REVISOR'S REPORT

TRANSPORTATION CODE
TITLES 1, 2, 3, 4, 6, AND 7

VOLUME IV

A NONSUBSTANTIVE REVISION
OF THE STATUTES RELATING TO
TRANSPORTATION

Including
Carriers
Aviation
Navigation
Roadways
Vehicles and Traffic

To be submitted to the 74th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
March 1995
(b) A governmental entity shall use the money to maintain the road facility. (V.A.C.S. Art. 6674r-1, Sec. 72(c).)
Sec. 451.065. ROADWAYS, TRAILS, LIGHTING: CERTAIN

Sec. 451.066. SPENDING LIMITATION: TRAILS AND LIGHTING IN CERTAIN AUTHORITIES

Sec. 451.067. EMERGENCY MEDICAL SERVICES: CERTAIN AUTHORITIES

Sec. 451.068. FREE FARES PROGRAM: CERTAIN AUTHORITIES

Sec. 451.069. CONTRACTUAL POWERS DO NOT CREATE IMMUNITY

Sec. 451.070. ELECTIONS

[Sections 451.071-451.100 reserved for expansion]

SUBCHAPTER C. MANAGEMENT OF AUTHORITY

Sec. 451.101. BOARD POWERS

Sec. 451.102. BUDGET

Sec. 451.103. OPERATING EXPENDITURES

Sec. 451.104. INVESTMENT POWERS: CERTAIN AUTHORITIES

Sec. 451.105. DEPOSITORY; DEPOSIT OF FUNDS

Sec. 451.106. GENERAL MANAGER; MANAGEMENT POLICIES: CERTAIN AUTHORITIES

Sec. 451.107. RULES

Sec. 451.108. PEACE OFFICERS

Sec. 451.109. ADVISORY COMMITTEE

Sec. 451.110. PURCHASES: COMPETITIVE BIDDING

Sec. 451.111. PURCHASES: NOTICE OF NONCOMPETITIVE BID PROPOSALS

Sec. 451.112. CONFLICTS OF INTEREST: BOARD MEMBERS

[Sections 451.113-451.150 reserved for expansion]

SUBCHAPTER D. STATION OR TERMINAL COMPLEX SYSTEMS

Sec. 451.151. STATION OR TERMINAL COMPLEX: SYSTEM PLAN

Sec. 451.152. STATION OR TERMINAL COMPLEX: FACILITIES

Sec. 451.153. APPROVAL OF MUNICIPALITY

Sec. 451.154. STATION OR TERMINAL COMPLEX: LIMITATION ON REAL PROPERTY ACQUISITION

Sec. 451.155. TRANSFER OF REAL PROPERTY IN STATION OR TERMINAL COMPLEX

74C263 JD-D 1606
SUBCHAPTER E. REGIONAL ECONOMIC DEVELOPMENT

FACILITIES IN STATIONS OR TERMINAL COMPLEXES

Sec. 451.201. DEFINITION

Sec. 451.202. APPLICATION OF SUBCHAPTER LIMITED TO CERTAIN AUTHORITIES

Sec. 451.203. STATION OR TERMINAL COMPLEX: REGIONAL ECONOMIC DEVELOPMENT FACILITIES IN CERTAIN AUTHORITIES

Sec. 451.204. CONTRACTS FOR REGIONAL ECONOMIC DEVELOPMENT FACILITIES

Sec. 451.205. STATION OR TERMINAL COMPLEX: REGIONAL ECONOMIC DEVELOPMENT FACILITIES ADDITIONAL TAX

Sec. 451.206. USE OF REVENUE FOR REGIONAL ECONOMIC DEVELOPMENT FACILITIES

Sec. 451.207. CONTINUATION OF TAX RATE INCREASE

Sec. 451.208. CONTRACT GOALS FOR DISADVANTAGED BUSINESSES

Sec. 451.209. MINORITY AND DISADVANTAGED INDIVIDUALS PROGRAM: CERTAIN AUTHORITIES


Sec. 451.211. PROGRAM FOR PERSONS WITH PHYSICAL DISABILITIES: CERTAIN AUTHORITIES

Sec. 451.212. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS

Sec. 451.213. WAIVER OF FEDERAL REQUIREMENTS

Sec. 451.251. CONTRACT GOALS FOR DISADVANTAGED BUSINESSES

Sec. 451.252. MINORITY AND DISADVANTAGED INDIVIDUALS PROGRAM:

Sec. 451.253. MINORITY AND WOMEN-OWNED BUSINESS PROGRAM:

Sec. 451.254. PROGRAM FOR PERSONS WITH PHYSICAL DISABILITIES:

Sec. 451.255. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS

Sec. 451.256. WAIVER OF FEDERAL REQUIREMENTS

Sec. 451.301. PURCHASE AND PERCENT OF VEHICLES USING ALTERNATIVE FUELS

Sec. 451.302. ALTERNATIVE FUELS USE PROGRAM: EXCEPTIONS

Sec. 451.303. ALTERNATIVE FUELS EQUIPMENT AND FACILITIES
Sec. 451.304. ALTERNATIVE FUELS USE PROGRAM: VEHICLES
COVERED AND SAFETY .................................... 1683

Sec. 451.305. ALTERNATIVE FUELS USE PROGRAM: REPORTS .... 1684
[Sections 451.306-451.350 reserved for expansion]

SUBCHAPTER H. BONDS

Sec. 451.351. DEFINITION .................................... 1685
Sec. 451.352. POWER TO ISSUE BONDS ........................ 1685
Sec. 451.353. BOND TERMS .................................. 1686
Sec. 451.354. SALE .......................................... 1687
Sec. 451.355. APPROVAL; REGISTRATION ..................... 1688
Sec. 451.356. INCONTESTABILITY ............................ 1688
Sec. 451.357. SECURITY PLEDGED ............................ 1689
Sec. 451.358. PLEDGE OF REVENUE LIMITED .................. 1690
Sec. 451.359. REFUNDING BONDS .............................. 1691
Sec. 451.360. BONDS AS AUTHORIZED INVESTMENTS .......... 1691
Sec. 451.361. EXCHANGE OF BONDS FOR EXISTING SYSTEM .... 1692
Sec. 451.362. SHORT-TERM BONDS ............................ 1692
Sec. 451.363. TAX EXEMPTION ................................ 1693
[Sections 451.364-451.400 reserved for expansion]

SUBCHAPTER I. TAXATION

Sec. 451.401. GENERAL POWER OF TAXATION .................. 1693
Sec. 451.402. VOTER APPROVAL REQUIRED FOR TAX .......... 1694
Sec. 451.403. AUTHORITY TAX CODE AND RULES .............. 1695
Sec. 451.404. SALES AND USE TAX ............................ 1697
Sec. 451.405. MAXIMUM TAX RATE IN AUTHORITY AREA ....... 1697
Sec. 451.407. RATE DECREASE: SALES AND USE TAX .......... 1699
Sec. 451.408. RATE INCREASE: SALES AND USE TAX .......... 1699
Sec. 451.409. SALES AND USE TAX RATE INCREASE: PETITION AND ELECTION ...................................... 1700
Sec. 451.410. SALES AND USE TAX INCREASE OR DECREASE:
BALLOTS ...................................................... 1701
Sec. 451.411. RESULTS OF ELECTION; NOTICE ................ 1701
Sec. 451.412. EFFECTIVE DATE OF TAX RATE CHANGE .......... 1702
Sec. 451.413. TAX EFFECTIVE DATES AFTER ELECTION CONTEST .... 1703
Sec. 451.414. MAXIMUM RATE OF VEHICLE EMISSIONS TAX ............. 1704
Sec. 451.415. EXEMPTIONS ........................................ 1705
Sec. 451.416. EMISSIONS TAX YEAR ................................ 1706
Sec. 451.417. EMISSIONS TAX PAYMENTS: DELINQUENCY ............ 1707
Sec. 451.418. COLLECTION OF EMISSIONS TAXES BY COUNTY
       ASSESSOR-COLLECTOR ....................................... 1707
Sec. 451.419. PENALTIES AND INTEREST: EMISSIONS TAXES ...... 1710
Sec. 451.420. BOARD RULES: EMISSIONS TAXES .................... 1710

[Sections 451.421-451.450 reserved for expansion]

SUBCHAPTER J. FINANCIAL AND PERFORMANCE AUDITS

Sec. 451.451. FINANCIAL AUDITS ................................... 1711
Sec. 451.452. REVIEW OF AUDIT: CERTAIN AUTHORITIES .......... 1712
Sec. 451.453. REVIEW BY SUNSET ADVISORY COMMISSION ............ 1713
Sec. 451.454. PERFORMANCE AUDITS: CERTAIN AUTHORITIES ....... 1714
Sec. 451.455. COMPUTATION OF PERFORMANCE INDICATORS .......... 1717
Sec. 451.456. PERFORMANCE AUDIT RESPONSE; HEARING .......... 1722
Sec. 451.457. DELIVERY OF REPORT AND RESPONSE ............ 1723

[Sections 451.458-451.500 reserved for expansion]

SUBCHAPTER K. BOARDS

Sec. 451.501. BOARD MEMBERSHIP .................................. 1724
Sec. 451.502. APPOINTMENT OF MEMBERS ........................... 1725
Sec. 451.503. APPOINTMENTS PANEL ................................. 1729
Sec. 451.504. BOARD VACANCIES ................................... 1729
Sec. 451.505. BOARD TERMS ........................................ 1731
Sec. 451.506. TERM LIMITATIONS ................................... 1733
Sec. 451.507. BOARD MEMBERSHIP: RESIDENCY IN AUTHORITY .... 1735
Sec. 451.508. REMOVAL BY BOARD ................................... 1736
Sec. 451.509. REMOVAL BY APPOINTING PERSON OR ENTITY ....... 1737
Sec. 451.510. GROUNDS FOR REMOVAL FROM BOARD ................. 1739
Sec. 451.511. REMOVAL OF BOARD MEMBER: NOTICE AND HEARING .. 1741
Sec. 451.512. GROUND FOR REMOVAL: VALIDITY OF BOARD ACTS ... 1742
Sec. 451.513. RECALL OF MEMBERS: CERTAIN AUTHORITIES ....... 1743
Sec. 451.514. BOARD MEETINGS: WHEN HELD ....................... 1745
Sec. 451.515. BOARD MEETINGS: VOTING .......................... 1746
Sec. 451.516. INCREASE OF MEMBERSHIP: CONTINUITY .......... 1747
Sec. 451.517. BOARD MEETINGS: RULES AND BYLAWS .......... 1747
Sec. 451.518. BOARD MEETINGS: NOTICE .......................... 1747
Sec. 451.519. BOARD MEMBERS: EXPENSES; PER DIEM .......... 1748
Sec. 451.520. BOARD OFFICERS AND SECRETARIES ............... 1749

[Sections 451.521-451.550 reserved for expansion]

SUBCHAPTER L. ADDITION OF TERRITORY

Sec. 451.551. ADDITION OF TERRITORY BY MUNICIPAL
ANNEXATION ............................... 1750
Sec. 451.552. ADDITION OF MUNICIPALITY BY ELECTION .......... 1750
Sec. 451.553. ADDITION OF COUNTY AREA BY ELECTION ............ 1751
Sec. 451.554. BOARD APPROVAL OF ANNEXATION: EFFECTIVE
DATE .................................... 1753
Sec. 451.555. ADDED TERRITORY: EFFECTIVE DATE OF TAXES .... 1753

[Sections 451.556-451.600 reserved for expansion]

SUBCHAPTER M. WITHDRAWAL OF TERRITORY FROM AUTHORITY

Sec. 451.601. UNIT OF ELECTION DEFINED .......................... 1755
Sec. 451.602. AUTHORITIES COVERED BY SUBCHAPTER ............ 1756
Sec. 451.603. WITHDRAWAL OF UNIT OF ELECTION ................. 1756
Sec. 451.604. PETITION FOR WITHDRAWAL ELECTION ............... 1758
Sec. 451.605. REVIEW OF PETITION ............................... 1761
Sec. 451.606. INVALID PETITION ................................. 1762
Sec. 451.607. ELECTION ................................... 1763
Sec. 451.608. RESULT OF WITHDRAWAL ELECTION .................... 1765
Sec. 451.609. EFFECT OF WITHDRAWAL ............................ 1766
Sec. 451.610. CONTINUATION OF SERVICES TO PERSONS WITH
DISABILITIES .................................. 1768
Sec. 451.611. DETERMINATION OF TOTAL AMOUNT OF FINANCIAL
OBLIGATIONS OF WITHDRAWN UNIT ........................... 1768
Sec. 451.612. CERTIFICATION OF NET FINANCIAL OBLIGATION
OF UNIT ..................................... 1772
Sec. 451.613. COLLECTION OF SALES AND USE TAX AFTER
WITHDRAWAL .................................. 1773
Sec. 451.614. REFUNDS OF EXCESS SALES AND USE TAX REVENUE  ... 1773
Sec. 451.615. USE OF REFUNDED REVENUE  ......................... 1775
Sec. 451.616. REVENUE FROM WITHDRAWN UNIT FOR PROVIDING
SERVICES FOR PERSONS WITH DISABILITIES  ...... 1776
Sec. 451.617. WITHDRAWAL: ALTERNATIVE METHOD FOR CERTAIN
AUTHORITIES  ......................................... 1776
[Sections 451.618-451.650 reserved for expansion]

SUBCHAPTER N. CREATION OF AUTHORITY

Sec. 451.651. INITIAL PROCEEDINGS TO CREATE AUTHORITY  .... 1778
Sec. 451.652. NOTICE OF HEARING  ................................. 1781
Sec. 451.653. CONDUCT OF HEARING  ............................... 1782
Sec. 451.654. ORDINANCE OF CREATION; FINDINGS  ................ 1782
Sec. 451.655. MUNICIPALITY TO FUND BOARD  ...................... 1783
Sec. 451.656. BOARD TO ORDER ELECTION  .......................... 1783
Sec. 451.657. COMMISSIONERS COURT TO DESIGNATE ELECTION
AREAS  .................................................. 1784
Sec. 451.658. ELECTION NOTICE  .................................. 1785
Sec. 451.659. PROPOSITION  ....................................... 1785
Sec. 451.660. CONDUCT OF ELECTION: SEPARATE RESULTS FOR UNIT
OF ELECTION  ............................................ 1786
Sec. 451.661. RESULTS OF ELECTION; ORDER ....................... 1786
Sec. 451.662. COSTS OF BOARD  ................................... 1789
Sec. 451.663. COMPOSITION OF BOARD ON CONFIRMATION .......... 1790
Sec. 451.664. COST OF ELECTION  .................................. 1790
Sec. 451.665. EXPIRATION OF UNCONFIRMED AUTHORITY .......... 1790

SUBTITLE K. MASS TRANSPORTATION

CHAPTER 451. METROPOLITAN RAPID TRANSIT AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 451.001. DEFINITIONS. In this chapter:

(1) "Alternate municipality" means a municipality
that:

(A) has a population of more than 60,000;
(B) is located in a metropolitan area the principal municipality of which has a population of more than 1.2 million; and

(C) is not part of the territory of another authority.

(2) "Authority" means a rapid transit authority created under this chapter or under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973.

(3) "Board" means the governing body of an authority.

(4) "Mass transit" means the transportation of passengers and hand-carried packages or baggage of a passenger by a surface, overhead, or underground means of transportation, or a combination of those means, including motorbus, trolley coach, rail, and suspended overhead rail transportation. The term does not include taxicab transportation.

(5) "Metropolitan area" includes only an area in this state that has a population density of not less than 250 persons for each square mile and contains not less than 51 percent of the incorporated territory of a municipality having a population of 230,000 or more. The area may contain other municipalities and the suburban area and environs of other municipalities.

(6) "Motor vehicle" includes only a vehicle that is self-propelled:

(A) by an internal combustion engine or motor;
(B) on two or more wheels; and
(C) over a roadway other than fixed rails and tracks.

(7) "Principal municipality" means the municipality having the largest population in a metropolitan area.

(8) "Transit authority system" means property:

(A) owned, rented, leased, controlled, operated, or held for mass transit purposes by an authority; and
(B) situated on property of the authority for mass transit purposes, including:
(i) for an authority created before 1980
in which the principal municipality has a population of less than
1.2 million, public parking areas and facilities; and

(ii) for an authority in which the
principal municipality has a population of more than 1.5 million,
the area in boundaries in which service is provided or supported by
a general sales and use tax. (V.A.C.S. Art. 1118x, Secs. 2(a)
(part), (b), (c), (d), (e), (f), (g); 3B(a).)

Source Law
Sec. 2. The following words and terms, wherever
used and referred to in this Act, have the following
respective meanings, unless a different meaning clearly
appears from the context:
(a) "Metropolitan area" means any area
within the State of Texas having a population density
of not less than 250 persons per square mile and
containing not less than 51 percent of the incorporated
territory comprising a city having a population of at
least 230,000 inhabitants according to the last
preceding or any future federal census, and in which
there may be situated other incorporated cities, towns
and villages and the suburban areas and environs
thereof . . .
(b) "Principal city" means the city of
largest population in a metropolitan area.
(c) "Authority" means a rapid transit
authority created pursuant to the provisions of this
Act.
(d) "Board" means the governing body of an
authority.
(e) "Mass transit" means transportation of
passengers and hand carried packages and/or baggage of
said passengers by means of motorbus, trolley coach,
street railway, rail, suspended overhead rail, elevated
railways, subways, or any other surface, overhead or
underground transportation (except taxicabs), or by any
combination of the foregoing and, for an authority
created before January 1, 1980, in which the principal
city has a population of less than 1,200,000 as
determined by the most recent federal decennial census,
includes the establishment and operation of public
parking facilities.
(f) "System" means all real and personal
property of every kind and nature whatsoever, owned,
rented, leased, under the control of or operated or
situated on property of, or held at any time by an
authority for mass transit purposes, including (without
limiting the generality of the foregoing), land, interests
in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus
t lines, stations, platforms, terminals, rolling stock,
garages, shops, equipment and facilities (including
vehicle parking areas and facilities), other facilities
necessary or convenient for the beneficial use and
access of persons and vehicles to stations, terminals,
yards, cars, and buses, and control houses, signals and
land, facilities and equipment for the protection and
environmental enhancement of all such facilities, and,
for an authority created before January 1, 1980, public
parking areas, garages, facilities, and lots, and, for
an authority in which the principal city has a
population of more than 1.5 million according to the
most recent decennial census, the area within the
boundaries wherein service is provided or is supported
by a general sales and use tax.
(g) "Motor vehicle" means a vehicle
self-propelled on two or more wheels by an internal
combustion engine or motor over roadways other than
fixed rails and tracks.

Sec. 3B. (a) For the purposes of this section,
"alternate city" is a city:
(1) with a population in excess of 60,000
according to the most recent federal census;
(2) located in a metropolitan area in
which the population of the principal city exceeds
1,200,000 according to the most recent federal census;
and
(3) not part of the territory of an
existing authority.

Revisor's Note
(1) Section 2, V.A.C.S. Article 1118x, states
that the defined terms have the meanings given "unless
a different meaning clearly appears from the context."
This limitation is omitted from the revised law because
each defined term is used consistently in the revision
in the context to which the definition applies.
(2) Sections 2(a), (e), and (f) and 3B(a),
V.A.C.S. Article 1118x, describe a population number
that is to be determined according to "the last
preceding or any future federal census," "most recent
federal decennial census," "most recent decennial
census," or "most recent federal census." The revised
law omits the references to the census because the
references are unnecessary. Similar references to the
method of determining population are used throughout
V.A.C.S. Article 1118x. Each of these references is
also omitted from the revised law as unnecessary. See
End of Chapter Revisor's Note (1) following the final
revised section of this chapter.
(3) Sections 2(a), (b), (e), and (f) and 3B(a),
V.A.C.S. Article 1118x, refer to "city." The revised
law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code. Similar references to "city" are used throughout V.A.C.S. Article 1118x. Each of these references is also changed in the revised law to "municipality." See End of Chapter Revisor's Note (2) following the final revised section of this chapter.

(4) Section 2(c), V.A.C.S. Article 1118x, refers to the creation of an authority under "this Act," meaning Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973, and the revised law reflects that citation. The revised law also adds a reference to an authority created under "this chapter" to include an authority created after the revision is adopted.

(5) Section 2(e), V.A.C.S. Article 1118x, refers to the establishment and operation of parking facilities of an authority created before January 1, 1980, and in which the principal city has a population of less than 1.2 million as being included in the definition of "mass transit." This reference is omitted as duplicative of the definition of "transit authority system," which includes a description of the same facilities, and Section 451.064 of this code, which authorizes those authorities to establish, operate, and improve parking areas and facilities.

(6) Section 2(f), V.A.C.S. Article 1118x, refers to property "including (without limiting the generality of the foregoing)," certain property. The parenthetical statement is omitted as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are
(7) Section 2(f), V.A.C.S. Article 1118x, defines "system." The revised law changes the defined term to "transit authority system" to avoid the use of an artificial definition of a term that is commonly understood to mean more than the restricted definition. That section refers to "real and personal" property. The reference to "real and personal" is omitted as unnecessary because Section 311.005(4), Government Code (Code Construction Act), defines "property" as meaning real and personal property. Section 2(f) also contains a nonrestrictive listing of property that is included in the meaning of "property." The listing is omitted because all of the listed examples are clearly property and do not add to the understanding of the term.

Revised Law
Sec. 451.002. LIBERAL CONSTRUCTION. This chapter is to be construed liberally to carry out its purposes. (V.A.C.S. Art. 1118x, Sec. 19 (part).)

