmation
26 election.

27 Sec. 463.364. EXPIRATION OF UNCONFIRMED AUTHORITY. An

1 authority that has not been confirmed expires on the third
2 anniversary of the effective date of orders initiating the process
3 to create the authority.

4 SECTION 2. Section 174.051, Transportation Code, is amended
5 by adding Subsection (c) to read as follows:

6 (c) Notwithstanding Subsections (a) and (b), a district may
7 not be created in the boundaries of a regional transit authority
8 under Chapter 463.

9 SECTION 3. Section 322.001(a), Tax Code, is amended to read
10 as follows:

11 (a) This chapter applies to the imposition, assessment,
12 collection, administration, and enforcement of a sales and use tax
13 imposed under Chapter 451, 452, 453, [~~or~~] 460, or 463,
14 Transportation Code.

15 SECTION 4. Section 322.002(1), Tax Code, is amended to read
16 as follows:

17 (1) "Taxing entity" means a rapid transit authority, a
18 regional transit authority, including a subregional transportation
19 authority, or a municipal mass transit department created under
20 Chapter 451, 452, [~~or~~] 453, or 463, Transportation Code, or a
21 coordinated county transportation authority created under Chapter
22 460, Transportation Code, that has adopted a sales and use tax under
23 the law authorizing the creation of the entity.

24 SECTION 5. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

H.B. No. 2423

1 Act takes effect September 1, 2013.