

BILL ANALYSIS

Senate Research Center

H.B. 2682
By: Solomons (Brimer)
Transportation & Homeland Security
5/5/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 77th Legislature enacted legislation to provide for the creation of a coordinated county transportation authority (authority) by a county adjacent to a county with a population of one million or more. Denton County has created such an authority in an effort to offer transportation alternatives to its region and alleviate traffic congestion and pollution.

H.B. 2682 clarifies an authority's ability to impose a sales and use tax and to conduct an election for the approval of that tax in an area within the authority and in those areas requesting to join the authority. This bill authorizes an authority to contract with certain entities and provides the types of contracts in which the authority is authorized to enter. This bill makes technical corrections to reflect the change in name of the governing body of an authority from the executive committee to the board of directors.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 460.054(c), Transportation Code, to make a nonsubstantive change.

SECTION 2. Amends Section 460.059(d), Transportation Code, to provide that, on adoption of the order confirming a coordinated county transportation authority (authority), the interim executive committee becomes the board of directors, rather than the executive committee, of the authority.

SECTION 3. Amends Section 460.104, Transportation Code, by adding Subsection (d), to authorize an authority to acquire rolling stock or other real or personal property under a contract or trust agreement, including a conditional sales contract, a lease, a lease-purchase agreement, or an equipment trust.

SECTION 4. Amends Sections 460.106(a) and (b), Transportation Code, to make conforming changes.

SECTION 5. Amends the heading to Subchapter D, Chapter 460, Transportation Code, to read as follows:

SUBCHAPTER D. PROVISIONS APPLICABLE TO BOARD OF DIRECTORS

SECTION 6. Amends Section 460.201(a), Transportation Code, to make a conforming change.

SECTION 7. Amends Section 460.202, Transportation Code, to make a conforming change.

SECTION 8. Amends Section 460.203, Transportation Code, to make a conforming change.

SECTION 9. Amends Sections 460.204(a) and (c), Transportation Code, to make conforming changes.

SECTION 10. Amends Section 460.205, Transportation Code, to make conforming changes.

SECTION 11. Amends Section 460.302, Transportation Code, as follows:

Sec. 460.302. ADDITION OF MUNICIPALITY BY ELECTION. (a) Authorizes territory of a municipality that is not initially part of an authority to be added to an authority under certain circumstances, including if the governing body of the municipality requests in writing, rather than orders, that the authority call an election on whether the territory should be added to the authority, the authority calls the election and submits a proposition to the qualified voters of the municipality. Sets forth the required language for the proposition.

(b) Requires the governing body of the authority to canvass the returns, declare the result, and notify the comptroller of public accounts (comptroller) and the Texas Department of Transportation (TxDOT). Deletes existing text requiring the municipality to certify to the executive committee the result of an election in which the addition is approved.

(c) Authorizes the governing body of the municipality, if approval by a municipality would cause the tax in a municipality that has imposed a dedicated or special-purpose sales and use tax to exceed the limit imposed under Section 460.552(a), to request in writing that an authority call an election under this section on whether the territory of the municipality should be added with a combined ballot proposition to lower or repeal any dedicated or special-purpose sales and use tax. Provides that a combined ballot proposition under this subsection is required to contain substantially the same language, if any, required by law for the lowering, repealing, raising, or adopting of each tax as appropriate; and provides that a ballot that receives a negative vote has no effect on either the sales tax to be lowered or repealed by the proposition or the sales tax to be raised or adopted by the proposition.

(c-1) Prohibits this section from being construed to change the substantive law of any sales tax, including the allowed maximum rate or combined rate of local sales taxes.

(d) Authorizes the authority and governing body of the municipality, at any time after the date of an election approving the addition of a municipality under this section, to enter into an interlocal agreement that provides for the eventual admission of the municipality to the territory of the authority and for the payment of proportional capital recovery fees as determined by the authority. Provides that the authority is not required to provide transportation services to the municipality until any capital recovery fees provided for in the agreement are paid to the authority.

(e) Provides that a sales and use tax imposed by an authority takes effect in a municipality added to the authority under this section on the first day after the expiration of the first complete calendar quarter that begins after the date the comptroller receives a certified copy of an order adopted by the authority relating to the addition of the municipality or other notice of the addition of the municipality, accompanied by a map of the authority clearly showing the territory added.

(f) Defines "dedicated or special-purpose sales and use tax."

SECTION 12. Amends Section 460.304(a), Transportation Code, to make a conforming change.

SECTION 13. Amends Section 460.401, Transportation Code, to make a conforming change.

SECTION 14. Amends Sections 460.402(a) and (c), Transportation Code, to make conforming changes.

SECTION 15. Amends Section 460.403, Transportation Code, to make a conforming change.

SECTION 16. Amends Section 460.406, Transportation Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Authorizes the board of directors to authorizes the negotiation of a contract without competitive sealed bids or proposals under certain circumstances. Makes conforming changes.

(d) Provides that, for the purposes of entering into a contract authorized by Subsection (c)(12), an authority is considered a governmental entity.

SECTION 17. Amends Section 460.504, Transportation Code, to make a conforming change.

SECTION 18. Amends Section 460.508(c), Transportation Code, to provide that the Texas Commission on Environmental Quality, rather than the Texas Natural Resource Conservation Commission, is not required to approve notes issued under this section (Notes).

SECTION 19. Amends Sections 460.551(a), (b), (c), and (d), Transportation Code, as follows:

(a) Makes a conforming change.

(b) Requires the imposition of an authority's sales and use tax to be approved at an election conducted in the manner provided by this chapter (Coordinated County Transportation Authorities) and is prohibited from being imposed in an area that has not confirmed the authority.

(c) Makes nonsubstantive changes.

(d) Makes a conforming change.

SECTION 20. Amends Section 460.554, Transportation Code, to make conforming changes.

SECTION 21. Amends Section 321.107, Tax Code, to redefine "other local governmental entity."

SECTION 22. Repealer: Section 460.201(b) (relating to the frequency with which an authority may increase the population amount for the authority), Transportation Code.

SECTION 23. (a) Provides that an election called and conducted authorizing the levy of a sales and use tax, where a majority of votes received favored the authorization of a sales and use tax levy by or for the benefit of an authority created under Chapter 460, Transportation Code, that occurred before the effective date of this Act is validated. Provides that any acts or proceedings of an authority are validated as of the dates they occurred.

(b) Provides that this Act does not validate any governmental act or proceeding that, under the law of this state at the time the act or proceeding occurred, was a misdemeanor or a felony.

SECTION 24. Effective date: September 1, 2007.