Source Law
Sec. 19. This Act shall be liberally construed to carry out the purpose of its adoption. . . .

Revised Law
Sec. 451.003. CHAPTER NOT APPLICABLE TO BICOUNTY AREA. This chapter does not apply to an area composed of the territory of two contiguous counties each of which contains a municipality having a population of 350,000 or more. (V.A.C.S. Art. 1118x, Secs. 2(a) (part), 15.)

Source Law
[Sec. 2]
(a) . . . provided, however, that bicounty metropolitan areas as subsequently defined herein, are not included or in any way affected by this Act.

Sec. 15. It is specifically provided that there
shall not be included within the metropolitan area, as herein defined, any part of the territory situated within a bicounty metropolitan area. For the purpose of this exclusion, a "bicounty metropolitan area" is defined as an area comprised of two contiguous counties in each of which is located a city having a population of 350,000 or more according to the last preceding or any future federal census.

[Sections 451.004-451.050 reserved for expansion]

SUBCHAPTER B. POWERS OF AUTHORITIES

Revised Law

Sec. 451.051. POWERS APPLICABLE TO CONFIRMED AUTHORITY.

This subchapter applies only to an authority that has been confirmed. (V.A.C.S. Art. 1118x, Secs. 3(e) (part), 5(j) (part), 6(a) (part).)

Source Law

[Sec. 3]

(e) The authority . . . when so created and confirmed in an election held for that purpose, shall have and may exercise the powers authorized by this Act.

[Sec. 5]

(j) If the election results in the confirmation of an authority, the authority shall, within the limits confirmed, be authorized to function in accordance with the terms of this Act . . . .

Sec. 6. (a) The authority, when created and confirmed, shall . . . .

Revisor's Note

Sections 3(e) and 6(a), V.A.C.S. Article 1118x, refer to an authority "when . . . created and confirmed." The reference to creation is omitted as unnecessary. Under the procedure for the organization of a new authority, an authority must be created before it can be confirmed. Therefore, all authorities that are confirmed are also created.

Revised Law

Sec. 451.052. NATURE OF AUTHORITY. (a) An authority:

(1) is a public political entity and corporate body;
(2) has perpetual succession; and

(3) exercises public and essential governmental functions.

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

(c) An authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code. (V.A.C.S. Art. 1118x, Secs. 6(a) (part), (b), (p); 6C(a); 13A.)

Source Law

Sec. 6. (a) The authority . . . shall constitute a public body corporate and politic, exercising public and essential governmental functions . . . . (b) The authority shall have perpetual succession.

(p) The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities, and the exercise of any other powers herein granted an authority, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity.

Sec. 6C. (a) The acquisition of any land or any interest in land pursuant to this Act; the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities; and the exercise of any other powers granted an authority, including without limitation the rights, powers, and authority relating to station or terminal complexes as provided in this section, are declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity for public use and public benefit.

Sec. 13A. Any authority established hereunder shall be within the definition of "unit of government" as defined by the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil Statutes), and all operations of an authority are deemed to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.
Revisor's Note

(1) Sections 6(p) and 6C(a), V.A.C.S. Article 1118x, contain lists of activities of an authority, concluding with "and the exercise of any other powers ... granted an authority." The parts of the lists preceding the general statement are omitted as unnecessary, being included within the meaning of other powers of the authority.

(2) Section 13A, V.A.C.S. Article 1118x, refers to "the Texas Tort Claims Act, as amended (Article 6252-19, Vernon's Texas Civil Statutes)." That statute is codified in the Civil Practice and Remedies Code as Chapter 101, and the revised law reflects this.

Revised Law

Sec. 451.053. RESPONSIBILITY FOR CONTROL OF AUTHORITY.

Except as provided by Section 451.106, the board is responsible for the management, operation, and control of an authority and its property. (V.A.C.S. Art. 1118x, Secs. 4(a)(1) (part), (2) (part), 12(a) (part).)

Source Law

Sec. 4. (a)(1) ... the management, control, and operation of an authority and its properties shall be vested in a board ... .

(2) [In metropolitan areas where the principal city's population exceeds 1,200,000 according to the last preceding federal census or any federal census hereafter,] the management, control, and operation of an authority and its properties shall be vested in a board ... .

Sec. 12. (a) Except as otherwise provided by this section, the responsibility for the management, operation and control of the properties belonging to an authority shall be vested in its board ... .

Revisor's Note

A cross-reference to Section 451.106 is added to the revised law to alert the reader that some authorities must appoint a general manager who shares management responsibilities with the board.
Revised Law

Sec. 451.054. GENERAL POWERS OF AUTHORITY. (a) An authority has any power necessary or convenient to carry out this chapter or to effect a purpose of this chapter.

(b) An authority created by an alternate municipality has the powers and duties of an authority in which the principal municipality has a population of more than 1.2 million.

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

(d) An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights, and other interests necessary, convenient, or useful to the exercise of any power under this chapter. Before an authority acquires an interest in real property for more than $20,000, the board shall have the property appraised by two appraisers working independently of each other.

(e) An authority may sell, lease, or dispose of in another manner:

(1) any right, interest, or property of the authority that is not needed for, or, if a lease, is inconsistent with, the efficient operation and maintenance of the transit authority system; or

(2) at any time, surplus materials or other property that is not needed for the requirements of the authority or for carrying out a power under this chapter. (V.A.C.S. Art. 1118x, Secs. 3B(b) (part); 6(a) (part), (c), (d), (1) (part), (m).)

Source Law

[Sec. 3B]

(b) . . . Except as provided by Subsection (d) of this section, an authority created by an alternate city and confirmed has the same powers and duties as an authority in which the population of the principal city exceeds 1,200,000 according to the most recent federal census.

Sec. 6. (a) [The authority shall constitute a
public body] ... having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, the following powers granted in this section.

(c) The authority may sue and be sued in all courts of competent jurisdiction and may institute and prosecute suits without giving security for costs and may appeal from a judgment or judgments without giving supersedeas or cost bond.

(d) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease or dispose of, real and personal property of every kind and nature whatsoever, and licenses, patents, rights and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to the provisions of this Act. Before an authority acquires an interest in real property for more than $20,000, the board of the authority shall cause the property to be appraised by two appraisers working independently of each other.

(l) The authority ... may generally perform all acts necessary for the full exercise of the powers vested in it. . . .

(m) The authority may sell, lease, convey or otherwise dispose of any of its rights, interests or properties which are not needed for, or, in the case of leases, which are not inconsistent with, the efficient operation and maintenance of the system. It may sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

Reviser's Note

(1) Section 6(c), V.A.C.S. Article 1118x, refers to suits brought "in all courts of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may be brought only in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

(2) Section 6(d), V.A.C.S. Article 1118x, refers to "real and personal property of every kind and nature whatsoever." The revised law uses only the term "property" because that term is defined by Section 311.005(4), Government Code (Code Construction Act), to include real and personal property.
Revised Law

Sec. 451.055. CONTRACTS; GRANTS AND LOANS. (a) An authority may contract with any person. (b) An authority may accept a grant or loan from any person. (V.A.C.S. Art. 1118x, Sec. 6(1) (part).)

Source Law

(1) The authority may make contracts, leases and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons.

Revisor's Note

(1) Section 6(1), V.A.C.S. Article 1118x, refers to "the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons." The revised law includes only a reference to "persons." Section 311.005(2), Government Code (Code Construction Act), defines "person" as including all of these omitted entities. That definition applies to this code. See Chapter 1 of this code.

(2) Section 6(1), V.A.C.S. Article 1118x, refers to the power to make "contracts, leases and agreements." The references to "leases" and "agreements" are omitted because in the context of this section a contract includes a lease or agreement.

Revised Law

Sec. 451.056. OPERATION OF TRANSIT AUTHORITY SYSTEM. (a) An authority may:

(1) acquire, construct, develop, own, operate, and maintain a transit authority system in the territory of the
authority, including the territory of a political subdivision;

(2) contract with a municipality, county, or other

political subdivision for the authority to provide public

transportation services outside the authority; and

(3) lease all or a part of the transit authority

system to, or contract for the operation of all or a part of the

transit authority system by, an operator.

(b) An authority may not lease the entire transit authority

system under Subsection (a)(3) without the written approval of the

governing body of the principal municipality of the authority.

(c) An authority created by an alternate municipality and an

authority in which the principal municipality has a population of

more than 1.2 million may contract for service outside each of

their respective territories to provide access between the two

authorities.

(d) An authority, as the authority determines advisable,

shall determine routes. (V.A.C.S. Art. 1118x, Secs. 3B(e); 6(e)

(part), (n) (part), (o), (q) (part); 6C(b) (part).)

Source Law

[Sec. 3B]

(e) An authority created by an alternate city

and confirmed and an authority in which the population

of the principal city exceeds 1,200,000 according to

the most recent federal census may contract for service

outside the area of their respective authorities for

the purpose of providing access between the two

authorities.

[Sec. 6]

(e) The authority shall have the power to

acquire, construct, complete, develop, own, operate and

maintain a system or systems within its boundaries, and

both within and without the boundaries of incorporated

cities, towns and villages and political

subdivisions . . . .

(n) The authority . . . shall determine all

routings and change the same whenever it is deemed

advisable by the authority.

(o) The authority shall have power to lease the

system or any part thereof to, or contract for the use

or operation of the system or any part thereof by, any

operator; provided, however, that a lease of the entire

system shall be subject to the written consent and

approval of the governing body of the principal city.

(q) The authority may contract with any city,

county, or other political subdivision for the
authority to provide public transportation services to any area outside the boundaries of the authority on such terms and conditions as may be agreed to by the parties. . . .

[Sec. 6C]
(b) The authority shall have the right, power, and authority to acquire by grant, purchase, gift, devise, lease . . . and to own lands in fee simple and any interest less than fee simple . . . adjacent or accessible to stations and other mass transit facilities, developed or to be developed by the authority, that may be required for or in aid of the development of one or more station or terminal complexes, as part of its mass transit system . . . .

Revisor's Note
(1) Section 6(n), V.A.C.S. Article 1118x, authorizes the authority to determine and change routes. The revised law omits the reference to changing routes. The power to set a route includes the power to change a route.

(2) Section 6(q), V.A.C.S. Article 1118x, authorizes a contract "on such terms and conditions as may be agreed to by the parties." The revised law omits the quoted language as unnecessary because a contract contains an agreement of the parties as expressed in its terms and conditions.

(3) Section 6C(b), V.A.C.S. Article 1118x, expressly authorizes an authority to acquire real property or another property right for a station or terminal complex. The revised law omits the specific reference to station or terminal complexes because a station or terminal, without regard to whether the station or terminal is a part of a "complex," is included within the definition of "transit authority system." An authority may acquire, construct, develop, operate, and own a transit authority system under Subsection (a)(1) of the revised law and may, under Sections 451.054(a) and (d) of this code, acquire property to carry out this power.
Sec. 451.057. ACQUISITION OF PROPERTY BY AGREEMENT. An authority may acquire rolling stock or other property under a contract or trust agreement, including a conditional sales contract, lease, and equipment trust certificate. (V.A.C.S. Art. 1118x, Sec. 6(1) (part).)

Source Law

(1) The authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

Sec. 451.058. USE AND ACQUISITION OF PROPERTY OF OTHERS.

(a) For a purpose described by Section 451.056(a)(1) and as necessary or useful in the construction, repair, maintenance, or operation of the transit authority system, an authority may:

(1) use a public way, including an alley; and

(2) directly, or indirectly by another person, relocate or reroute the property of another person or alter the construction of the property of another person.

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

(c) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space. The exercise of the right of eminent domain may not unduly interfere with interstate commerce or authorize the authority to run an authority vehicle on a railroad track that is used to transport property.

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

(e) Unless the power of eminent domain is exercised, an authority may not begin an activity authorized under Subsection (a) to alter or damage the property of this state, a political subdivision of this state, or a person providing a public service, inconvenience the owners of property of this state, a political subdivision of this state, or a person providing a public service, or disrupt the provision of a public service without having first received written permission from the owner of the property.

(V.A.C.S. Art. 1118x, Secs. 6(e) (part), (f), (g); 6C(b) (part).)
with such owners providing for the necessary
relocations, changes or alterations of such property or
facilities by the owners and/or such contractors and
the reimbursement by the authority to such owners of
the costs incurred by such owners in making such
relocations, changes or alterations and/or in causing
the same to be accomplished by such contractors.

(f) In the event the authority, in exercising
any of the powers conferred by this Act, makes
necessary the relocation, adjustment, raising,
lowering, rerouting or changing the grade of or
altering the construction of any street, alley,
highway, overpass, underpass, or road, any railroad
track, bridge or other facilities or properties, any
electric lines, conduits or other facilities or
properties, any telephone or telegraph lines, conduits
or other facilities or properties, any gas transmission
or distribution pipes, pipelines, mains or other
facilities or properties, any water, sanitary sewer or
storm sewer pipes, pipelines, mains or other facilities
or properties, any cable television lines, cables,
conduits or other facilities or properties, or any
other pipelines and any facilities or properties
relating thereto, any and all such relocations,
adjustments, raising, lowering, rerouting or changing
of grade or altering of construction shall be
accomplished at the sole cost and expense of the
authority, and all damages which may be suffered by the
owners of such property or facilities shall be borne by
the authority.

(g) The authority shall have the right of
eminent domain to acquire lands in fee simple and any
interest less than fee simple in, on, under and above
lands, including, without limitation, easements,
rights-of-way, rights of use of air space or subsurface
space, or any combination thereof; provided that such
right shall not be exercised in a manner which would
unduly interfere with interstate commerce or which
would authorize the authority to run its vehicles on
railroad tracks which are used to transport property.

[Sec. 6C]
(b) The authority shall have the right, power,
and authority to acquire by . . . eminent domain
proceedings . . . lands in fee simple and any interest
less than fee simple in, on, under, and above lands,
including, without limitation, easements,
rights-of-way, rights of use of air space or subsurface
space or any combination thereof . . . as part of its
mass transit system . . . .

Revisor's Note
(1) Section 6(e), V.A.C.S. Article 1118x, refers
to "streets, alley, roads, highways and other public
ways." The references to streets, roads, and highways
are omitted as unnecessary because "public ways"
includes those improvements.

(2) Sections 6(e) and (f), V.A.C.S. Article
1118x, refer to the power of an authority "to relocate,
raise, reroute, change the grade of, and alter the
construction of, any street . . . ." The references to
"raise" and "change the grade of" are omitted as
unnecessary because the meanings of those terms are
included in "alter the construction of."

(3) Sections 6(g) and 6C(b) refer to "lands in
fee simple and any interest less than fee simple in,
on, under, and above lands, including, without
limitation, easements, rights-of-way, rights of use of
air space or subsurface space, or any combination
thereof." The revised law omits references to some of
the types of interest as unnecessary because each type
is included as an interest in real property.

Revised Law
Sec. 451.059. EMINENT DOMAIN PROCEEDINGS. (a) An eminent
domain proceeding by an authority is initiated by the adoption by
the board of a resolution that:

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

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

(3) states that the acquisition is necessary and
proper for the construction, extension, improvement, or development
of the transit authority system.

(b) At least 30 days before the date of the adoption of a
resolution under Subsection (a), the board shall hold a public
hearing on the question of the acquisition. The hearing must be
held at a place convenient to the residents of the area where the
property to be acquired is located.

(c) The board shall publish notice of the hearing in a
newspaper of general circulation in the county where the property
is located at least once each week for two weeks before the date of
the hearing.
(d) A resolution adopted under this section is conclusive evidence of the public necessity for the acquisition described in the resolution and that the property interest is necessary for public use.

(e) Except as otherwise provided by this chapter, Chapter 21, Property Code, applies to an eminent domain proceeding by an authority. (V.A.C.S. Art. 1118x, Sec. 6(h).)

Source Law

(h) Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended, insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. The resolution of the authority shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use. At least 30 days before adopting a resolution under this subsection, however, a board shall hold a public hearing on the question of acquisition of the property or interest for which eminent domain proceedings are being considered. The board shall hold the hearing at a place convenient to residents of the area in which the property is located. The board shall cause notice of the hearing to be published in a newspaper of general circulation in the county in which the property is located at least once each week for two weeks before the date of the hearing.

Revisor's Note

(1) Section 6(h), V.A.C.S. Article 1118x, refers to provisions of Title 52, Revised Statutes, "as they now exist or hereafter may be amended." The reference to amendments to that title is omitted from the revised law as unnecessary. Sections 311.027, Government Code (Code Construction Act), and 312.008, Government Code, provide that a reference to a statute includes all reenactments, revisions, and amendments to the statute.

(2) Section 6(h), V.A.C.S. Article 1118x, refers
to "Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925." That law is codified as Chapter 21, Property Code, and the revised law reflects that citation.

Revised Law

Sec. 451.060. AGREEMENT WITH UTILITIES, CARRIERS. An authority may agree with any other public or private utility, communication system, common carrier, or transportation system for:

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

(2) the establishment of through routes, joint fares, or transfers of passengers. (V.A.C.S. Art. 1118x, Sec. 6(i).)

Source Law

(i) The authority shall have the power to enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of their respective facilities, installations and properties of whatever kind and character within the authority and to establish through routes, joint fares or transfer of passengers.

Revised Law

Sec. 451.061. FARES AND OTHER CHARGES. (a) An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other compensation for the use of the transit authority system sufficient to produce revenue, together with tax revenue received by the authority, in an amount adequate to:

(1) pay all the expenses necessary to operate and maintain the transit authority system;

(2) pay when due the principal of and interest on, and sinking fund and reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and

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

74C263 JD-D 1630
(b) It is intended by this chapter that the compensation imposed under Subsection (a) and taxes imposed by the authority not exceed the amounts necessary to produce revenue sufficient to meet the obligations of the authority under this chapter.

(c) Fares for passenger transportation may be set according to a zone system or other classification that the authority determines to be reasonable.

(d) The fares, tolls, charges, rents, and other compensation established by an authority in which the principal municipality has a population of less than 1.2 million may not take effect until approved by a majority vote of a committee composed of:

(1) five members of the governing body of the principal municipality, selected by that governing body;

(2) three members of the commissioners court of the county having the largest portion of the incorporated territory of the principal municipality, selected by that commissioners court; and

(3) three mayors of municipalities, other than the principal municipality, located in the authority, selected by:

(A) the mayors of all the municipalities, except the principal municipality, located in the authority; or

(B) the mayor of the most populous municipality, other than the principal municipality, in the case of an authority in which the principal municipality has a population of less than 300,000.

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

74C263 JD-D 1631
unpaid installments of interest, costs and expenses in connection with an action or proceeding by or on behalf of a bondholder, and other obligations of the authority in connection with the bonds are discharged. (V.A.C.S. Art. 1118x, Secs. 6(j), (k); 6E; 7(e) (part).)

Source Law

[Sec. 6]

(j) The authority shall establish and maintain rates, fares, tolls, charges, rents or other compensation for the use of the facilities of the system acquired, constructed, operated or maintained by the authority which shall be reasonable and nondiscriminatory and which, together with receipts from taxes collected by the authority, shall be sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the authority;

(2) to pay the interest on and principal of all bonds issued by the authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable;

(3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and

(4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.

(k) It is the intention of this Act that taxes levied and the rates, fares, tolls, charges, rents and other compensation for the use of the facilities of the system shall not be in excess of what may be necessary to fulfill the obligations imposed upon the authority by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control such taxes, rates, fares, tolls, charges, rents and other compensation, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the powers hereby vested in the authority to establish and collect such taxes, rates, fares, tolls, charges, rents and other compensation as will produce revenues sufficient to pay the items specified in Subdivisions (1), (2), (3) and (4), Subsection (j) of this subsection, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the authority in connection with such bonds, are fully met and discharged.

Sec. 6E. The rates, fares, tolls, charges, rents, and other compensation established by an authority in a metropolitan area whose principal city has a population of less than 1,200,000, according to
the most recent federal census, may not take effect until they are approved by a majority vote of a committee composed of:

(a) five members of the city council of the principal city who are chosen for this committee by the members of that body;

(b) three members of the commissioners court of the county that includes the largest portion of the incorporated area of the principal city, who are chosen for this committee by the members of that court; and

(c) three mayors of incorporated municipalities, except the principal city, located within the authority who are chosen for this committee jointly by the mayors of all incorporated municipalities, except the principal city, located within the authority, except that for an authority in which the principal city has a population of less than 300,000, according to the most recent federal census, the three mayors serving on the committee shall be chosen by the mayor of the municipality of greatest population among such incorporated municipalities, except the principal city.

[Sec. 7]

(e) ... The fares charged for transportation of passengers by any rapid transit system may be based on a zone system of determining fares or other fare classification determined by such authority to be reasonable.

Revised Law

Sec. 451.062. POWER TO ENTER REAL PROPERTY. (a) The engineers, employees, and other representatives of an authority may go on any real property within the boundaries of the authority to:

(1) make surveys and examine the property with reference to the location of works, improvements, plants, facilities, equipment, or appliances of the authority; and

(2) attend to any authority business.

(b) Before a person described by Subsection (a) goes on any property under the authority of that subsection, at least two weeks' notice shall be given to the owners in possession.

(c) Property damaged by any authority activity under this section shall be restored as nearly as possible to the original state at the sole expense of the authority. (V.A.C.S. Art. 1118x, Sec. 16.)

Source Law

Sec. 16. Engineers, employees, and representatives of an authority may go on any land within the authority boundaries to make surveys and
examine the land with reference to the location of
works, improvements, plants, facilities, equipment or
appliances and to attend to any business of the
authority; provided that two weeks' notice be given to
the owners in possession and that if any of the
authority's activities cause damage to the land or
property, the land or property shall be restored as
nearly as possible to the original state at the sole
expense of the authority.

Revised Law
Sec. 451.063. TAX EXEMPTION. The property, revenue, and
income of an authority are exempt from state and local taxes.
(V.A.C.S. Art. 1118x, Sec. 17 (part).)

Source Law
Sec. 17. The property, revenues and income of
the authority . . . shall be exempt from all taxes
levied or to be levied by the State of Texas, its
political subdivisions, counties or municipal
corporations.

Revised Law
Sec. 451.064. PARKING AREAS: CERTAIN AUTHORITIES. (a) An
authority created before 1980 in which the principal municipality
has a population of less than 1.2 million may, with the approval of
the governing body of the principal municipality:

(1) establish, operate, and improve a public parking
area or facility in the authority; and

(2) set and collect reasonable charges for the use of
a parking area or facility.

(b) An authority described by Subsection (a) may regulate
public parking in public parking areas or facilities in the
principal municipality under an interlocal agreement with the
principal municipality according to which that power is delegated
to the authority. (V.A.C.S. Art. 1118x, Secs. 6(r), (s).)

Source Law
(r) An authority created before January 1, 1980,
in which the principal city has a population less than
1,200,000 as determined by the most recent federal
decennial census shall have the power to construct,
 improve, maintain, repair, and operate public parking
areas, garages, facilities, or lots located within its
boundaries. The authority shall have the power to
establish, maintain, and collect reasonable rates for
the use of the public parking areas and garages.
However, all actions must be approved by the governing
body of the principal city.
(s) In addition to the power granted in
Subsection (r) of this section, such an authority shall
have the power to regulate public parking in public
parking areas, garages, facilities, and lots in the
principal city to the extent that the principal city
delегает such powers to the authority under an
interlocal agreement between the principal city and the
authority.

Revisor's Note
Sections 6(r) and (s), V.A.C.S. Article 1118x,
refer to "public parking areas, garages, facilities,
[or] lots." The revised law omits the references to
"garages" and "lots" as unnecessary because those terms
are included in the meaning of "parking areas or
facilities."

Revised Law
Sec. 451.065. ROADWAYS, TRAILS, LIGHTING: CERTAIN
AUTHORITIES. (a) An authority confirmed before July 1, 1985, may,
in the authority:
(1) construct or maintain a highway, local or arterial
street, thoroughfare, or other road, including a bridge or grade
separation; and
(2) install or operate traffic control improvements,
including signals.
(b) An authority confirmed before 1985 may, in the
authority:
(1) construct or maintain a sidewalk, hiking trail, or
biking trail;
(2) install or maintain streetlights; and
(3) in performing an activity under Subdivision (1) or
(2), make drainage improvements and take drainage-related measures
as reasonable and necessary for the effective use of the
transportation facility being constructed or maintained.
(c) An authority may perform an activity authorized by this
section through an agreement with another governmental entity,
including an agreement under Chapter 791, Government Code, with a state agency listed under Section 771.002, Government Code.

(d) An authority may not perform an activity authorized by this section in a municipality without:

(1) the consent of the governing body of the municipality; or

(2) a contract with the municipality specifying the actions that the authority may undertake.

(e) Subsection (a) does not apply to the performance of an action undertaken by the authority under Section 451.056(a)(1) or 451.058.

(f) This section does not apply to an authority created before 1980 in which the principal municipality has a population of less than 1.2 million. (V.A.C.S. Art. 1118x, Secs. 6(t), (u), (v), (x).)

Source Law

(t) Except as provided by Subsection (u) of this section, each authority that was confirmed at a tax election under Section 5 of this Act before July 1, 1985, other than an authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex, may construct, reconstruct, or maintain any highway, road, thoroughfare, or arterial or local street, including any bridge or grade separation, within the boundaries of the authority and may undertake traffic signalization and control improvements of any kind within the boundaries of the authority. An authority may exercise any portion of the powers granted by this subsection through contracts or other agreements with other governmental entities.

(u) An authority may not act under Subsection (t) or (x) of this section in a municipality without:

(1) the consent of the governing body of the municipality; or

(2) a contract with the municipality that specifies the actions the authority may take in the municipality.

(v) Subsection (t) of this section does not apply to the exercise of activities undertaken by an authority under Subsection (e) of this section.

(x) Except as provided by Subsection (u) of this section, an authority that was confirmed at a tax election under Section 5 of this Act before January 1, 1985, other than an authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex, may, within the boundaries of the authority, construct, reconstruct, or maintain any sidewalk, hiking trail, or biking trail. An authority
subject to this subsection also may install or maintain
streetlights. In performing these activities, an
authority may perform such drainage improvement or
drainage-related maintenance activities as are
reasonable and necessary for the effective use of the
transportation facility being constructed, reconstructed, or maintained. An authority may
exercise any portion of the powers granted by this
subsection through contracts or other agreements with
other governmental entities and, in particular, may
enter into agreements under Chapter 791, Government
Code, with state agencies enumerated in Section

Reviser's Note

(1) Sections 6(t) and (x), V.A.C.S. Article
1118x, refer to an authority confirmed at a tax
election under Section 5 before a certain date. The
references to a tax election and to Section 5 are
omitted. The revised law refers only to an authority
confirmed before a certain date. The additional
information is unnecessary because the limitation does
not exclude or include other authorities. All rapid
transit authorities have been confirmed at a "tax
election."

(2) Sections 6(t) and (x), V.A.C.S. Article
1118x, refer to "an authority that is authorized under
Subsection (e) of Section 6C of this Act to include
regional economic development facilities in its station
or terminal complex." Under that section only an
authority created before 1980 in which the principal
municipality has a population of less than 1.2 million
is authorized to have regional economic development
facilities. The revised law refers to the latter
description to standardize the cross-references to
those authorities.

Revised Law

Sec. 451.066. SPENDING LIMITATION: TRAILS AND LIGHTING IN
CERTAIN AUTHORITIES. (a) An authority confirmed before 1980 in
which the principal municipality has a population of more than 1.2 million may not spend, during any five-year period, more than seven percent of its revenue from sales and use taxes and interest income during that period for all items described by Section 451.065(b).

(b) For a fiscal year in which an authority described by Subsection (a) spends an amount that exceeds the limit in Subsection (a), the registered voters of the authority, by petition, may require that an election be held on the question of eliminating or reducing expenditures in any category authorized by Section 451.065(b) and not otherwise authorized by Section 451.065(a). The board shall call an election in the authority to be held on the first uniform election date at least 60 days after the date the election order is issued if the secretary of state:

(1) finds that a petition for the election is valid; or

(2) fails to act within the time required by Subsection (d).

(c) A petition under this section is valid if:

(1) it is signed by registered voters of the authority in a number equal to at least 10 percent of the number of votes cast in the authority in the preceding gubernatorial election;

(2) the signatures meeting the requirement in Subdivision (1) are collected not earlier than the 90th day before the date the petition is presented to the board; and

(3) it is presented to the board on or before the second anniversary of the last day of the fiscal year during which the expenditures exceeded the limitation.

(d) After receiving a petition under this section, the board shall send it to the secretary of state. The secretary of state shall, not later than the 30th day after the date the petition is received, determine whether the petition is valid and notify the board of the determination.

(e) The ballots for the election must provide for voting for or against the following proposition: "The (reduction or
elimination) of expenditures for ________ (category of spending to be reduced or eliminated)."

(f) A reduction or elimination of expenditures that is approved by a majority of the votes received on the measure in the election is effective.

(g) The authority shall pay the costs of:

(1) determining the validity of a petition; and

(2) conducting the election. (V.A.C.S. Art. 1118x, Sec. 6(z).)
expenditures for (category of spending to be reduced or eliminated)." The reduction or elimination of expenditures is effective if it is approved by a majority of the votes cast by voters residing within the boundaries of the territory of the authority on the date of the election.

Revisor's Note

Section 6(z), V.A.C.S. Article 1118x, refers to "qualified voters." The revised law substitutes references to "registered voters." For the purpose of this section, the terms have the same meaning under Section 277.0021, Election Code, and "registered voter" is the more accurate term.

Revised Law

Sec. 451.067. EMERGENCY MEDICAL SERVICES: CERTAIN AUTHORITIES. An authority in which the principal municipality has a population of less than 300,000 may provide emergency medical services. (V.A.C.S. Art. 1118x, Sec. 6(w), as added by Sec. 1, Ch. 90, Acts 72nd Leg., R.S., 1991.)

Source Law

(w) An authority in which the principal city has a population of less than 300,000, according to the most recent federal census, may operate emergency medical services.

Revised Law

Sec. 451.068. FREE FARES PROGRAM: CERTAIN AUTHORITIES. (a) An authority confirmed before July 1, 1985, and in which the principal municipality has a population of less than 750,000 may, through the operation of a program, charge no fares.

(b) A program under this section:

(1) must have clearly defined goals adopted by the authority;

(2) expires annually, unless renewed; and

(3) may be renewed only after the program's costs and benefits are evaluated. (V.A.C.S. Art. 1118x, Sec. 6(w), as added by Sec. 3, Ch. 503, Acts 72nd Leg., R.S., 1991.)
(w) An authority conferred at a tax election before July 1, 1985, and in which the principal city has a population of less than 750,000, according to the most recent federal census, may operate a free fares program if:

1. the authority has developed and adopted clearly defined goals for the program;
2. the program expires unless renewed annually; and
3. a renewal of the program is granted only after an evaluation of the program's costs and benefits.

Revised Law
Sec. 451.069. CONTRACTUAL POWERS DO NOT CREATE IMMUNITY.
Sections 451.055, 451.057, and 451.060 do not create or confer any governmental immunity or limitation of liability on any entity other than an authority. (V.A.C.S. Art. 1118x, Sec. 6(q) (part).)

Revisor's Note
Section 6(q), V.A.C.S. Article 1118x, refers to Subsections (i) and (l) of Section 6. The pertinent provisions of these subsections are codified in this code as Sections 451.055, 451.057, and 451.060, and the revised law is drafted accordingly.

Revised Law
Sec. 451.070. ELECTIONS. (a) In an election ordered by a board:

1. the board shall give notice of the election by publication in a newspaper of general circulation in the authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election; and
2. a resolution ordering the election and the
1 election notice must show, in addition to the requirements of the 2 Election Code, the hours of the election and polling places in 3 election precincts.

4 (b) Subsection (a) does not apply to an election under 5 Subchapter N.
6 (c) An election contest may not be heard unless the 7 comptroller is timely notified as required by Section 451.413. 8 (V.A.C.S. Art. 1118x, Secs. 5A(a) (part), 15B(a), (b), (c) (part)).

Source Law

[Sec. 5A]
(a) . . . and provided further that no such contest shall be heard unless the comptroller is timely notified as provided in this subsection.

Sec. 15B. (a) This section governs all elections ordered by the board except elections held under the provisions of Section 5 of this Act.
(b) Notice of an election ordered by the board shall be given by publication once a week for three consecutive weeks with the first publication in a newspaper with general circulation in the authority at least 21 days before the election.
(c) A resolution calling an election and the notice of the election are sufficient if the . . . hours of the election, the voting places within voting precincts for the election . . . are specified. . . .

Revisor's Note

(1) Section 5A(a), V.A.C.S. Article 1118x, refers to the comptroller being "notified as provided in this subsection." The notification provision in that subsection is codified in this chapter in Section 451.413, and the revised law is drafted accordingly.
(2) Section 15B(a), V.A.C.S. Article 1118x, refers to "Section 5 of this Act." That statute is codified in this chapter in Subchapter N, and the revised law is drafted accordingly.
(3) In addition to the requirements codified in Section 451.070(a)(2) of this code, Section 15B(c), V.A.C.S. Article 1118x, requires certain information to be included in the election order and notice. Those requirements are omitted from the revised law as
unnecessary because the Election Code contains the same
requirements. See Sections 3.006 and 4.004, Election
Code. Section 15B(c) also refers to certain powers,
which are omitted from the revised law because they are
duplicated by provisions of the Election Code. See
Sections 42.061 and 42.065, Sections 81.001 et seq.,
and 32.005, 32.011, 32.031, and 1.002, Election Code.
The omitted provisions read:

[A resolution calling an election and the
notice of the election are sufficient if]
the date ... and the propositions to be
voted on [are specified]. The board may
define and declare voting precincts,
determine the manner of absentee voting,
and prescribe the election officers.

(4) Section 15B(d), V.A.C.S. Article 1118x,
requires the board to canvass the returns and declare
the results of the election as soon as practicable
after the election. This subsection is omitted as
having been superseded by Chapter 67, Election Code.
The omitted provision reads:

(d) As soon as practicable after an
election, the board shall canvass the
returns of the election and declare the
results.

(5) Section 15B(e), V.A.C.S. Article 1118x,
provides that the general election laws apply where not
otherwise provided by that section. This subsection is
omitted as duplicative of Section 1.002, Election Code,
which provides that the Election Code controls all
elections in the state unless otherwise provided by the
Election Code or otherwise expressly provided by other
law. The Election Code was enacted in 1985, after the
1975 enactment date of Section 15B, and is intended to
be a comprehensive and authoritative compilation of
election law except as expressly provided otherwise.
The omitted provision reads:

(e) Where not otherwise provided in
this section, the general election laws
apply.
(6) Section 5A(a), V.A.C.S. Article 1118x, provides in part that an election contest under that article shall be filed and tried according to the Election Code. This provision is omitted as duplicative of Chapter 221, Election Code, which provides the procedure for election contests. The omitted provision reads:

Sec. 5A. (a) If the validity of any election held under authority of this Act or the result of the election based on the returns thereof shall be contested, the election contest shall be filed and tried as provided in the Election Code of the State of Texas . . . .

[Sections 451.071-451.100 reserved for expansion]

SUBCHAPTER C. MANAGEMENT OF AUTHORITY

Revised Law

Sec. 451.101. BOARD POWERS. A board may:

(1) employ a general manager and other persons necessary for the conduct of the affairs of the authority, including operating or management companies;

(2) prescribe the duties, compensation, and tenure of persons employed;

(3) remove an employee;

(4) adopt a seal for the authority;

(5) set the fiscal year for the authority;

(6) establish a complete system of accounts for the authority;

(7) invest the funds of the authority in direct or indirect obligations of the United States, this state, or a political subdivision of this state;

(8) purchase, with funds of the authority, certificates of deposit of state or national banks or savings and loan associations in this state if the certificates are secured in the same manner that the funds of a county of this state are required to be secured;

74C263 JD-D 1644
(9) designate by resolution an authorized representative of the authority to, according to terms prescribed by the board:

(A) invest authority funds; and

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

(10) designate by resolution an authorized representative of the authority to supervise the substitution of securities pledged to secure authority funds. (V.A.C.S. Art. 1118x, Secs. 12(a) (part), (d).)

Source Law

(a) ... The board may:

(1) employ all persons, firms, partnerships or corporations deemed necessary by the board for the conduct of the affairs of the authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers and operating or management companies, and prescribe the duties, tenure and compensation of each. All employees may be removed by the board;

(3) adopt a seal for the authority;

(4) invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the board, by resolution, may provide that an authorized representative of the authority may invest and reinvest the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the board considers advisable;

(5) fix the fiscal year for the authority;

(6) establish a complete system of accounts for the authority . . . .

(d) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

Revisor's Note

(1) Section 12(a), V.A.C.S. Article 1118x, refers to the employment of persons, including "bookkeepers, auditors, engineers, attorneys, [and] financial advisers." The references to the specific
occupations are omitted from the revised law as unnecessary because they are included within the meaning of "persons."

(2) Section 12(a), V.A.C.S. Article 1118x, authorizes the board of an authority to acquire workers' compensation insurance from "... any old-line legal-reserve insurance company authorized to write policies in the State of Texas." This provision is omitted from the revision as unnecessary. Section 504.011, Labor Code, enacted after the omitted provision, requires each political subdivision of the state to extend workers' compensation coverage to its employees by becoming a self-insurer or through a workers' compensation insurance policy. The references in the omitted provision to "old-line" and to "legal-reserve" do not provide meaningful substance. "Old-line" refers to an established company. Any company authorized to write insurance in this state would be an established company. "Legal-reserve" refers to the requirement that an insurance company have a reserve for the payment of claims. That requirement is also implicit for a company qualifying to issue policies in this state. The omitted provision reads:

(a) ... The board may:

(2) become a subscriber under the Texas workers' compensation laws with any old-line legal-reserve insurance company authorized to write policies in the State of Texas . . . .

Revised Law

Sec. 451.102. BUDGET. (a) A board shall adopt an annual operating budget of all major expenditures by type and amount. The board shall adopt the budget before the beginning of the fiscal year to which the budget applies and before the authority may
conduct any business in the fiscal year.

(b) The board shall hold a public hearing on a proposed annual operating budget before adopting the budget and shall, at least 14 days before the date of the hearing, make the proposed budget available to the public.

(c) The board after public notice and a hearing may by order amend an annual operating budget. (V.A.C.S. Art. 1118x, Sec. 12A (part).)

Source Law

Sec. 12A. Prior to the commencement of a fiscal year, the board shall adopt an annual operating budget which specifies major expenditures by type and amount. Before the board adopts its annual operating budget, it shall conduct a public hearing and shall make the proposed annual operating budget available to the public at least 14 days prior to the hearing. An annual operating budget must be adopted before the authority conducts business in a fiscal year. [The authority may not make operating expenditures in excess of the total] ... unless the board amends the operating budget by order after public notice and hearing.

Revised Law

Sec. 451.103. OPERATING EXPENDITURES. An authority may not spend for operations money in excess of the total amount specified for operating expenses in the annual operating budget. (V.A.C.S. Art. 1118x, Sec. 12A (part).)

Source Law

Sec. 12A. ... The authority may not make operating expenditures in excess of the total budgeted operating expenditures for a fiscal year ... .

Revised Law

Sec. 451.104. INVESTMENT POWERS: CERTAIN AUTHORITIES. An authority created before 1980 and in which the principal municipality has a population of less than 1.2 million has the same investment powers as an entity under Subchapter A, Chapter 2256, Government Code. (V.A.C.S. Art. 1118x, Sec. 12(i).)
(i) An authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000, according to the most recent federal census, has the same investment powers as an entity under the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes).

Revisor's Note
Section 12(i), V.A.C.S. Article 1118x, refers to the "Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes)." That act is codified as Subchapter A, Chapter 2256, Government Code, and the revised law reflects that citation.

Revised Law
Sec. 451.105. DEPOSITORY; DEPOSIT OF FUNDS. (a) A board shall designate one or more banks as depositories for authority funds.
(b) All funds of an authority shall be deposited in one or more of the authority's depository banks unless an order or resolution authorizing the issuance of an authority bond or note requires otherwise.
(c) Funds in a depository, to the extent that those funds are not insured by the Federal Deposit Insurance Corporation, shall be secured in the manner provided by law for the security of county funds. (V.A.C.S. Art. 1118x, Secs. 12(a) (part), (b), (c).)

Source Law
(a) ... The board may:
(7) designate one or more banks to serve as the depository for the funds of the authority.
(b) All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds or notes.
(c) To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.
Section 12(a), V.A.C.S. Article 1118x, provides that the board may designate depositories. The revised law imposes a duty on the board to designate a depository because all funds of the authority, with certain exceptions, must be deposited in a depository. Every authority has funds subject to the depository requirement.

Revised Law

Sec. 451.106. GENERAL MANAGER; MANAGEMENT POLICIES: CERTAIN AUTHORITIES. (a) The board of an authority in which the principal municipality has a population of less than 750,000 or more than 1.2 million shall employ a general manager to administer the daily operation of the authority. The general manager may, subject to the annual operating budget and to the personnel policies adopted by the board, employ persons to conduct the affairs of the authority and prescribe their duties and compensation.

(b) Only the general manager may remove an employee. A removal is subject to board personnel policies.

(c) With the approval of the board, the general manager may contract with others for the performance of work or provision of materials for the authority.

(d) The board shall adopt policies clearly defining the respective duties of the board and the authority's staff.

(e) This section applies only to an authority described by Subsection (a). (V.A.C.S. Art. 1118x, Secs. 12(e), (f).)

Source Law

(e) The board of an authority in which the principal city has a population of less than 750,000 or more than 1,200,000, according to the most recent federal census, shall employ a general manager to administer the daily operations of the authority. The general manager may employ persons to conduct the affairs of the authority and may prescribe their duties and compensation, subject to board approval of the budget of the authority and in accordance with personnel policies adopted by the board. Subject to those policies, only the general manager may remove any employee. The general manager may, subject to approval.
of the board, contract with individuals, partnerships, corporations, or other entities to perform work or provide materials for the authority.

(f) The board of an authority in which the principal city has a population of less than 750,000 or more than 1,200,000, according to the most recent federal census, shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the authority.

Revised Law

Sec. 451.107. RULES. (a) The board by resolution may adopt rules for:

(1) the safe and efficient operation and maintenance of the transit authority system;

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

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

(b) A notice of each rule adopted by the board shall be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority, where the text may be read by any person.

(c) A rule becomes effective 10 days after the date of the second publication of the notice under this section. (V.A.C.S. Art. 1118x, Secs. 6(n) (part), 13(a) (part), (b)).

Source Law

[Sec. 6]

(n) The authority shall by resolution make all rules and regulations governing the use, operation and maintenance of the system . . . .

Sec. 13. (a) The board may adopt and enforce reasonable rules and regulations:

(1) to secure and maintain safety and efficiency in the operation and maintenance of its system;

(2) governing the use of the authority's system and services by the public and the payment of
fares, tolls and charges;
(3) regulating privileges on any land, easement, right-of-way, rolling stock or other property owned, leased, rented, or otherwise controlled by the authority; and . . . .

(b) A condensed substantive statement of the rules and regulations shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the authority is located, which notice shall advise that the full text of the rules and regulations is on file in the principal office of the authority where it may be read by any interested person. Such rules and regulations shall become effective 10 days after the second publication.

Revisor's Note

(1) Section 6(n), V.A.C.S. Article 1118x, authorizes an authority, by resolution, to make rules and regulations. The revised law adds that the board of an authority makes the rules because only the board may adopt a resolution. The revised law omits the reference to regulations in Sections 6(n) and 13(a) and (b), V.A.C.S. Article 1118x, as unnecessary because Section 311.005(5), Government Code, defines "rule" to include a regulation.

(2) Section 13(a)(3), V.A.C.S. Article 1118x, refers to property "leased [or] rented . . . by the authority." The reference to "rented" is omitted as unnecessary because in the context of this section a rental is included in a lease.

Revised Law

Sec. 451.108. PEACE OFFICERS. (a) An authority may commission and employ peace officers.

(b) A peace officer commissioned under this section, except as provided by Subsection (c), may:

(1) make an arrest in any county in which the transit authority system is located as necessary to prevent or abate the commission of an offense against the law of this state or a political subdivision of this state if the offense or threatened offense occurs on or involves the transit authority system;
(2) make an arrest for an offense involving injury or detriment to the transit authority system;

(3) enforce traffic laws and investigate traffic accidents that involve or occur in the transit authority system;

and

(4) provide emergency and public safety services to the transit authority system or users of the transit authority system.

(c) A peace officer who holds a commission under this section from an authority in which the principal municipality has a population of more than 1.5 million and who has filed with the authority the oath of a peace officer has all the powers, privileges, and immunities of peace officers in the counties in which the transit authority system is located, provides services, or is supported by a general sales and use tax. (V.A.C.S. Art. 1118x, Sec. 13(c).)

Source Law

(c) An authority may employ and commission its own peace officers with power to make arrests in all counties where the system is located when necessary to prevent or abate the commission of an offense against the laws of the state or a political subdivision of the state when the offense or threatened offense occurs on or involves the system of the authority, to make arrests in cases of an offense involving injury or detriment to the system, to enforce all traffic laws and investigate traffic accidents which involve or occur in the system, and to provide emergency and public safety services to the system or persons who use the system.

Any person, for an authority in which the principal city has a population of more than 1.5 million according to the most recent decennial census, commissioned under this section must be a certified peace officer who meets the requirements of the Texas Commission on Law Enforcement Officer Standards and Education, who shall file with the authority the sworn oath required of peace officers, and who is vested with all the powers, privileges, and immunities of peace officers in all counties where the system is located, provides services, or is supported by a general sales and use tax.

Reviser's Note

Section 13(c), V.A.C.S. Article 1118x, provides that the peace officer must have been certified by the
Commission on Law Enforcement Officer Standards and Education. This requirement is omitted as unnecessary because under Section 415.051, Government Code, a law enforcement agency or governmental entity may not employ a person in a peace officer capacity unless the person has been licensed as required by Chapter 415, Government Code.

Revised Law
Sec. 451.109. ADVISORY COMMITTEE. (a) A board may establish one or more advisory committees to make recommendations to the board or the general manager on the operation of the authority. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each committee member serves at the will of the board.

(b) The board shall appoint persons to the advisory committee who:

(1) are selected from a list provided by the general manager; and

(2) have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee.

(c) A member of an advisory committee may not be compensated by the authority for committee service but is entitled to reimbursement for actual and necessary expenses incurred in the performance of committee service.

(d) This section does not apply to an authority in which the principal municipality has a population of 750,000 or more but not more than 1.2 million. (V.A.C.S. Art. 1118x, Secs. 6H, 6I.)

Source Law
Sec. 6H. (a) The board of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census, may establish advisory committees to make recommendations to the board or general manager about the operation of the authority.
(b) An advisory committee established under this section exists at the pleasure of the board. The board shall appoint members to an advisory committee from a list of persons recommended by the general manager to serve at the pleasure of the board. In making appointments to an advisory committee established under this section, the board shall appoint persons who have knowledge about and interest in and represent a broad range of viewpoints concerning the work of the committee.

(c) The board shall specify the purpose, powers, duties, and manner of reporting the results of the work of an advisory committee established under this section.

(d) Members of an advisory committee appointed under this section may not receive compensation but are entitled to reimbursement by the authority for actual and necessary expenses incurred in the performance of the work of the committee.

Shi. 61. (a) The board of an authority in which the principal city has a population of less than 750,000, according to the most recent federal census, may establish advisory committees to make recommendations to the board or general manager about the operation of the authority.

(b) An advisory committee established under this section exists at the pleasure of the board. The board shall appoint members to an advisory committee, from a list of persons recommended by the general manager, to serve at the pleasure of the board. In making appointments to an advisory committee established under this section, the board shall appoint persons who have knowledge about and interest in and represent a broad range of viewpoints concerning the work of the committee.

(c) The board shall specify the purpose, powers, duties, and manner of reporting the results of the work of an advisory committee established under this section.

(d) Members of an advisory committee appointed under this section may not receive compensation but are entitled to reimbursement by the authority for actual and necessary expenses incurred in the performance of the work of the committee.

Revised Law

Sec. 451.110. PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by Subsection (c), a board may not contract for the construction of an improvement or the purchase of any property, except through competitive bidding after notice of the contract proposal. The notice must be published in a newspaper of general circulation in the area in which the authority is located at least once each week for two consecutive weeks before the date set for receiving the bids. The first notice must be published at least 15 days before the date set for receiving bids.

(b) The board may adopt rules on:
(1) the taking of bids;
(2) the awarding of contracts; and
(3) the waiver of the competitive bidding requirement:
   (A) if there is an emergency;
   (B) if there is only one source for the purchase; or
   (C) except for a contract for construction of an improvement on real property, if:
      (i) competitive bidding is inappropriate because the procurement requires design by the supplier and if competitive negotiation, with proposals solicited from an adequate number of qualified sources, will permit reasonable competition consistent with the procurement; or
      (ii) it is ascertained after solicitation that there will be only one bidder.

(c) Subsection (a) does not apply to a contract for:
   (1) $25,000 or less by an authority created before 1980 in which the principal municipality has a population of less than 1.2 million;
   (2) $15,000 or less by an authority not described by Subdivision (1);
   (3) the purchase of real property;
   (4) personal or professional services; or
   (5) the acquisition of an existing transit system.

Source Law

Sec. 14. (a) Contracts for more than $15,000 for the construction of improvements or the purchase of material, machinery, equipment supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the authority is located. The board may adopt rules governing the taking of bids and the awarding of such contracts and providing for the waiver of this requirement in the event of emergency, in the event the needed materials are available from only one source, in
the event that, except for construction of improvements on real property, in a procurement requiring design by the supplier, competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, except for construction of improvements on real property, after solicitation it is ascertained that there will be only one bidder. This subsection does not apply to personal and professional services or to the acquisition of existing transit systems.

(c) Notwithstanding Subsections (a) and (b) of this section, an authority created before January 1, 1980, with a principal city having a population of less than 1,200,000, according to the most recent federal census, must:

1. comply with competitive bidding requirements of this section only for contracts for more than $25,000; and . . .

Revised Law
Sec. 451.111. PURCHASES: NOTICE OF NONCOMPETITIVE BID PROPOSALS. (a) Unless the posting requirement in Subsection (b) is satisfied, a board may not let a contract that is:

1. for more than:
   (A) $25,000 by an authority created before 1980 in which the principal municipality has a population of less than 1.2 million; or
   (B) $15,000 by an authority not described by Paragraph (A); and

2. for:
   (A) the purchase of real property; or
   (B) consulting or professional services.

(b) An announcement that a contract to which this section applies is being considered must be posted in a prominent place in the principal office of the authority for at least two weeks before the date the contract is awarded.

(c) This section does not apply to a contract that must be awarded through competitive bidding or for the purchase of an existing transit system. (V.A.C.S. Art. 1118x, Secs. 14(b), (c) (part), as added by Sec. 4, Ch. 734, Acts 71st Leg., R.S., 1989.)
(b) The board of an authority may not let a contract (1) that is not subject to competitive bidding requirements, (2) that is for more than $15,000 and (3) that is for the purchase of real property or for consulting or professional services, unless an announcement that a contract is being considered is posted in a prominent place in the principal office of the authority for at least two weeks before the contract is awarded. This subsection does not apply to the acquisition of existing transit systems.

(c) Notwithstanding Subsections (a) and (b) of this section, an authority created before January 1, 1980, with a principal city having a population of less than 1,200,000, according to the most recent federal census, must:

(2) give notice under Subsection (b) of this section only for a contract that is not subject to competitive bidding requirements, that is for more than $25,000, and that is for the purchase of real property or for consulting or professional services.

Revised Law

Sec. 451.112. CONFLICTS OF INTEREST: BOARD MEMBERS.

Chapter 171, Local Government Code, applies to a board member of an authority, except that an authority created before 1980 in which the principal municipality has a population of less than 1.2 million may not enter into a contract or agreement with a business entity in which a board member or the general manager owns five percent or more of the voting stock or shares of the entity or receives funds from the entity exceeding five percent of the member's or general manager's gross income. A contract executed by an authority in violation of this section is voidable. (V.A.C.S. Art. 1118x, Sec. 4(d)(2).)
Revisor's Note

Section 4(d)(l), V.A.C.S. Article 1118x, provides in part that a board member or authority officer may not have a pecuniary interest or receive a benefit from a contract made by the authority. This provision is a restatement of the common law rule on conflicts of interest and is omitted from the revised law as having been impliedly repealed by Section 171.007, Local Government Code, which preempts the common law rule on conflicts of interest. Section 171.007, Local Government Code, is derived from Section 1, Chapter 362, Acts of the 70th Legislature, Regular Session, 1987. The omitted provision reads:

(d)(1) . . . No member of the board or officer of the authority shall be pecuniarily interested or benefitted, directly or indirectly, in any contract or agreement to which the authority is a party.

Revisor's Note
(End of Subchapter)

Two Sections 12G, V.A.C.S. Article 1118x, were added by the 72nd Legislature, Regular Session, 1991 (Section 3, Chapter 138, and Section 12, Chapter 503). Both of those sections contained specific authorizations for rapid transit authorities to have employee retirement systems. The same legislature added a third provision to the public retirement systems title of the Government Code generally authorizing political entities to establish and maintain employee retirement systems (Section 810.001, Government Code). Each of those enactments was in response to a question as to whether a political subdivision could establish a retirement system without express statutory authority. Both Sections 12G are omitted from the revised law as duplicative of the
general law in Section 810.001, Government Code. In Section 810.001: a political entity includes a "special purpose . . . authority that is created pursuant to state law and that is not an agency of the state." The omitted provisions read:

Sec. 12G. (a) This section applies only to an authority in which the principal city has a population of less than 300,000, according to the most recent federal census, and an authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000, according to the most recent federal census.

(b) In this section, "retirement program" means a continuing, organized program of service retirement, disability retirement, or death benefits.

(c) An authority may establish one or more retirement programs for its employees and determine the benefits, funding sources and amounts, and administration of the programs, within applicable requirements of Chapter 802, Government Code. An authority may provide for administration of a retirement program by a private provider of public retirement benefits.

(d) An authority shall, for each of the authority's retirement programs, file all reports with the State Pension Review Board required by Chapter 802, Government Code.

(e) The authority provided by this section is in addition to any authority provided by Subchapter A, Chapter 842, Government Code; Article 6252-3g, Revised Statutes; or other law.

(f) If an authority establishes a retirement program that would be a "public retirement system" within the meaning ascribed to that term by Section 801.001, Government Code, but for the fact that the program is administered by a life insurance company, the authority shall notify the State Pension Review Board of the establishment of the program and the name of the administering company.

Sec. 12G. (a) This section applies only to an authority confirmed at a tax election before July 1, 1985, and in which the principal city has a population of less than 750,000, according to the most recent federal census.

(b) In this section "retirement program" means a program within the definition of "public retirement system" in Section 801.001, Government Code.

(c) The authority may establish one or more retirement programs for its employees and determine the benefits, funding sources and amounts, and administration of the programs, within the...
applicable requirements of Chapter 802, Government Code. The authority may provide for administration of a retirement program by a private provider of public retirement benefits.

(d) The authority shall, for each of the authority's retirement programs, file all reports with the State Pension Review Board required by Chapter 802, Government Code.

[Sections 451.113-451.150 reserved for expansion]

SUBCHAPTER D. STATION OR TERMINAL COMPLEX SYSTEMS

Revised Law

Sec. 451.151. STATION OR TERMINAL COMPLEX: SYSTEM PLAN.

(a) An authority may not acquire an interest in real property for a station or terminal complex unless the station or terminal complex is included in the transit authority system in a comprehensive transit plan approved by a resolution of the board. A mass transit facility of an authority is not a station or terminal complex under this subchapter unless the facility is included in the authority's comprehensive transit plan under this section.

(b) A station or terminal complex may not be included in a transit authority system unless the board first finds that the station or complex:

(1) will encourage and provide for efficient and economical mass transit;

(2) will facilitate access to mass transit and provide for other mass transit purposes;

(3) will reduce vehicular congestion and air pollution in the metropolitan area; and

(4) is reasonably essential to the successful operation of the transit authority system.

(c) On making a finding under Subsection (b), the board may amend the authority's comprehensive transit plan to include a station or terminal complex. (V.A.C.S. Art. 1118x, Secs. 6C(c), (g).)
(c) Any lands or interests in land acquired for a station or terminal complex must be part of or contained within a station or terminal complex designated as part of the system within a comprehensive transit plan approved by resolution of the board. Before a station or terminal complex may be included in the system, the board must find and determine that the proposed station or terminal complex will encourage and provide for efficient and economical mass transit service, will facilitate access to mass transit service and provide other mass transit purposes, will reduce vehicular congestion and air pollution in the metropolitan area, and is reasonably essential to the successful operation of the system. The board may amend its comprehensive transit plan to include other station or terminal complexes upon making these findings.

(g) No station or mass transit facility may be considered a "station or terminal complex" governed by this section unless it has been designated as such in the comprehensive transit plan pursuant to the specific authority granted by this section.

Revisor's Note
Section 6C(c), V.A.C.S. Article 1118x, refers to "mass transit service." The reference to "service" is omitted as unnecessary because "mass transit" is defined by Section 451.001(4) of this code as the transportation of passengers.

Revised Law
Sec. 451.152. STATION OR TERMINAL COMPLEX: FACILITIES. A station or terminal complex of an authority:

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

(2) may include provision for residential, institutional, recreational, commercial, and industrial facilities.

(V.A.C.S. Art. 1118x, Sec. 6C(d)(1) (part).)

Source Law
(d)(1) Any station or terminal complex shall include adequate provisions for the transfer of passengers between the various modes of transportation available to the complex. A complex may include provisions for commercial, residential, recreational, institutional, and industrial facilities . . . .
Sec. 451.153. APPROVAL OF MUNICIPALITY. The location of a station or terminal complex in a municipality or in the extraterritorial jurisdiction of a municipality must be approved, as to conformity with the comprehensive or general plan of the municipality, by a motion, resolution, or ordinance adopted by the governing body of the municipality. (V.A.C.S. Art. 1118x, Sec. 6C(d)(1) (part).)

Sec. 451.154. STATION OR TERMINAL COMPLEX: LIMITATION ON REAL PROPERTY ACQUISITION. (a) An interest in real property may not be acquired for station or terminal complex facilities described by Section 451.152(2) unless the property:

(1) is 1,500 feet or less from the center point of the station or terminal complex; or

(2) if farther than 1,500 feet from the center point of the station or terminal complex, is included in a master development plan adopted by the board and not acquired by eminent domain.

(b) Notwithstanding Subsection (a), an authority created before 1980 in which the principal municipality has a population of less than 1.2 million may acquire, including through the use of eminent domain, an interest in real property for facilities if the property:

(1) is 2,500 feet or less from the center point of the station or terminal complex; or

(2) is included in a master development plan adopted by the board.
(c) Before the commencement of an eminent domain proceeding to which this section applies, the board shall designate the center point of the station or terminal complex. (V.A.C.S. Art. 1118x, Secs. 6C(d)(1) (part), (2).)

Source Law

(d)(1) ... except that no land or interest in land that is more than 1,500 feet in distance from the center point of the complex or that has not been included in a master plan of development adopted by the board may be acquired for the facilities. Land or an interest in land more than 1,500 feet in distance from the center point of the complex may not be acquired by eminent domain proceedings, and the board shall designate the center point prior to the commencement of eminent domain proceedings. ...

(2) Notwithstanding Subdivision (1) of this subsection, an authority created before January 1, 1980, with a principal city having a population of less than 1,200,000, according to the most recent federal census, may acquire, by eminent domain or otherwise, land or an interest in land for facilities that is included in the master plan of development adopted by the board of the authority or that is within a radius of 2,500 feet from the center point of the complex.

Revised Law

Sec. 451.155. TRANSFER OF REAL PROPERTY IN STATION OR TERMINAL COMPLEX. (a) An authority may transfer to any person by any means, including a sale or lease, an interest in real property in a station or terminal complex and may contract with respect to it, in accordance with the comprehensive transit plan approved by the board and subject to terms:

(1) the board finds to be in the public interest or necessary to carry out this section; and

(2) the instrument transferring the title or right of use specifies.

(b) A transfer must be at the fair value of the interest transferred considering the use designated for the real property in the authority's comprehensive transit plan.

(c) A person from whom property offered for sale under this section was acquired by eminent domain or the threat of eminent domain has a first right to purchase the property at the price for which the property is offered to the public. (V.A.C.S. Art. 1118x,
(b) The authority . . . may sell, lease, or otherwise transfer the same, or any part thereof, to individuals, corporations, or governmental entities, subject to the restrictions provided in this section.

(f) The authority may sell, lease, or otherwise transfer lands or interests in land acquired within a station or terminal complex, and may enter into contracts with respect to it, in accordance with the comprehensive transit plan approved by the board, subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the board may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use. Any lease, sale, or transfer shall be at fair value, taking into account the use designated for the land in the comprehensive transit plan for the system and the restrictions on, and the covenants, conditions, and obligations assumed by, the purchaser, lessee, or transferee. However, if the authority offers the property for sale, the original owner from whom the property was acquired by eminent domain proceedings or through threat of eminent domain proceedings has the first right to repurchase at the price at which it is offered to the public.

Revisor's Note

Section 6C(f), V.A.C.S. Article 1118x, refers to a transfer being "subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the board may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use." The subsection also refers to the sale being at fair value "taking into account . . . the restrictions on, and the covenants, conditions, and obligations assumed by, the purchaser, lessee, or transferee." The references to covenants, conditions, restrictions, and obligations are omitted as unnecessary because the authority is not limited by
this or other law from imposing those terms and, to the extent that those terms constitute a legal obligation, may not disregard them.

[Sections 451.156-451.200 reserved for expansion]

SUBCHAPTER E. REGIONAL ECONOMIC DEVELOPMENT FACILITIES IN STATIONS OR TERMINAL COMPLEXES

Revised Law

Sec. 451.201. DEFINITION. In this subchapter, "regional economic development facilities" includes only those facilities that will lead to the creation of new jobs, maintain existing jobs, or generally improve the conditions under which a local economy may prosper. The term includes facilities primarily used for conventions, entertainment, special events, or professional or amateur sports. (V.A.C.S. Art. 1118x, Sec. 6C(e) (part).)

Source Law

(e) . . . "Regional economic development facilities" means facilities which will lead to the creation of new jobs, maintain existing jobs or generally improve the conditions under which a local economy may prosper, and which include, but are not limited to, facilities used primarily for conventions, entertainment, special events, professional and amateur sports, or other lawful purposes. . . .

Revisor's Note

The definition of "regional economic development facilities" provides that these facilities "include, but are not limited to, facilities used primarily for . . . other lawful purposes." "[B]ut not limited to" is omitted as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded. "[O]ther lawful purposes" is omitted as unnecessary because the example
Sec. 451.202. APPLICATION OF SUBCHAPTER LIMITED TO CERTAIN AUTHORITIES. This subchapter applies only to an authority created before 1980 in which the principal municipality has a population of less than 1.2 million. (V.A.C.S. Art. 1118x, Sec. 6C(e) (part).)

Sec. 451.203. STATION OR TERMINAL COMPLEX: REGIONAL ECONOMIC DEVELOPMENT FACILITIES IN CERTAIN AUTHORITIES. In addition to other facilities authorized by Subchapter D, a station or terminal complex may include regional economic development facilities that are approved by:

1. The board;
2. The governing body of the principal municipality in the authority; and
3. The governing body of the municipality, other than the principal municipality, in which the station or terminal complex containing the facilities is located or in whose extraterritorial jurisdiction the station or terminal complex is located. (V.A.C.S. Art. 1118x, Sec. 6C(e) (part).)

(e) Any station or terminal complex . . . may include regional economic development facilities if approved by both the board of the authority and the governing body of the principal city and, if the station or terminal complex is to be built within the city limits or extraterritorial jurisdiction of a city or town other than the principal city, by the governing body of the city or town in whose city limits or extraterritorial jurisdiction the complex is to be located. . . . A station or terminal complex may include regional economic development facilities in addition to facilities provided in Subsection (d) of this section. . . .
Sec. 451.204. CONTRACTS FOR REGIONAL ECONOMIC DEVELOPMENT FACILITIES. (a) An authority may:

(1) plan, acquire, establish, develop, construct, improve, maintain, operate, regulate, protect, and police the regional economic development facility portion of a station or terminal complex; or

(2) agree with any person for the execution, in whole or part, of the activities described by Subdivision (1).

(b) An agreement made under Subsection (a)(2) is not effective unless the governing body of the principal municipality in the authority approves the agreement. (V.A.C.S. Art. 1118x, Sec. 6C(e) (part).)

The actual planning, acquisition, establishment, development, construction, improvement, maintenance, operation, regulation, protection, and policing of the regional economic development facilities portions of the station or terminal complex may be done by the authority or by agreement or agreements between the authority and a city, county, other public or private entity, or a combination thereof, as may be agreed upon and subject to such covenants, conditions, and restrictions as the board and governing bodies deem to be in the public interest and necessary to carry out the purposes of this section. To be effective, an agreement made by the board of the authority under this subsection must be approved by the governing body of the principal city in the authority.

Section 6C(e), V.A.C.S. Article 1118x, contains a nonrestrictive listing of entities that may agree with an authority for activities relating to a regional economic development facility and a statement that the agreement may contain "covenants, conditions, and restrictions" necessary to carry out the purposes of the section. "Person" is used in the revised law in lieu of the list of entities because that term includes all the entities listed. The statement relating to the
terms of the agreement is omitted as unnecessary because the authorization to make an agreement includes the authorization to include in the agreement terms that relate to the purposes of the agreement.

Revised Law

Sec. 451.205. STATION OR TERMINAL COMPLEX: REGIONAL ECONOMIC DEVELOPMENT FACILITIES ADDITIONAL TAX. (a) An authority may increase its sales and use tax rate, not to exceed the rate authorized by Sections 451.404 and 451.405, to provide for the planning, acquisition, establishment, development, and construction of a station or terminal complex that includes regional economic development facilities if a majority of the votes received in an election called for that purpose approve the increase.

(b) An election under Subsection (a) may be called only if both the governing body of the principal municipality and the board by resolution order the election after:

(1) a petition requesting an election is submitted to the board;

(2) the board and the governing body hold separate public hearings on the ballot proposition; and

(3) notice is given of the intent to vote on the tax rate increase.

(c) The notice provided under Subsection (b)(3) must include:

(1) a statement or description of the purpose of the tax rate increase; and

(2) a statement that after five years the revenue from the tax rate increase may be used only for mass transit purposes other than the regional economic development facilities portion of the station or terminal complex, and then only if approved by the voters at an election held at that time.

(d) To be valid, a petition under Subsection (b) must:

(1) contain signatures of at least 10 percent of the
registered voters of the authority collected not earlier than the
180th day before the date the petition is submitted to the board;

(2) state that the petition is intended to initiate an
election to increase the rate of the sales and use tax of the
authority for the purpose of establishing and operating a regional
economic development facility; and

(3) include the ballot proposition for the election.

(e) The ballot proposition must contain a specific
description of the regional economic development facilities
projects to be financed by the revenue from the tax rate increase.

(f) A petition is considered to be valid if the board fails
to act on the petition before the 31st day after the date the
petition is submitted to the board.

(g) An election under this section may not be held earlier
than the first anniversary after the date of a previous election to
approve a tax rate increase under this section. (V.A.C.S.
Art. 1118x, Sec. 6C(e) (part).)

Source Law

(e) . . . In order to provide for the planning,
acquisition, establishment, development, and
construction of a complex which includes regional
economic development facilities, an increase in a tax
may be approved in accordance with the provisions of
this Act at an election for that purpose called by a
majority vote of both the governing body of the
principal city and the governing body of the authority
for which a notice is given which includes a statement
or description of the purpose of the increase and
includes a statement that after five years the tax
increase may be used only for mass transit purposes
other than the regional economic development facilities
portions of the station or terminal complex if approved
by the voters at an election held at that time. An
election to approve a tax increase under this
subsection may be called only by resolution adopted by
both the governing body of the principal city and the
governing body of the authority and only if a petition
signed by 10 percent of the qualified voters of the
authority requesting the election has been submitted to
the board of the authority before the resolution is
adopted. To be valid, a petition must state that it is
intended to initiate an election to increase the
authority's sales and use tax rate for purposes of
building and operating a regional economic
development facility, must include the ballot
proposal to be used in the election, and the
signatures must be collected during the period
beginning on the 180th day before the date the petition
is submitted to the board. The ballot proposition must
include a specific description of the regional economic
development projects to be financed by the increase in
the sales and use tax rate . . . . If the board of the
authority does not act on the petition within 30 days
from the date the petition is submitted, the petition
is considered valid. The board of the authority and
the governing body of the principal city must each hold
a separate public hearing on the ballot proposition
before calling for the election. An election to
approve a tax increase under this subsection may not be
held within one year after a previous election to
approve a tax increase under this section. The total
of all such taxes, including the increase, shall not
exceed the limits provided in this Act and shall be
subject to all the terms and conditions of this
Act . . . .

Reviser's Note
The revised law adds a reference to Sections
451.404 and 451.405 of this code because those sections
contain the tax limitations referred to in Section
6C(e), V.A.C.S. Article 118x.

Revised Law
Sec. 451.206. USE OF REVENUE FOR REGIONAL ECONOMIC
DEVELOPMENT FACILITIES. (a) Revenue received from the collection
of the authority's sales and use tax at the rate equal to the
amount of the rate increase adopted under this subchapter may be
used only to finance a project described in the ballot proposition.
(b) The dedication of revenue under Subsection (a) expires
on the fifth anniversary of the date the sales and use tax rate
increase takes effect in the authority.
(c) Money not used for the regional economic development
facilities portion of a station or terminal complex may be used for
other purposes. (V.A.C.S. Art. 118x, Sec. 6C(e) (part).)

Source Law
(e) . . . and funds derived from the tax rate
increase may be used only to finance projects described
in the ballot proposition. . . . An increase in tax
approved for the planning, acquisition, establishment,
development, and construction of a station or terminal
complex which includes regional economic development
facilities shall be dedicated and used for such
purposes only for five years from the date such
increase takes effect. . . . Any funds not used for
the regional economic development facilities portions
of the station or terminal complex may be used for
other lawful purposes. . . .
Sec. 451.207. CONTINUATION OF TAX RATE INCREASE. On the expiration of the dedication of an authority's sales and use tax rate increase revenue as provided by Section 451.206, the board shall decrease the authority's sales and use tax rate to its previous rate unless:

(1) the board determines that the revenue from the increased rate is necessary for purposes other than the regional economic development facilities portion of the station or terminal complex;

(2) the board submits the question of the continuation of the increased rate to the voters of the authority at an election held as provided by this chapter; and

(3) at the election, a majority of the votes received on the measure favor the continuation of the increased tax rate.

(V.A.C.S. Art. 1118x, Sec. 6C(e) (part).)

(e) . . . At the end of the five years, the board of the authority shall decrease the tax rate to its previous level unless it affirmatively determines that the increased tax is necessary for lawful purposes other than the regional economic development facilities portions of the station or terminal complex and submits the question of continuing the increased tax rate to an election held in accordance with this Act. The increased tax rate is continued in effect only if a majority of the qualified voters voting at the election vote to continue the increased tax rate. Otherwise, the board shall decrease the tax rate to its previous rate. . . .

[Sections 451.208-451.250 reserved for expansion]

SUBCHAPTER F. SPECIAL PROGRAMS AND SERVICES

Sec. 451.251. CONTRACT GOALS FOR DISADVANTAGED BUSINESSES.

An authority that does not have an up-to-date disadvantaged business enterprise program, as defined by 49 C.F.R. Part 23, to assist minorities and women in participating in authority contracts should establish goals for that participation. The recommended
contract goals are:

(1) 17 percent for construction, 11 percent for purchasing, and 24 percent for professional services; or

(2) the weighted average equivalent of the categories in Subdivision (1). (V.A.C.S. Art. 1118x, Sec. 6(y).)

Source Law

(y) If after the effective date of this Act an authority does not have a currently updated disadvantaged business enterprise program, as defined in 49 C.F.R., Part 23, which facilitates the participation of minorities and women in contracts awarded, the legislature recommends the authority establish goals for such participation. In the absence of such a current program, the legislature recommends minimum goals for participation by women and minorities be adopted as follows: 17 percent for construction contracts, 11 percent for purchasing contracts, and 24 percent for professional services, or the weighted average equivalent of the three foregoing categories.

Revised Law

Sec. 451.252. MINORITY AND DISADVANTAGED INDIVIDUALS PROGRAM: CERTAIN AUTHORITIES. (a) The board of an authority confirmed before July 1, 1985, shall establish a program to encourage participation in contracts of the authority by businesses owned by minorities or disadvantaged individuals.

(b) This section does not apply to an authority created before 1980 in which the principal municipality has a population of less than 1.2 million. (V.A.C.S. Art. 1118x, Secs. 12B(a) (part), (e).)

Source Law

Sec. 12B. (a) Subsections . . . (e) of this section apply to each authority that was confirmed at a tax election under Section 5 of this Act before July 1, 1985, other than an authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex. . . .

(e) The board of an authority to which this section applies shall establish a program to encourage participation in contracts of the authority by businesses owned by minority or disadvantaged individuals.
Reviser's Note

(1) Section 12B(a), V.A.C.S. Article 1118x, refers to an authority that is confirmed at a tax election. The reference to "tax election" is omitted for the reason stated in Reviser's Note (1) to Section 451.065 of this code.

(2) Section 12B(a), V.A.C.S. Article 1118x, refers to "an authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex." Under that section only an authority created before 1980 in which the principal municipality has a population of less than 1.2 million is authorized to have regional economic development facilities. The revised law refers to the latter description to standardize the cross-references to those authorities.

Revised Law

Sec. 451.253. MINORITY AND WOMEN-OWNED BUSINESS PROGRAM: CERTAIN AUTHORITIES. (a) An authority with a regional economic development facility approved under Subchapter E may establish a program reasonably designed to increase the participation of minority and women-owned businesses in public contracts awarded by the authority, and if the program is established, the board shall provide a plan to assist minority and women-owned businesses in the area served by the authority to achieve the purposes of the program. If the board establishes an overall minority and women-owned business contract percentage goal as a part of the program, the goal may not exceed the capability of the minority and women-owned businesses in the area served by the authority to perform the number and type of contracts awarded by the authority, as determined by a qualified, independent source.

(b) The board shall periodically review the effectiveness of
the program and the reasonableness of the program goals.

(c) This section does not affect Sections 451.110 and 451.111, but prospective bidders may be required to meet uniform standards designed to assure a reasonable degree of participation by minority and women-owned businesses in the performance of any contract.

(d) In this section:

(1) "Minority" includes blacks, Hispanics, Asian Americans, American Indians, and Alaska natives.

(2) "Minority business" means a business concern more than 50 percent of which is owned and controlled in management and daily operations by members of one or more minorities.

(3) "Women-owned business" means a business concern more than 50 percent of which is owned and controlled in management and daily operations by one or more women. (V.A.C.S. Art. 1118x, Sec. 6C(h).)

Source Law

(h)(1) In this subsection:

(A) "Minority" includes blacks, Hispanics, Asian Americans, American Indians, and Alaska natives.

(B) "Minority business" means a business concern, more than 50 percent of which is owned and controlled in management and daily operations by members of one or more minorities.

(C) "Women-owned business" means a business concern, more than 50 percent of which is owned and controlled in management and daily operations by one or more women.

(2) An authority with a regional economic development facility approved under Subsection (e) of this section may adopt a program designed reasonably to increase participation by minority and women-owned businesses in public contract awards by the authority. If a board establishes an overall minority and women-owned business contract percentage goal as part of a program adopted under this subdivision, the goal may not exceed the capability of the minority and women-owned businesses in the area served by the authority to perform the number and type of public contracts awarded by the authority, as determined by a qualified, independent source. The board shall periodically review the effectiveness of the program and the reasonableness of the program goals.

(3) This subsection does not affect Section 14 of this Act, but all prospective bidders may be required to meet uniform standards designed to assure a reasonable degree of participation by minority and women-owned businesses in the performance of any public contract.
(4) If an authority adopts a program under Subdivision (2) of this subsection, the board must provide a plan to offer assistance to minority and women-owned businesses in the area served by the authority to achieve the purposes of the program.

Revisor's Note

Section 6C(h), V.A.C.S. Article 1118x, refers to Section 14 of that act. This reference applies only to the competitive bidding provisions in that section and not to subsequently added subsections to that section. The applicable provisions are codified in this code in Sections 451.110 and 451.111, and the revised law is drafted accordingly.

Revised Law

Sec. 451.254. PROGRAM FOR PERSONS WITH PHYSICAL DISABILITIES: CERTAIN AUTHORITIES. (a) The board of an authority confirmed before July 1, 1985, shall promote the availability and use of transportation services of the authority by persons who have physical disabilities by establishing a program that:

(1) is designed to meet the specific transportation problems of those persons; and

(2) establishes the means by which transportation services are to be provided to those persons.

(b) Before establishing a program under this section, the board shall hold public hearings relating to the establishment and operation of the program.

(c) This section does not apply to an authority created before 1980 in which the principal municipality has a population of less than 1.2 million. (V.A.C.S. Art. 1118x, Secs. 12B(a) (part), (d).)

Source Law

Sec. 12B. (a) Subsections (d) and ... of this section apply to each authority that was confirmed at a tax election under Section 5 of this Act before July 1, 1985, other than an authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex. ...
(d) The board of an authority to which this section applies shall establish a program to promote the availability and use of the transportation services of the authority by physically handicapped individuals. Before establishing the program, the board shall hold public hearings relating to the establishment and operation of the program. The program must address the specific transportation problems of physically handicapped individuals and establish mechanisms by which transportation services are to be provided to those individuals.

Reviser's Note
(1) Section 12B(a), V.A.C.S. Article 1118x, refers to an authority that is confirmed at a tax election. The reference to "tax election" is omitted for the reason stated in Reviser's Note (1) to Section 451.065 of this code.

(2) Section 12B(a), V.A.C.S. Article 1118x, refers to Subsection (e) of Section 6C of the act describing certain authorities. The revised law refers to the authorities by description for the reason given in Reviser's Note (2) to Section 451.252 of this code.

Revised Law
Sec. 451.255. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS.
(a) An authority shall contract with the Texas Department of Human Services to provide, in accordance with federal law, transportation services to a person who:

(1) resides in the area served by the authority;

(2) is receiving financial assistance under Chapter 31, Human Resources Code; and

(3) is registered in the jobs opportunities and basic skills training program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682).

(b) The contract must include provisions to ensure that:

(1) the authority is required to provide transportation services only to a location:

(A) to which the person travels in connection
with participation in the jobs opportunities and basic skills
training program; and

(B) that the authority serves under the
authority's authorized rate structure and existing services;

(2) the authority provides directly to the Texas
Department of Human Services trip vouchers for distribution by the
department to a person who is eligible under this section to
receive transportation services;

(3) the Texas Department of Human Services reimburses
the authority for allowable costs, at the applicable federal
matching rate; and

(4) the Texas Department of Human Services may return
undistributed trip vouchers to the authority.

(c) An authority shall certify the amount of public funds
spent by the authority under this section for the purpose of
obtaining federal funds under the jobs opportunities and basic
skills training program. (V.A.C.S. Art. 1118x, Sec. 15C.)

Source Law
Sec. 15C. (a) An authority shall, in accordance
with federal law, provide transportation services to a
person who:
(1) is receiving financial assistance
under Chapter 31, Human Resources Code;
(2) is registered in the jobs
opportunities and basic skills (JOBS) training program
under Part F, Subchapter IV, Social Security Act (42
U.S.C. Section 682); and
(3) resides in an area served by the
authority.
(b) An authority shall enter into a contract
with the Texas Department of Human Services to provide
the transportation services required under this
section. The terms of the contract must ensure that:
(1) the authority is required to provide
transportation services only to a location that relates
to the person's participation in the JOBS program and
that is in the area served by the authority's
authorized rate structure and existing services;
(2) the authority is required to provide
directly to the Texas Department of Human Services trip
vouchers for distribution by the department to a person
who is eligible to receive transportation services
under this section;
(3) the Texas Department of Human Services
reimburses the authority at the applicable federal
match rate for allowable costs; and
(4) the Texas Department of Human Services
may return to the authority for reimbursement any
undistributed trip vouchers.
(c) An authority shall certify the amount of public funds expended by the authority under this section for the purpose of obtaining federal funds under the JOBS program.

Revised Law

Sec. 451.256. WAIVER OF FEDERAL REQUIREMENTS. If, before implementing Section 451.255, the Texas Department of Human Services determines that a waiver or authorization from a federal agency is necessary for implementation, the Texas Department of Human Services shall request the waiver or authorization, and the department and an authority may delay implementing Section 451.255 until the waiver or authorization is granted. (Ch. 1030, Acts 73rd Leg., R.S., 1993, Sec. 4 (part).)

Source Law

Sec. 4. If, before implementing the requirements of Sections 1 . . . of this Act, the Texas Department of Human Services determines that a waiver or authorization from a federal agency is necessary for implementation, the Texas Department of Human Services shall request the waiver or authorization, and the department and each mass transit authority or department may delay implementing those provisions until the waiver or authorization is granted.

[Sections 451.257-451.300 reserved for expansion]

SUBCHAPTER G. ALTERNATIVE FUELS USE PROGRAM

Revised Law

Sec. 451.301. PURCHASE AND PERCENT OF VEHICLES USING ALTERNATIVE FUELS. (a) The board may not purchase or lease a motor vehicle that is not capable of using compressed natural gas or another alternative fuel the use of which results in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or combinations of those materials.

(b) After August 31, 1996, at least 50 percent of the fleet vehicles of an authority must be capable of using compressed natural gas or other alternative fuels.

(b-1) At least 30 percent of the fleet vehicles of an
authority operated in 1994 must be capable of using compressed natural gas or other alternative fuels. This subsection expires September 1, 1996.

(c) The Texas Natural Resource Conservation Commission, before 1997, shall review the alternative fuels use program under this section. If the commission determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, the board shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels of at least 90 percent of the number of fleet vehicles operated after August 31, 1998. (V.A.C.S. Art. 1118x, Sec. 14(c)(1), as added by Sec. 8, Ch. 1189, Acts 71st Leg., R.S., 1989; Secs. 14(d)(1), (2).)

Source Law

(c)(1) The board may not purchase or lease after September 1, 1991, any motor vehicle unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(d)(1) The board shall achieve the following percentages of vehicles capable of using compressed natural gas or other alternative fuels by the times specified:

(A) the percentage shall be equal to or greater than 30 percent of the number of fleet vehicles operated in 1994; and
(B) equal to or greater than 50 percent of the number of fleet vehicles operated by September 1, 1996.

(2) The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from motor vehicles in the area, the board shall achieve a percentage of fleet vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter.

Revisor's Note

Section 14(d), V.A.C.S. Article 1118x, refers to the "Texas Air Control Board." The name of the agency was changed and the functions of the agency were
transferred to the Texas Natural Resource Conservation Commission by Section 1.086, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The revised law conforms to that change.

Revised Law

Sec. 451.302. ALTERNATIVE FUELS USE PROGRAM: EXCEPTIONS.
(a) The board, other than the board of an authority described by Subsection (b), may make exceptions to the requirements of Section 451.301(a) if the board certifies the facts described by Subsection (c).

(b) The Texas Natural Resource Conservation Commission may make exceptions to, waive the requirements of, or reduce the applicable percentage provided by Section 451.301 for an authority that was confirmed before July 1, 1985, and in which the principal municipality has a population of less than 750,000 if the board submits to the commission a certification of the facts described by Subsection (c) supported by evidence acceptable to the commission.

(c) A certification under this section must state that:
(1) the authority's vehicles will be operating primarily in an area in which neither the authority nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or
(2) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net cost than the continued use of traditional gasoline or diesel fuel measured over the expected useful life of the equipment or facilities supplied.

(d) The Texas Natural Resource Conservation Commission shall adopt rules for the certification process under Subsection (b), including requirements that the authority:
(1) hold a public hearing; and
(2) propose an alternative implementation schedule for meeting the percentages provided by Section 451.301 before applying to the commission for a waiver or reduction of those percentage requirements. (V.A.C.S. Art. 1118x, Sec. 14(c)(4), as added by Sec. 8, Ch. 1189, Acts 71st Leg., R.S., 1989; Sec. 14(h).)

Source Law

(4) The board or, in an authority covered by Subsection (h) of this section, the Texas Air Control Board, may make exceptions to the requirements of this subsection if the board certifies that:
(A) the authority’s vehicles will be operating primarily in an area in which neither the authority nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or
(B) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(h)(1) This subsection applies only to an authority confirmed at a tax election before July 1, 1985, and in which the principal city has a population of less than 750,000, according to the most recent federal census.

(2) The Texas Air Control Board may reduce any percentage specified by, or waive the requirements of, Subsection (d) of this section for an authority on receipt of certification supported by evidence acceptable to the Texas Air Control Board that:
(A) the authority’s vehicles will be operating primarily in an area in which neither the authority nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or
(B) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

(3) The Texas Air Control Board shall develop rules for the certification process, including provisions requiring the authority to hold a public meeting and develop an alternative implementation schedule for meeting the percentages provided by Subsection (d) of this section before applying to the Texas Air Control Board for a reduction or waiver of those requirements.
(1) Sections 14(c) and (h), V.A.C.S. Article 1118x, refer to the "Texas Air Control Board." The name of the agency was changed and the functions of the agency were transferred to the Texas Natural Resource Conservation Commission by Section 1.086, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The revised law conforms to that change.

(2) Section 14(h), V.A.C.S. Article 1118x, refers to confirmation at a tax election. The reference to "tax election" is omitted for the reason stated in Reviser's Note (1) to Section 451.065 of this code.

Revised Law

Sec. 451.303. ALTERNATIVE FUELS EQUIPMENT AND FACILITIES.

(a) In addition to other methods authorized by law, an authority may acquire or be provided equipment or refueling facilities by an arrangement, including a gift or loan, under a service contract for the supply of compressed natural gas or other alternative fuels.

(b) If an authority acquires or is provided equipment or facilities as authorized by Subsection (a), the supplier is entitled, under the supply contract, to recover the cost of giving, loaning, or providing the equipment or facilities through the fuel charges. (V.A.C.S. Art. 1118x, Secs. 14(c)(2) and (3), as added by Sec. 8, Ch. 1189, Acts 71st Leg., R.S., 1989.)

Source Law

(2) The authority may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement
with the supplier of compressed natural gas or other
alternative fuels, the supplier shall be entitled to
recoup its actual cost of donating, loaning, or
providing the equipment or facilities through its fuel
charges under the supply contract.

Revisor's Note
The specific authorization in Sections
14(c)(2)(A) and (B), V.A.C.S. Article 1118x, for an
authority to purchase or lease, or acquire by gift or
loan, alternative fuel equipment and facilities is
omitted from the revised law in this section because
that authority is granted generally by V.A.C.S. Article
1118x, Sections 6(a) and (d), codified as Section
451.054 of this code, and need not be repeated in this
section.

Revised Law
Sec. 451.304. ALTERNATIVE FUELS USE PROGRAM: VEHICLES
COVERED AND SAFETY. (a) In developing a compressed natural gas or
other alternative fuels use program, the board should work with
vehicle manufacturers and converters, fuel distributors, and others
to specify the vehicles to be covered considering relevant factors,
including vehicle range, specialty vehicle uses, fuel availability,
vehicle manufacturing and conversion capability, safety, and resale
value.

(b) The board may meet the percentage requirements of
Section 451.301 by:

(1) purchasing new vehicles; or

(2) converting existing vehicles, in conformity with
federal and state requirements and applicable safety laws, to
alternative fuels use.

(c) In purchasing, leasing, maintaining, or converting a
vehicle for alternative fuels use, the board shall comply with all
applicable safety standards adopted by the United States Department
of Transportation or the Railroad Commission of Texas or a
successor agency. (V.A.C.S. Art. 1118x, Secs. 14(e), (f).)

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(e) The board in the development of the compressed natural gas or other alternative fuel use program should work with vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. The board may meet the percentage requirements of this section through purchase of new vehicles or the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use such alternative fuels.

(f) The board in purchasing, leasing, maintaining, or converting vehicles for alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies.

Revised Law

Sec. 451.305. ALTERNATIVE FUELS USE PROGRAM: REPORTS. (a)

On or before December 31 of each year, the board shall file an annual report with the Texas Natural Resource Conservation Commission showing:

(1) purchases, leases, and conversions of motor vehicles;

(2) the amount of compressed natural gas and other alternative fuels used; and

(3) any other information required by the commission relevant to the alternative fuels use program.

(b) The commission may require reporting from a board to document air quality benefits from an alternative fuels use program. (V.A.C.S. Art. 1118x, Secs. 14(d)(3), (g).)

Source Law

(d) . . .

(3) The board must submit to the Texas Air Control Board an annual report by December 31 of each year showing purchases, leases, and conversions of motor vehicles and usage of compressed natural gas or other alternative fuels and any other relevant information the Texas Air Control Board may require.

(g) The Texas Air Control Board may require reasonable reporting from any board to document the air quality benefits from alternative fuel use programs.
Revisor's Note

Sections 14(d)(3) and (g), V.A.C.S. Article 1118x, refer to the "Texas Air Control Board." The name of the agency was changed and the functions of the agency were transferred to the Texas Natural Resource Conservation Commission by Section 1.086, Chapter 3, Acts of the 72nd Legislature, 1st Called Session, 1991. The revised law conforms to that change.

[Sections 451.306-451.350 reserved for expansion]

SUBCHAPTER H. BONDS

Revised Law

Sec. 451.351. DEFINITION. In this subchapter, "bond" includes a note. (New.)

Revisor's Note

Section 7 of V.A.C.S. Article 1118x uses "bonds and notes" throughout the section. As a drafting convenience, the revised law adds a definition of "bond" so that a bond includes a note.

Revised Law

Sec. 451.352. POWER TO ISSUE BONDS. (a) An authority may issue bonds at any time and for any amounts it considers necessary or appropriate for the acquisition, construction, repair, equipping, improvement, or extension of its transit authority system.

(b) The board, by resolution, may authorize the issuance of bonds payable solely from revenue.

(c) Bonds, any portion of which is payable from taxes, may not be issued until authorized by a majority of the votes received in an election ordered and held for that purpose. (V.A.C.S. Art. 1118x, Secs. 7(a) (part), (h).)
Sec. 7. (a) ... The authority, however, shall have the full power to issue bonds and notes, from time to time and in such amounts as it shall consider necessary or appropriate, for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement or extension of such rapid transit system or systems and all properties thereof whether real, personal or mixed. . . .

(h) Bonds payable solely from revenues may be issued by resolution of the board, but no bonds, except refunding bonds, payable wholly or partially from taxes, may be issued until authorized by a majority vote of the qualified voters of the authority voting in an election called and held for that purpose.

(1) Section 7(a), V.A.C.S. Article 1118x, refers to the rapid transit system and to "systems and all properties thereof whether real, personal or mixed." The reference to systems and to the kinds of property in a system is omitted as unnecessary because "transit authority system" is defined in Section 451.001 of this code to include all the property of an authority. The references to "purchase" and to "reconstruction" are also omitted because the meanings of those terms are included respectively in "acquisition" and "construction."

(2) Section 7(h), V.A.C.S. Article 1118x, provides an exception to the election requirement for refunding bonds. That exception is omitted as unnecessary because, under Section 451.359 of this code (revising Section 7(d), V.A.C.S. Article 1118x), the general law applies to the issuance of refunding bonds. Under general law, general obligation bonds may be refunded without a second election.

Sec. 451.353. BOND TERMS. (a) An authority's bonds are fully negotiable. An authority may make the bonds redeemable before maturity at the price and subject to the terms and
conditions that are provided in the authority's resolution
authorizing the bonds.

(b) A revenue bond indenture may limit a power of the
authority provided by Sections 451.054-451.060, 451.061(a) or (b),
451.064-451.069, 451.107(a), or 451.251 as long as the bonds issued
under the indenture are outstanding. (V.A.C.S. Art. 1118x, Secs.
6(1) (part), 7(a) (part), (c) (part).)

Source Law

[Sec. 6]

(1) ... Any revenue bond indenture may
provide limitations upon the exercise of the powers
stated in this section and such limitations shall apply
so long as any of the revenue bonds issued pursuant to
such indenture are outstanding and unpaid.

Sec. 7. (a) ... All such bonds and notes
shall be fully negotiable and may be made redeemable
before maturity, at the option of the issuing
authority, at such price or prices and under such terms
and conditions as may be fixed by the issuing authority
in the resolution authorizing such bonds or
notes ... .

(c) ... such authority shall have full power
and authority ... to prescribe the terms and
provisions of such bonds and notes ... .

Revisor's Note

Section 6(1), V.A.C.S. Article 1118x, refers to
"powers stated in this section." The revised law
substitutes cross-references to the sections in the
revised chapter that correspond to the provisions of
Section 6 relating to authority powers.

Revised Law

Sec. 451.354. SALE. An authority's bonds may be sold at a
public or private sale as determined by the board to be the more
advantageous. (V.A.C.S. Art. 1118x, Sec. 7(a) (part).)

Source Law

Sec. 7. (a) ... and may be sold at public or
private sale whichever the board may deem more
advantageous.
Sec. 451.355. APPROVAL; REGISTRATION. (a) An authority's bonds and the records relating to their issuance shall be submitted to the attorney general for examination before the bonds may be delivered.

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

(c) After the bonds are approved by the attorney general, the comptroller shall register the bonds. (V.A.C.S. Art. 1118x, Sec. 7(b) (part).)

Sec. 451.356. INCONTESTABILITY. Bonds are incontestable after they are:

(1) approved by the attorney general;

(2) registered by the comptroller; and

(3) sold and delivered to the purchaser. (V.A.C.S. Art. 1118x, Sec. 7(b) (part).)
(b) ... and after such approval and registration and the sale and delivery of the bonds to the purchaser, they shall be incontestable.

Sec. 451.357. SECURITY PLEDGED. (a) To secure the payment of an authority's bonds, the authority may:

1. pledge all or part of revenue realized from any tax that the authority may impose;
2. pledge all or part of the revenue of the transit authority system; and
3. mortgage all or part of the transit authority system, including any part of the system subsequently acquired.

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

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

(d) An authority is not prohibited by this subchapter from encumbering one or more transit authority systems to purchase, construct, extend, or repair one or more other transit authority systems. (V.A.C.S. Art. 1118x, Secs. 7(a) (part), (c) (part).)

Sec. 7. (a) The authority shall have no power ... nor to issue any bonds or notes secured by ad valorem tax revenues. ...

(c) In order to secure the payment of such bonds or notes, such authority shall have full power and authority to encumber and pledge all or any part of the revenue realized from any tax which the authority is authorized to levy, and all or any part of the revenues of its rapid transit system or systems, and to mortgage and encumber all or any part of the properties thereof, and everything pertaining thereto acquired or to be acquired ... in any manner not inconsistent with the provisions of this Act. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, any such authority shall have full power and
authority to encumber separately any item or items of real estate or personality, including motorbuses, transit cars and other vehicles, machinery and other equipment of any nature, and to acquire, use, hold or contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including, but not limited to, transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such authority from encumbering any one or more rapid transit systems for the purpose of purchasing, building, constructing, enlarging, extending, repairing or reconstructing, another one or more of said systems and purchasing necessary property, both real, personal and mixed, in connection therewith.

Revisor's Note

(1) Section 7(c), V.A.C.S. Article 1118x, refers to an authority's "rapid transit system." The revised law substitutes "transit authority system" to conform to the chapter definitions of the revised law and other provisions of the article.

(2) Section 7(c), V.A.C.S. Article 1118x, contains a list of specific properties that may be encumbered and refers to property "pertaining thereto" or "in connection therewith." The list of specific items and the references to "pertaining thereto" and "in connection therewith" are omitted from the revised law as unnecessary because all of those properties are included under the definition of "transit authority system."

Revised Law

Sec. 451.358. PLEDGE OF REVENUE LIMITED. The expenses of operation and maintenance of a transit authority system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense, are a first lien and charge against any revenue of a transit authority system that is encumbered under this chapter. (V.A.C.S. Art. 1118x, Sec. 7(e) (part).)
Whenever the revenues of any rapid transit system shall be encumbered under this Act, the expense of operation and maintenance, including all salaries, labor, materials and repairs necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such revenues.

Refunding bonds may be issued for the purposes and in the manner authorized by general law, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes).

The bonds, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this state, a political subdivision of this state, and any other political corporation of this state.
(f) All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Revisor's Note

Section 7(f), V.A.C.S. Article 1118x, refers to "building and loan associations." "Savings and loan association" is substituted for that term because the latter term is now used in Texas law to apply to a building and loan association.

Revised Law

Sec. 451.361. EXCHANGE OF BONDS FOR EXISTING SYSTEM. An authority's revenue bonds may be exchanged, in lieu of cash, for the property of all or part of an existing transit authority system to be acquired by the authority. If the property is owned by a corporation that will dissolve simultaneously with the exchange, the authority may acquire the stock of the corporation. (V.A.C.S. Art. 1118x, Sec. 7(g).)

Source Law

(g) If revenue bonds are to be issued by an authority to acquire any existing transportation system, or any part thereof, and the owner thereof is willing to accept said revenue bonds in lieu of cash, then in that event the revenue bonds may be exchanged for the property or for the stock of a corporation owning the property to be dissolved simultaneously.

Revised Law

Sec. 451.362. SHORT-TERM BONDS. (a) Notwithstanding other provisions of this chapter, the board, by order or resolution, may issue bonds that are secured by revenue or taxes of the authority.
if the bonds:

(1) have a term of not more than 12 months; and

(2) are payable only from revenue or taxes received on
or after the date of their issuance and before the end of the
fiscal year following the fiscal year in which the bonds are
issued.

(b) A bond issued under this section need not be approved by
the attorney general or registered with the comptroller. (V.A.C.S.
Art. 1118x, Sec. 7(i).)

Source Law

(i) Notwithstanding the provisions of Section 7,
the authority, acting by board order or resolution, has
the power to issue short-term bonds or notes secured by
revenues or taxes for any purpose; provided that the
repayment of the bonds or notes must be satisfied out
of revenues or taxes received during the period from
the date of issuance to the last day of the fiscal year
following the fiscal year in which the bonds or notes
are issued, and the bonds or notes may not be issued
for a term exceeding 12 months. Any such short-term
bonds or notes need not be approved by the Attorney
General of Texas nor registered by the Comptroller of
Public Accounts of the State of Texas.

Revised Law

Sec. 451.363. TAX EXEMPTION. The interest on an authority's
bonds is exempt from state and local taxes. (V.A.C.S. Art. 1118x,
Sec. 17 (part).)

Source Law

Sec. 17. The ... interest on bonds and notes
issued by the authority shall be exempt from all taxes
levied or to be levied by the State of Texas, its
political subdivisions, counties or municipal
corporations.

[Sections 451.364-451.400 reserved for expansion]

SUBCHAPTER I. TAXATION

Revised Law

Sec. 451.401. GENERAL POWER OF TAXATION. An authority may
impose any kind of tax except an ad valorem property tax.
(V.A.C.S. Art. 1118x, Secs. 7(a) (part), 11A(a).)
Sec. 7. (a) The authority shall have no power to assess, levy or collect any ad valorem taxes on property . . . .

Sec. 11A. (a) In addition to or in lieu of the motor vehicle emission taxes provided for in this Act, the board of an authority may levy and collect any kind of tax, other than an ad valorem tax on property, which is not prohibited by the Texas Constitution.

Revisor's Note

(1) Section 11A(a), V.A.C.S. Article 1118x, excludes from the power of an authority to impose taxes the levy and collection of a tax prohibited by the Texas Constitution. This limitation is omitted from the revised law as unnecessary because no political subdivision may impose a tax prohibited by the constitution.

(2) Section 11A(a), V.A.C.S. Article 1118x, refers to the authority's power to "levy and collect" taxes. The revised law substitutes "impose" for "levy and collect." "Impose" is the term generally used in Title 2, Tax Code, and includes both the levy and the collection of a tax.

Revised Law

Sec. 451.402. VOTER APPROVAL REQUIRED FOR TAX. (a) An authority may not impose a tax or increase the rate of an existing tax unless a proposition proposing the imposition or rate increase is approved by a majority of the votes received at an election held for that purpose.

(b) Each new tax or rate increase must be expressed in a separate proposition consisting of a brief statement of the nature of the proposed tax. The board may submit propositions in the alternative with provision for the method of determining the result of the election.

(c) The notice of the election must contain a statement of the base or rate of the proposed tax. (V.A.C.S. Art. 1118x, Secs.
5(j) (part), 8(a) (part), 11A(b).)

Source Law

[Sec. 5]
(j) . . . and the board may levy and collect the proposed tax within those limits.

Sec. 8. (a) Subject to approval at an election, the board of an authority shall be authorized to levy and cause to be collected motor vehicle emission taxes as herein provided. No increase in taxes as originally authorized may be levied unless the increase is approved at an election. . . .

[Sec. 11A]
(b) No tax of any kind may be levied and collected by the board until a proposition proposing the tax has first been submitted to and approved by a majority of the qualified electors of an authority voting at an election held by the board for that purpose. A separate proposition must be submitted for each kind of tax proposed, and propositions may be submitted in the alternative with provision for the method of determining the results of the election. Each proposition must include a brief statement of the nature of the proposed tax. The notice of the election must include a statement or description of the basis of or rate at which the tax is proposed to be levied. Any subsequent increase in a tax must also be approved at an election.

Revised Law

Sec. 451.403. AUTHORITY TAX CODE AND RULES. (a) The board shall, before an election to authorize a tax, adopt a complete tax code and rules providing for the nature of the tax, the tax rate, and the administration and enforcement of the tax. The code and rules must include provisions for:

(1) the time and manner of payment;
(2) exemptions;
(3) liens;
(4) interest;
(5) penalties;
(6) discounts for prepayment;
(7) refunds for erroneous payment;
(8) fees for collection;
(9) collection procedures;
(10) manner of enforcement;
(11) required returns;
registration and reports of taxpayers;

the duties and responsibilities of tax officers and taxpayers; and

the delegation to tax officers of the power to make determinations and additional rules and obtain records as appropriate.

(b) The tax code and rules may contain other provisions, including the incorporation of other tax laws and remedies for tax administration and enforcement that are available to the state or another political subdivision under general law.

(c) The board, after an election approving the tax, may amend the tax code and rules. The board may not increase the amount of the tax by amendment unless the increase is approved under Section 451.402.

(d) This section does not apply to an authority's sales and use tax or motor vehicle emissions tax. (V.A.C.S. Art. 1118x, Secs. 11A(c), (d).)

Source Law

(c) Prior to an election to authorize a tax other than motor vehicle emission taxes or a sales and use tax, the board shall adopt a complete tax code and rules and regulations providing for the nature and amount of any tax with provisions for complete administration and enforcement, including the time and manner of payment, exemptions, liens, interest, penalties, discounts for advance payment, refunds for erroneous payment, fees for collection, collection procedures, manner of enforcement, required returns, registration and reports of taxpayers, the duties and responsibilities of tax officers and taxpayers, the delegation to tax officers to make additional rules and regulations and determinations and to obtain records as may be appropriate, and every other provision which may be determined to be desirable, including incorporation of any tax laws and remedies for the administration and enforcement that are available to the state or any political entities under general law.

(d) A tax code and rules and regulations may be amended by the board from time to time after an election approving a tax, but no amendment may increase the amount of a tax unless the increase is approved at an election.

Revisor's Note

Sections 11A(c) and (d), V.A.C.S. Article 1118x,
refer to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Reviser's Note (1) to Section 451.107 of this code.

Revised Law
Sec. 451.404. SALES AND USE TAX. (a) The board, subject to Section 451.402, may impose for an authority a sales and use tax at the rate of:

(1) one-quarter of one percent;
(2) one-half of one percent;
(3) three-quarters of one percent; or
(4) one percent.

(b) Chapter 322, Tax Code, applies to an authority's sales and use tax. (V.A.C.S. Art. 1118x, Sec. 11B.)

Source Law
Sec. 11B. (A) Subject to approval at a tax election in accordance with this Act, the board of an authority shall be authorized to levy, collect and impose a local sales and use tax for the benefit of the authority. The provisions of Chapter 322, Tax Code, shall be applicable to the levy, imposition and collection of such tax. The permissible rates for a local sales and use tax levied under this Act are:

(1) one-quarter of one percent;
(2) one-half of one percent;
(3) three-quarters of one percent; and
(4) one percent.

Revised Law
Sec. 451.405. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions of the state having territory in the authority exceeds two percent in any location in the authority.

(b) An election by an authority to adopt a sales and use tax or to increase the rate of the authority's sales and use tax has no effect if:

(1) the voters of the authority approve the
authority's sales and use tax rate or rate increase at an election held on the same day on which a municipality or county having territory within the authority adopts a sales and use tax or an additional sales and use tax; and

(2) the combined rates of all sales and use taxes imposed by the authority and other political subdivisions of the state would exceed two percent in any location in the authority.

(V.A.C.S. Art. 1118x, Secs. 11A(i), (j).)

Source Law

(i) An authority may not adopt a sales and use tax or increase the rate of its sales and use tax under this section if as a result of the adoption of the tax or the tax increase the combined rate of all sales and use taxes imposed by the authority and other political subdivisions of this state having territory in the authority would exceed two percent at any location in the authority.

(j) If the voters of an authority approve the adoption of a sales and use tax or the increase in the sales and use tax rate of the authority at an election held on the same election date on which a municipality or county having territory in the authority adopts a sales and use tax or an additional sales and use tax and as a result the combined rate of all sales and use taxes imposed by the authority and other political subdivisions of this state having territory in the authority would exceed two percent at any location in the authority, the election to adopt a sales and use tax or to increase the rate of the authority's sales and use tax has no effect.

Revised Law

Sec. 451.406. INITIAL SALES TAX: EFFECTIVE DATE. The adoption of an authority's sales and use tax takes effect on the first day of the second calendar quarter beginning after the date the comptroller receives a copy of the order required to be filed under Section 451.661. (V.A.C.S. Art. 1118x, Sec. 5B.)

Source Law

Sec. 5B. Upon actual receipt by the comptroller of public accounts of notification of adoption of a local sales and use tax containing the information required by Subsection (g) of Section 5, there shall elapse one whole calendar quarter prior to the adoption of a local sales and use tax becoming effective. Thereafter, the adoption shall be effective beginning on the first day of the next calendar quarter following the elapsed calendar quarter.
Revised Law
Sec. 451.407. RATE DECREASE: SALES AND USE TAX. The board may:
(1) decrease by order the authority's sales and use tax rate; or
(2) order an election to decrease the rate. (V.A.C.S. Art. 1118x, Sec. 11A(e) (part).)

Source Law
(e) The board of an authority by order may decrease the local sales and use tax rate or may call an election to . . . decrease the local sales and use tax rate. . . .

Revised Law
Sec. 451.408. RATE INCREASE: SALES AND USE TAX. (a) The board may order an election to increase the authority's sales and use tax rate.
(b) The registered voters of an authority, by petition, may require an election to increase the authority's sales and use tax rate.
(c) If the board has reduced the rate of the authority's sales and use tax without election, the board, by order, may increase the rate to a rate not in excess of the rate before the ordered decrease. (V.A.C.S. Art. 1118x, Sec. 11A(e) (part).)

Source Law
(e) The board of an authority by order . . . may call an election to increase . . . the local sales and use tax rate. In addition, the qualified voters of an authority by petition may require that an election be held on the question of increasing the tax rate. . . . If the board of an authority decreases the tax rate by its own order, it may increase the tax rate by a subsequent order to a rate that does not exceed the rate in effect before the order to decrease the tax rate was approved.

Revisor's Note
Section 11A(e), V.A.C.S. Article 1118x, refers to "qualified" voters. The revised law substitutes "registered" for "qualified" because "registered voter"

74C263 JD-D 1699
is the term used in the Election Code to refer to a
person who has qualified as a voter.

Revised Law

Sec. 451.409. SALES AND USE TAX RATE INCREASE: PETITION AND
ELECTION. (a) A petition to increase the rate of an authority's
sales and use tax is valid only if it is submitted to the board and
signed by at least 10 percent of the authority's registered voters
as determined by the most recent official list of registered
voters.
(b) The board shall submit a petition for an election to
increase the authority's sales and use tax rate to the secretary of
state.
(c) The secretary of state shall determine the validity of a
petition not later than the 30th day after the date the petition is
received by the secretary and shall notify the board of the result
of the determination.
(d) The board shall call an election to increase the tax
rate if the secretary determines that a petition is valid or if the
secretary fails to act within the period required by Subsection
(c).
(e) The authority shall pay the costs of determining the
validity of a petition and the costs of the election. (V.A.C.S.
Art. 1118x, Secs. 11A(e) (part), (f).)

Source Law

(e) . . . A petition is valid if it is signed
by qualified voters of the authority equal in number to
at least 10 percent of the number of registered voters
of the authority according to the most recent official
list of registered voters. . . .
(f) After receiving a petition, the board shall
submit the petition to the secretary of state for
validation. The secretary of state shall rule on the
validity of the petition not later than the 30th day
after the day he or she receives the petition and shall
notify the board of the ruling. If the secretary of
state finds the petition valid or fails to act within
the time allowed, the board shall call an election.
The authority shall pay the costs of determining the
validity of a petition, if any, and of the election.

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Revised Law

Sec. 451.410. SALES AND USE TAX INCREASE OR DECREASE:

BALLOTS. In an election for the increase or decrease of an authority's sales and use tax, the ballots shall be printed to provide for voting for or against the following proposition: "The (increase or decrease) of the local sales and use tax rate to (percentage)." (V.A.C.S. Art. 1118x, Sec. 11A(g) (part).)

Source Law

At the election, the ballots shall be prepared to permit voting for or against the following proposition: "The increase (decrease) of the local sales and use tax rate to (percentage)." . . .

Revised Law

Sec. 451.411. RESULTS OF ELECTION; NOTICE. (a) If a majority of the votes received in an election to increase or decrease the rate of an authority's sales and use tax favor the proposition, the rate change takes effect as provided by Section 451.412.

(b) The authority shall send a notice of the election and a certified copy of the order canvassing the results of the election to the Texas Department of Transportation and the comptroller. The authority shall file a notice and a certified copy of the order in the deed records of each county in which the authority is located in the same manner as the results of a confirmation election are filed. (V.A.C.S. Art. 1118x, Sec. 11A(g) (part).)

Source Law

The increase or decrease in the tax rate shall be effective if it is approved by a majority of the votes cast by voters residing within the boundaries of the territory of the authority at the date of the election. A notice of the election and a certified copy of the order canvassing the election results shall be sent to the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and shall be filed in the deed records of each county in which the authority is located in the same manner as provided for a confirmation and tax election by Section 5 of this Act.
Revisor's Note

(1) Section 11A(g), V.A.C.S. Article 1118x, refers to voters "residing within the boundaries of the territory of the authority at the date of the election." The reference is omitted from the revised law as duplicative of Section 11.001, Election Code, which provides the same voting requirements.

(2) Section 11A(g), V.A.C.S. Article 1118x, refers to the "State Department of Highways and Public Transportation." The revised law substitutes "Texas Department of Transportation" for the reason stated in the reviser's note to Section 201.003 of this code.

Revised Law

Sec. 451.412. EFFECTIVE DATE OF TAX RATE CHANGE. A rate increase or decrease in an authority's sales and use tax takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 451.411(b); or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the presiding officer of the board that the comptroller requires more time to implement tax collection and reporting procedures. (V.A.C.S. Art. 1118x, Sec. 11A(h).)

Source Law

(h) If there is an increase or decrease in the rate of a local sales and use tax already levied, the new rate takes effect on the first day of the next calendar quarter after actual notification to the comptroller of public accounts. However, if the comptroller notifies the presiding officer of the board in writing within 10 days after receipt of the order that he or she requires more time to implement collection and reporting procedures, the comptroller may delay implementation for one whole calendar quarter. Thereafter, the new tax rate takes effect on the first day of the next calendar quarter following
the elapsed quarter.

Revised Law

Sec. 451.413. TAX EFFECTIVE DATES AFTER ELECTION CONTEST.

(a) The contestant of an election under this subchapter shall send the comptroller by registered or certified mail within 10 days after the date the contest is filed a copy of the notice of contest that shows:

(1) the style of the contest;
(2) the date the contest is filed;
(3) the case number; and
(4) the court in which the contest is pending.

(b) On receipt of the notice under Subsection (a), the effective date of an authority's sales and use tax or change in the rate of an authority's sales and use tax to result from the election is suspended.

(c) The presiding officer of the board shall notify by registered or certified mail the comptroller when a final judgment of a contest to an election under this subchapter is entered and enclose with the notice a certified copy of the final judgment.

(d) If the result of the election adopting the authority's local sales and use tax or changing the tax rate is sustained, the comptroller, in determining the effective date of the tax, shall substitute the date of receipt of the notice of the final judgment for the date of receipt of the notice of election results.

(V.A.C.S. Art. 1118x, Secs. 5A(a) (part), (b) (part).)

Source Law

Sec. 5A. (a) . . . provided that the contestant shall notify the comptroller of public accounts by United States registered mail or certified mail within 10 days after filing the contest by mailing a copy of such notice of contest to the comptroller showing the style of the contest, the date filed, the case number, and the court in which the same is pending; . . . .

(b) Upon receipt of a notice of contest, the date upon which such local sales and use tax shall become effective in any authority as a result of the election shall be suspended. When a final judgment shall be entered in the election in the election contest, the presiding officer of the board shall so notify the comptroller by United States registered mail
or certified mail and shall enclose a certified copy of
the final judgment. If the judgment sustains the
validity of the election or the result of the election
so that the local sales and use tax status under this
Act of the authority is changed, the comptroller shall
place in effect the tax in the authority, substituting
the notice of final judgment and the date on which it
is received for the notice of the result of the
election... .

Revisor's Note
The following sentence in Section 5A(b), V.A.C.S.
Article 1118x, is omitted as expired:
This section applies only to elections held
and election contests filed after the
effective date of this Act.

Revised Law
Sec. 451.414. MAXIMUM RATE OF VEHICLE EMISSIONS TAX. (a)
Each year that a board imposes a motor vehicle emissions tax, the
board shall set the motor vehicle emissions tax rate as a
percentage of the maximum tax rate specified for each class of
vehicles in the following table:

<table>
<thead>
<tr>
<th>Cubic Inches of Cylinder Displacement</th>
<th>Annual Tax for Each Vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-50</td>
<td>$ 4</td>
</tr>
<tr>
<td>51-100</td>
<td>6</td>
</tr>
<tr>
<td>101-200</td>
<td>7</td>
</tr>
<tr>
<td>201-300</td>
<td>8</td>
</tr>
<tr>
<td>301-900</td>
<td>10</td>
</tr>
<tr>
<td>901 or more</td>
<td>15</td>
</tr>
</tbody>
</table>

(b) The rate of the tax may not exceed 100 percent of the
amount specified by the table and applies equally and uniformly to
all classes and to all members of each class. (V.A.C.S.
Art. 1118x, Sec. 9.)

Source Law
Sec. 9. Motor vehicles shall be classified by
groups based upon the number of cubic inches of
cylinder displacement of their motors or engines and
the maximum emissions tax which may be levied by any
authority shall not exceed the respective annual sums
shown in the following table:

<table>
<thead>
<tr>
<th>Cubic Inches of Cylinder Displacement</th>
<th>Annual Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-50</td>
<td>$ 4</td>
</tr>
<tr>
<td>51-100</td>
<td>6</td>
</tr>
<tr>
<td>101-200</td>
<td>7</td>
</tr>
<tr>
<td>201-300</td>
<td>8</td>
</tr>
<tr>
<td>301-900</td>
<td>10</td>
</tr>
<tr>
<td>901 or more</td>
<td>15</td>
</tr>
</tbody>
</table>
Cylinder Displacement  Per Vehicle
0-50            $ 4
51-100       6
101-200     7
201-300    8
301-900   10
901 or more  15

The board of an authority shall each year fix the rate of tax for each group by fixing the percentage (not more than 100) of the foregoing respective maximum rates, which percentage shall apply equally and uniformly to all groups and to all members of each group.

Revised Law
Sec. 451.415. EXEMPTIONS. (a) The following vehicles are exempt from a vehicle emissions tax imposed by an authority on the owner of the vehicle:
(1) a vehicle that is the property of and used exclusively in the service of the United States, this state, or a county, municipality, school district, or authority of this state;
(2) a vehicle used exclusively for fire fighting; and
(3) a vehicle that:
   (A) is owned by a person doing business both in and outside the authority or only outside the authority;
   (B) is not stationed or customarily kept in the authority; and
   (C) is operated in the authority for an average period of less than two days each calendar week during a tax year or portion of a tax year during which the tax accrues.
(b) To receive the exemption under Subsection (a)(3), the owner of a vehicle must file with the county assessor-collector an affidavit specifying each vehicle for which the exemption is claimed. (V.A.C.S. Art. 1118x, Sec. 10.)

Source Law
Sec. 10. The owners of motor vehicles listed below shall be exempt from the payment of emission taxes on such vehicles, as follows:
(a) Those vehicles which are the property of and used exclusively in the service of the United States government, the State of Texas, or any county, city, school district or rapid transit authority thereof.
(b) Those used exclusively for fire-fighting; and
(c) Those owned by any person, association, corporation or partnership residing within the boundaries of an authority and doing business both within and without or wholly without such boundaries, which motor vehicles are not stationed or customarily kept within the boundaries of the authority and which are not regularly operated within such boundaries. "Regularly operated" means an average of two days per calendar week in a tax year or portion thereof for which such tax accrues. Residents of an authority claiming an exemption under this Subparagraph (c) shall file an affidavit with the county tax assessor-collector specifying the vehicles claimed to be exempted.

Revisor's Note

The exemption in Section 10(c), V.A.C.S. Article 1118x, refers to a vehicle owned by a person, association, corporation, or partnership residing in the authority. The references to associations, corporations, and partnerships are omitted because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include a corporation or any other legal entity. That definition applies to the revised law. The requirement that the person reside in the authority is also omitted as unnecessary because the tax is not imposed on persons who do not reside in the authority.

Revised Law

Sec. 451.416. EMISSIONS TAX YEAR. (a) A motor vehicle emissions tax year begins on April 1 of each year and is divided into quarters.

(b) A tax accruing during the second quarter of the tax year is three-fourths of the amount of the annual tax. A tax accruing during the third quarter is one-half of the amount of the annual tax. A tax accruing during the fourth quarter is one-fourth of the amount of the annual tax. (V.A.C.S. Art. 1118x, Sec. 8(b) (part).)

Source Law

(b) The tax year for motor vehicle emission taxes shall consist of calendar quarters, the first
quarter to commence on April 1 of each year. Each
application so filed during the second quarter, the
third quarter, or the fourth quarter shall be
accompanied by three-fourths, one-half, or one-quarter,
respectively, of the annual tax . . . .

Revised Law
Sec. 451.417. EMISSIONS TAX PAYMENTS: DELINQUENCY. Motor
vehicle emissions taxes for a tax year become payable on February 1
and become delinquent if not paid by April 1 of the tax year. The
taxes on a motor vehicle that becomes subject to the tax on or
after April 1 of the tax year become delinquent if not paid by the
61st day after the date the taxes accrue. (V.A.C.S. Art. 1118x,
Sec. 11 (part).)

Source Law
Sec. 11. Motor vehicle emission taxes shall be
due and payable on February 1 of each year for which
levied and shall become delinquent if not paid by April
1 of such year; provided that taxes on vehicles
becoming subject to such taxes after April 1 of any tax
year shall be due and payable on the date such taxes
accrue and shall become delinquent if not paid within
60 days thereafter.

Revised Law
Sec. 451.418. COLLECTION OF EMISSIONS TAXES BY COUNTY
ASSESSOR-COLLECTOR. (a) The county assessor-collector of a county
in which an authority has territory shall collect the authority's
motor vehicle emissions taxes from residents of the authority who
reside in that county.

(b) A resident of an authority shall pay the motor vehicle
emissions tax for each motor vehicle owned or controlled by the
resident to the county assessor-collector at the time and with whom
the resident applies for registration of the resident's motor
vehicle for the ensuing registration year. An applicant for
registration shall pay the full amount of the motor vehicle
emissions tax for the tax year unless application is made after
June 30 of the tax year and the applicant files with the county
assessor-collector an affidavit that the vehicle has not for any

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The county assessor-collector shall issue to each taxpayer, on payment of the tax, the original motor vehicle emissions tax receipt bearing an identifying number or symbol for the motor vehicle for which the tax is paid. One copy of the receipt shall be retained by the county assessor-collector.

(c) A county assessor-collector may not register a motor vehicle subject to an authority's motor vehicle emissions tax until the motor vehicle emissions tax is paid for the tax year or other period that the motor vehicle emissions tax is due.

(d) The board shall, on or before November 1 of each year, certify to the county assessor-collector of each county having territory in the authority the motor vehicle emissions tax rate for each class of motor vehicles for the succeeding tax year. The board shall furnish to the county assessor-collector motor vehicle emissions tax receipts in triplicate.

(e) A county assessor-collector is entitled to a fee of 45 cents for each motor vehicle emissions tax receipt issued by the assessor-collector to be used for paying the expenses incurred in collecting the tax and issuing the tax receipts under this section.

(f) After deducting the fee authorized by Subsection (e), the county assessor-collector shall, on or before the 15th day of each month, send to the authority all taxes, penalties, and interest collected on behalf of the authority during the preceding calendar month. The county assessor-collector and the authority may agree to a payment schedule and interval other than the schedule and interval specified by this subsection. (V.A.C.S. Art. 1118x, Secs. 8(a) (part), (b) (part), (c), (d), (e).)

Source Law

Sec. 8. (a) . . . Such taxes shall be collected by the county tax assessor-collector of each county, situated in whole or in part within the authority from each motor vehicle owner whose residence is within such county and within the authority. Not later than November 1 of each year, the board shall certify to the county tax assessor-collector of each county situated in whole or in part within the authority's boundaries the rate of tax prescribed for
each class of motor vehicles for the ensuing tax year. At the time the owner of a motor vehicle applies each year to the State Highway Department through the county tax assessor-collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current motor vehicle registration year or unexpired portion thereof, such owner shall pay to the county tax assessor-collector the motor vehicle emission taxes due or to become due to such authority on such motor vehicle for the ensuing or current tax year at the applicable rate prescribed by the board. The county tax assessor-collector shall refuse to issue a registration license for a motor vehicle until the emission tax thereon for the period covered by such registration license has been paid. 

(b) ... and each application for reregistration filed subsequent to June 30th shall be accompanied by an affidavit that such vehicle has not been previously operated within the boundaries of the authority during any quarter of the current tax year, failing which the tax for the entire tax year shall be paid in full.

(c) The authority shall furnish to the tax assessor-collector of each county situated in whole or in part within the boundaries of the authority, motor vehicle emission tax receipts in triplicate each of which shall, when issued, bear a number or other identifying symbol of the motor vehicle for which issued. The tax assessor-collector shall retain one copy and deliver the original to the taxpayer.

(d) Each tax assessor-collector shall receive a uniform fee of 45 cents for each tax receipt issued by him each tax year pursuant to this Act. Such fees shall be used to pay expenses reasonably incurred in collecting such taxes and issuing all tax receipts pursuant hereto.

(e) Each tax assessor-collector shall remit to the authority on or before the 15th day of each month, or at such other intervals of time as may be agreed upon by the authority and each tax assessor-collector, all taxes, penalties and interest collected on behalf of the authority for the preceding calendar month, or other agreed time interval, after deducting the collection fees and mailing charges described in the next preceding paragraph.

Reviser’s Note

Section 8, V.A.C.S. Article 1118x, was enacted when all state vehicle registrations expired at the same time and the state vehicle registration year began on April 1 of each year. Now state vehicle registrations are staggered by month. Section 8 has not been amended to reflect the change in state registration law. To the extent possible without altering the substance of Section 8, the revision omits references that assume a single state registration
The following penalties apply to the late payment of motor vehicle emissions taxes:

<table>
<thead>
<tr>
<th>Date</th>
<th>Tax Paid</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>during the first month of delinquency</td>
<td>one percent</td>
<td></td>
</tr>
<tr>
<td>during the second month of delinquency</td>
<td>two percent</td>
<td></td>
</tr>
<tr>
<td>during the third month of delinquency</td>
<td>three percent</td>
<td></td>
</tr>
<tr>
<td>during the fourth month of delinquency</td>
<td>four percent</td>
<td></td>
</tr>
<tr>
<td>during the fifth month of delinquency</td>
<td>five percent</td>
<td></td>
</tr>
<tr>
<td>after the fifth month of delinquency</td>
<td>eight percent</td>
<td></td>
</tr>
</tbody>
</table>

(b) A delinquent motor vehicle emissions tax bears interest at six percent a year from the date of delinquency until the tax is paid. (V.A.C.S. Art. 1118x, Sec. 11 (part).)
Revisor's Note
(End of Subchapter)

Section 11, V.A.C.S. Article 1118x, provides in part that the levy, collection, and payment of a motor vehicle emissions tax does not authorize an act otherwise prohibited. This provision is omitted from the revised law as unnecessary because no provision of the revised law authorizes in general an act that is otherwise unlawful or prohibited. The omitted provision reads:

Neither the levy, collection nor payment of a motor vehicle emissions tax shall be construed to authorize any act prohibited by law or by any rule or regulation lawfully promulgated.

[Sections 451.421-451.450 reserved for expansion]

SUBCHAPTER J. FINANCIAL AND PERFORMANCE AUDITS

Revised Law

Sec. 451.451. FINANCIAL AUDITS. (a) The board of an authority shall have an annual audit of the affairs of the authority prepared by an independent certified public accountant or a firm of independent certified public accountants.

(b) The audit is open to public inspection. (V.A.C.S. Art. 1118x, Secs. 12(a)(6) (part), 12B(a) (part), (b), (c) (part)).

Source Law

Sec. 12. (a) ... The board ... (6) ... each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection ... .

Sec. 12B. (a) ... Subsections (b) and (c) of this section apply to each authority whose principal city has a population of more than 1,200,000, according to the most recent federal census. (b) In lieu of the audit required by Section 12(f) of this Act, at least once each year, the board of an authority to which this section applies shall have prepared a financial audit of the affairs of the authority by an independent certified public accountant or a firm of independent certified public accountants. (c) The report of an audit conducted under
Subsection (b) of this section is a public record.

Revisor's Note

Section 12B(b), V.A.C.S. Article 11Bx, refers to Section 12(f). Section 12(f) was amended by Section 4, Chapter 149, Acts of the 71st Legislature, Regular Session, 1989, by being renumbered as Section 12(a)(6).

Section 12B(b) refers to the audit under that section as being "in lieu of" the audit under Section 12(f). The reference to "in lieu of" is omitted as unnecessary because there are no substantive differences between the audit requirements under Sections 12(a)(6) and 12B(b).

Revised Law

Sec. 451.452. REVIEW OF AUDIT: CERTAIN AUTHORITIES. (a) The board shall deliver a copy of each audit prepared under Section 451.451 to:

(1) the governor;
(2) the lieutenant governor;
(3) the speaker of the house of representatives;
(4) the state auditor;
(5) the county judge of each county having territory in the authority; and
(6) the presiding officer of the governing body of each municipality having territory in the authority.

(b) The state auditor shall file any comments about the audit with the legislative audit committee and the board.

(c) The state auditor may:

(1) examine any work papers from the audit; or
(2) audit the financial transactions of the authority if the state auditor determines an audit is necessary.

(d) This section applies only to an authority in which the principal municipality has a population of more than 1.2 million or
less than 750,000, except that Subsections (a)(5) and (6) do not apply to an authority in which the principal municipality has a population of more than 1.2 million. (V.A.C.S. Art. 1118x, Secs. 12B(c) (part), 12C, 12E.)

Source Law

[Sec. 12B] (c) ... The board of the authority shall deliver a copy of the report of an audit performed under this section to the presiding officer of the governing body of each county or municipality having territory in the authority, to the governor, to the lieutenant governor, to the speaker of the house of representatives, and to the state auditor. The state auditor may file comments relating to the audit with the Legislative Audit Committee and the board of the authority. The state auditor may examine any workpapers from the audit or audit the financial transactions of the authority if the state auditor determines that an audit is necessary.

Sec. 12C. In addition to the filing required by Section 12B(c) of this Act, the board of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census, shall deliver a copy of the report of an audit performed under Section 12B of this Act to the state auditor for review and comment. The state auditor shall file any comments relating to the authority's audit with the Legislative Audit Committee and the board of the authority. The state auditor may examine any work papers from the audit or audit the financial transactions of the authority if the state auditor determines that the audit is necessary.

Sec. 12E. The board of an authority in which the principal city has a population of less than 750,000, according to the most recent federal census, shall deliver a copy of the report of an audit performed under Section 12 of this Act to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officer of the governing body of each county and municipality having territory included within the authority. The board also shall deliver a copy of the report of the audit to the state auditor for review and comment. The state auditor shall file any comments relating to the authority's audit with the Legislative Audit Committee and the board of the authority. The state auditor may examine any work papers from the audit or audit the financial transactions of the authority if the state auditor determines that the audit is necessary.

Revised Law

Sec. 451.453. REVIEW BY SUNSET ADVISORY COMMISSION. Each authority that has been confirmed, other than an authority that was confirmed before 1980 in which the principal municipality has a
population of less than 1.2 million, is subject every 12th year to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. (V.A.C.S. Art. 1118x, Sec. 3A.)

**Source Law**

Sec. 3A. (a) Except as provided by Subsection (b) of this section, each metropolitan rapid transit authority that has been confirmed at a tax election under Section 5 of this Act is subject to review under the Texas Sunset Act (Chapter 325, Government Code) but is not abolished under that Act.

(b) This section does not apply to a metropolitan rapid transit authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex.

(c) A transit authority subject to this section shall be reviewed every 12th year.

**Revisor's Note**

(1) Section 3A, V.A.C.S. Article 1118x, refers to an authority that is confirmed by tax election. The reference to the election is omitted as unnecessary because all authorities that are confirmed are confirmed by election.

(2) Section 3A(b), V.A.C.S. Article 1118x, refers to "an authority that is authorized under Subsection (e) of Section 6C of this Act to include regional economic development facilities in its station or terminal complex." Under that section only an authority created before 1980 in which the principal municipality has a population of less than 1.2 million is authorized to have regional economic development facilities. The revised law refers to the latter description to standardize the cross-references to those authorities.

**Revised Law**

Sec. 451.454. PERFORMANCE AUDITS: CERTAIN AUTHORITIES. (a) The board of an authority in which the principal municipality has a
population of more than 1.2 million or less than 750,000 shall contract at least once every four years for a performance audit of the authority to be conducted by a firm that has experience in reviewing the performance of transit agencies.

(b) The purposes of the audit are to provide:

(1) evaluative information necessary for the performance of oversight functions by state and local officers; and

(2) information to the authority to assist in making changes for the improvement of the efficiency and effectiveness of authority operations.

(c) Each audit must include an examination of:

(1) one or more of the following:

(A) the administration and management of the authority;

(B) transit operations; or

(C) transit authority system maintenance;

(2) the authority's compliance with applicable state law, including this chapter; and

(3) the following performance indicators:

(A) operating cost per passenger, per revenue mile, and per revenue hour;

(B) sales and use tax receipts per passenger;

(C) fare recovery rate;

(D) average vehicle occupancy;

(E) on-time performance;

(F) number of accidents per 100,000 miles; and

(G) number of miles between mechanical road calls.

(d) A subject described under Subsection (c)(1) must be examined at least once in every third audit. (V.A.C.S. Art. 1118x, Secs. 12D(a), (b), (c), 12F(a), (b), (c).)

Source Law

Sec. 12D. (a) The board of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census,
shall contract with a firm to conduct a performance audit of the authority. A contracting firm under this section must have experience in reviewing the performance of transit agencies. A performance audit is required to be conducted under this section every four years.

(b) The purposes of a performance audit under this section are to provide evaluative information necessary for the performance of oversight functions by state and local officers and to provide information to the authority to assist in the making of changes to improve the efficiency and effectiveness of authority operations. The board shall determine one or more subjects for a particular audit from among the subjects of administration and management of the authority, transit operations, and system maintenance. Each of those subjects must be examined at least once in every third performance audit.

(c) Each performance audit must include, in addition to an examination of subjects determined under Subsection (b) of this section, an examination of the authority's compliance with this Act and other applicable state law and an examination of the following performance indicators:

1. operating cost per passenger;
2. sales and use tax receipts per passenger;
3. operating cost per revenue hour;
4. operating cost per revenue mile;
5. fare recovery rate;
6. average vehicle occupancy;
7. on-time performance;
8. the number of accidents per 100,000 miles; and
9. the number of total miles between mechanical road calls.

Sec. 12F. (a) The board of an authority in which the principal city has a population of less than 750,000, according to the most recent federal census, shall contract with a firm to conduct a performance audit of the authority. A contracting firm under this section must have experience in reviewing the performance of transit agencies. A performance audit is required to be conducted under this section every four years.

(b) The purposes of a performance audit under this section are to provide evaluative information necessary for the performance of oversight functions by state and local officers and to provide information to the authority to assist in the making of changes to improve the efficiency and effectiveness of authority operations. The board shall determine one or more subjects for a particular audit from among the subjects of administration and management of the authority, transit operations, and system maintenance. Each of those subjects must be examined at least once in every third performance audit.

(c) Each performance audit must include, in addition to an examination of subjects determined under Subsection (b) of this section, an examination of the authority's compliance with this Act and other applicable state law and an examination of the following performance indicators:

1. operating cost per passenger;
2. sales and use tax receipts per passenger;
3. operating cost per revenue hour;
(4) operating cost per revenue mile;
(5) fare recovery rate;
(6) average vehicle occupancy;
(7) on-time performance;
(8) the number of accidents per 100,000 miles; and
(9) the number of total miles between mechanical road calls.

Revised Law
Sec. 451.455. COMPUTATION OF PERFORMANCE INDICATORS. (a) An authority's operating cost per passenger is computed by dividing the authority's annual operating cost by the passenger trips for the same period.
(b) The sales and use tax receipts per passenger are computed by dividing the annual receipts from authority sales and use taxes by passenger trips for the same period.
(c) The operating cost per revenue hour is computed by dividing the annual operating cost by the total of scheduled hours that authority revenue vehicles are in revenue service for the same period.
(d) The operating cost per revenue mile is computed by dividing the annual operating cost by the number of miles traveled by authority revenue vehicles while in revenue service for the same period.
(e) The fare recovery rate is computed by dividing the annual revenue, including fares, tokens, passes, tickets, and route guarantees, provided by passengers and sponsors of passengers of revenue vehicles, by the operating cost for the same period. Charter revenue, interest income, advertising income, and other operating income are excluded from revenue provided by passengers and sponsors of passengers.
(f) The average vehicle occupancy is computed by dividing the annual passenger miles by the number of miles traveled by authority revenue vehicles while in revenue service for the same period. The annual passenger miles are computed by multiplying the annual passenger trips and the average distance ridden by passengers during the same period.
(g) On-time performance is computed by determining an annual percentage of revenue vehicle trips of revenue vehicles that depart from selected locations at a time not earlier than the published departure time and not later than five minutes after that published time.

(h) The number of accidents per 100,000 miles is computed by multiplying the annual number of accidents by 100,000 and dividing the product by the number of miles for all service, including charter and nonrevenue service, directly operated by the authority for the same period. In this subsection, "accident" includes:

   (1) a collision that involves an authority's revenue vehicle, other than a lawfully parked revenue vehicle, and that results in property damage, injury, or death; and

   (2) an incident that results in the injury or death of a person on board or boarding or alighting from an authority's revenue vehicle.

(i) The number of miles between mechanical road calls is computed by dividing the annual number of miles for all service directly operated by an authority, including charter and nonrevenue service, by the number of mechanical road calls for the same period. In this subsection, "mechanical road call" means an interruption in revenue service that is caused by revenue vehicle equipment failure that requires assistance from a person other than the vehicle operator before the vehicle can be operated normally.

(j) In this section:

   (1) "Operating cost" means an authority's costs of providing public transit service, including purchased transit service not performed by the authority, but excluding the costs of:

      (A) depreciation, amortization, and capitalized charges;

      (B) charter bus operations; and

      (C) coordination of carpool and vanpool activities.

   (2) "Passenger trips" means the number of all
passenger boardings, including transfers, but excluding charter passengers and carpool and vanpool passengers whose trips are only coordinated by an authority.

(3) "Revenue service" means the time an authority revenue vehicle is in service to carry passengers, other than charter passengers.

(4) "Revenue vehicle" means a vehicle that is:

(A) used to carry paying passengers; and

(B) operated by an authority or as a purchased service. (V.A.C.S. Art. 1118x, Secs. 12D(d), (e), 12F(d), (e).)

Source Law

[Sec. 12D]
(d) In this section:

(1) "Accidents" includes:

(A) all collisions that involve a revenue vehicle of the authority and that result in property damage, injury, or death, other than collisions in which the revenue vehicle is lawfully parked; and

(B) all incidents that result in the injury or death of a person aboard, boarding, or alighting from a revenue vehicle of the authority.

(2) "Mechanical road call" means any interruption in revenue service caused by equipment failure of a revenue vehicle that requires assistance from someone other than the vehicle operator before the vehicle can be operated normally.

(3) "Operating cost" means the authority's costs of providing public transit service, including the cost of purchased transit service not performed by the authority, but excluding the costs of depreciation, amortization, capitalized charges, charter bus operations, and coordination of carpool and vanpool activities.

(4) "Passenger fare revenue" means revenues provided by passengers of revenue vehicles of the authority or the sponsors of those passengers and includes cash fares, passes, tokens, tickets, and route guarantees. The term excludes charter revenues, advertising income, interest income, and other operating income.

(5) "Passenger trips" means a total of all passenger boardings, including transfers but excluding charter passengers and carpool and vanpool passengers whose trips are only coordinated by an authority.

(6) "Revenue service" means the time a revenue vehicle of an authority is in operation to carry passengers other than charter passengers.

(7) "Revenue vehicle" means a vehicle that is used to carry paying passengers and that is operated directly by an authority or as a purchased service.

(8) "Revenue vehicle hours" means a total of scheduled hours that revenue vehicles of an authority are in revenue service.

(9) "Revenue vehicle miles" means a total of miles traveled by revenue vehicles of an authority.
while in revenue service.

(e)(1) The operating cost per passenger is derived by dividing annual operating cost by passenger trips during the same period.

(2) The sales and use tax receipts per passenger is derived by dividing an annual amount of receipts by an authority from local sales and use tax by passenger trips for the same period.

(3) The operating cost per revenue hour is derived by dividing annual operating cost by revenue vehicle hours for the same period.

(4) The operating cost per revenue mile is derived by dividing annual operating cost by revenue vehicle miles for the same period.

(5) The fare recovery rate is derived by dividing annual passenger fare revenue by operating cost for the same period.

(6) The average vehicle occupancy is derived by dividing annual passenger miles by revenue vehicle miles for the same period. The number of annual passenger miles is derived by multiplying annual passenger trips by the average distance ridden by passengers during the same period.

(7) On-time performance is derived by determining an annual percentage of revenue vehicle trips performed by revenue vehicles of an authority that depart from selected locations at a time not earlier than the published departure time and not later than five minutes after the published departure time.

(8) The number of accidents per 100,000 total miles is derived by multiplying an annual total of accidents of revenue vehicles of an authority by 100,000 and dividing the result by the total number of miles for all service directly operated by the authority for the same period, including charter service and nonrevenue service.

(9) The number of miles between mechanical road calls is derived by dividing an annual total number of miles for all service directly operated by an authority, including charter service and nonrevenue service, by the total number of mechanical road calls for revenue vehicles of the authority for the same period.

[Sec. 12F]

(d) In this section:

(1) "Accidents" includes:

(A) all collisions that involve a revenue vehicle of the authority and that result in property damage, injury, or death, other than collisions in which the revenue vehicle is lawfully parked; and

(B) all incidents that result in the injury or death of a person aboard, boarding, or alighting from a revenue vehicle of the authority.

(2) "Mechanical road call" means any interruption in revenue service caused by equipment failure of a revenue vehicle that requires assistance from someone other than the vehicle operator before the vehicle can be operated normally.

(3) "Operating cost" means the authority's costs of providing public transit service, including the cost of purchased transit service not performed by the authority, but excluding the costs of depreciation, amortization, capitalized charges, charter bus operations, and coordination of carpool and vanpool activities.

(4) "Passenger fare revenue" means
revenues provided by passengers of revenue vehicles of
the authority or the sponsors of those passengers and
includes cash fares, passes, tokens, tickets, and route
guarantees. The term excludes charter revenues,
advertising income, interest income, and other
operating income.

(5) "Passenger trips" means a total of all
passenger boardings, including transfers but excluding
charter passengers and carpool and vanpool passengers
whose trips are only coordinated by an authority.

(6) "Revenue service" means the time a
revenue vehicle of an authority is in operation to
carry passengers other than charter passengers.

(7) "Revenue vehicle" means a vehicle that
is used to carry paying passengers and that is operated
directly by an authority or as a purchased service.

(8) "Revenue vehicle hours" means a total
of scheduled hours that revenue vehicles of an
authority are in revenue service.

(9) "Revenue vehicle miles" means a total
of miles traveled by revenue vehicles of an authority
while in revenue service.

(e)(1) The operating cost per passenger is
derived by dividing annual operating cost by passenger
trips during the same period.

(2) The amount of sales and use tax
receipts per passenger is derived by dividing an annual
amount of receipts by an authority from a local sales
and use tax by passenger trips for the same period.

(3) The operating cost per revenue hour is
derived by dividing annual operating cost by revenue
vehicle hours for the same period.

(4) The operating cost per revenue mile is
derived by dividing annual operating cost by revenue
vehicle miles for the same period.

(5) The fare recovery rate is derived by
dividing annual passenger fare revenue by operating
cost for the same period.

(6) The average vehicle occupancy is
derived by dividing annual passenger miles by revenue
vehicle miles for the same period. The number of
annual passenger miles is derived by multiplying annual
passenger trips by the average distance ridden by
passengers during the same period.

(7) On-time performance is derived by
determining an annual percentage of revenue vehicle
trips performed by revenue vehicles of an authority
that depart from selected locations at a time not
earlier than the published departure time and not later
than five minutes after the published departure time.

(8) The number of accidents per 100,000
total miles is derived by multiplying an annual total
of accidents of revenue vehicles of an authority by
100,000 and dividing the result by the total number of
miles for all service directly operated by the
authority for the same period, including charter
service and nonrevenue service.

(9) The number of miles between mechanical
road calls is derived by dividing an annual total
number of miles for all service directly operated by an
authority, including charter service and nonrevenue
service, by the total number of mechanical road calls
for revenue vehicles of the authority for the same
period.
Revisor's Note

The definitions in Sections 12D and 12F, V.A.C.S. Article 1118x, of "revenue vehicle hours" and "passenger fare revenue" are used in each of those sections only once. "Revenue vehicle miles" is used twice. The revised law does not define those terms but incorporates the definitions into the substance of the computations of the performance indicators where the terms were used.

Revised Law

Sec. 451.456. PERFORMANCE AUDIT RESPONSE; HEARING. (a) An authority for which a performance audit is conducted under Section 451.454 shall prepare a written response to the audit report. The response must include each proposal for action relating to recommendations included in the report, whether the proposal for action is pending, adopted, or rejected.

(b) The authority shall make copies of the report and the response available for public inspection at the offices of the authority during normal business hours.

(c) The authority shall conduct a public hearing on each performance audit report and the authority's response under Subsection (a). The authority shall give notice of the hearing by publication of the notice in a newspaper of general circulation in the area included in the authority at least 14 days before the date of the hearing. (V.A.C.S. Art. 1118x, Secs. 12D(f), (g), 12F(f), (g).)

Source Law

[Sec. 12D]

(f) An authority for which a performance audit is conducted under this section shall prepare a written response to the report of the performance audit. The response must include any proposals for action, whether pending, adopted, or rejected, relating to recommendations contained in the performance audit report.

(g) The authority shall conduct a public hearing on each performance audit report conducted under this section and the authority's written response to that report. The authority shall cause notice of the
hearing to be published in a newspaper with general circulation in the area included within the authority at least 14 days before the date of the hearing. The authority also shall make copies of the report and response available for public inspection at offices of the authority during normal business hours.

[Sec. 12F]
(f) An authority for which a performance audit is conducted under this section shall prepare a written response to the report of the performance audit. The response must include any proposals for action, whether pending, adopted, or rejected, relating to recommendations contained in the performance audit report.

(g) The authority shall conduct a public hearing on each performance audit report conducted under this section and the authority's written response to that report. The authority shall cause notice of the hearing to be published in a newspaper of general circulation in the area included within the authority at least 14 days before the date of the hearing. The authority also shall make copies of the report and response available for public inspection at offices of the authority during normal business hours.

Revised Law
Sec. 451.457. DELIVERY OF REPORT AND RESPONSE. An authority required by Section 451.454 to contract for a performance audit shall, before February 1 of every second odd-numbered year, deliver a copy of each audit report and of the authority's response to the report to:

(1) the governor;
(2) the lieutenant governor;
(3) the speaker of the house of representatives;
(4) each member of the legislature whose district includes territory in the authority;
(5) the state auditor;
(6) the county judge of each county having territory in the authority; and
(7) the presiding officer of the governing body of each municipality having territory in the authority. (V.A.C.S. Art. 1118x, Secs. 12D(h), 12F(h).)

Source Law
[Sec. 12D]
(h) A copy of each report of a performance audit conducted under this section and the response of the authority shall be delivered by the authority to the
governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, the presiding officer of the governing body of each county and municipality having territory included within the authority, and each member of the state legislature whose district includes territory within the authority. The copies shall be delivered before February 1 of every second odd-numbered year.

[Sec. 12F]

(h) A copy of each report of a performance audit conducted under this section and the response of the authority shall be delivered by the authority to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, the presiding officer of the governing body of each county and municipality having territory included within the authority, and each member of the state legislature whose district includes territory within the authority. The copies shall be delivered before February 1 of every second odd-numbered year.

[Sections 451.458-451.500 reserved for expansion]

SUBCHAPTER K. BOARDS

Revised Law

Sec. 451.501. BOARD MEMBERSHIP. (a) Except as provided by Subsection (b), a board is composed of:

(1) five members; plus

(2) the number of additional members determined under Subsection (c), (d), or (e).

(b) The board of an authority created by an alternate municipality is composed of five members.

(c) If less than 50 percent of the population of the principal county, excluding the population of the principal municipality, reside in the authority, the board has two additional members.

(d) If 50 percent or more but less than 75 percent of the population of the principal county, excluding the population of the principal municipality, reside in the authority, the board has four additional members.

(e) If 75 percent or more of the population of the principal county, excluding the population of the principal municipality, reside in the authority, the board has six additional members.

(f) In this section and Section 451.502, "principal county"
means the county in which not less than 51 percent of the territory
of the principal municipality is located. (V.A.C.S. Art. 1118x,
Secs. 3B(d) (part), 4(a)(1) (part), (2) (part), 6B(a) (part), (b)
(part), (c) (part).)

Source Law

[Sec. 3B]
(d) An authority created by an alternate city
and confirmed has a board composed of five
members ... .

Sec. 4. (a)(1) Until such time as the
composition of the board is changed in accordance with
other provisions of this Act, ... a board composed of
five members ... .

(2) [In metropolitan areas where the
principal city's population exceeds 1,200,000 according
to the last preceding federal census or any federal
census hereafter] ... a board composed of seven
members, five of whom ... .

Sec. 6B. (a) If less than 50 percent of that
part of the population of the county (the county in
which not less than 51 percent of the incorporated area
of the principal city is situated) which is outside the
corporate limits of the principal city resides within
the limits of the authority, the board of the authority
shall consist of the original five members or their
successors plus one additional member ... and one
other additional member ... .

(b) If more than 50 percent but less than 75
percent of the population of the county described in
Subsection (a) of this section outside the corporate
limits of the principal city resides within the limits
of the authority, the board of the authority consists
of the original five members or their successors, plus
two additional members ... and two other
members ... . Population figures shall be computed
on the basis of the last preceding United States
census.

(c) If 75 percent or more of the population of
the county described in Subsection (a) of this section
outside the corporate limits of the principal city
resides within the limits of the authority, the board
consists of 11 members, including the original five
members or their successors ... .

Revisor's Note

The revised law fills in the inadvertent
percentage gap created between Sections 6B(a) and (b),
V.A.C.S. Article 1118x, in the manner consistent with
the percentage breaks between Sections 6B(b) and (c).

Revised Law

Sec. 451.502. APPOINTMENT OF MEMBERS. (a) The five board
members under Section 451.501(a)(1) are appointed by the governing body of the principal municipality, except in an authority having a principal municipality with a population of more than 1.2 million, the five board members are appointed by the mayor of the principal municipality and are subject to confirmation by the governing body of the principal municipality.

(b) In an authority created by an alternate municipality, the board members are appointed by the mayor of the alternate municipality and are subject to confirmation by the governing body of the alternate municipality.

(c) In an authority having two additional members, the additional members are appointed as follows:

(1) one member appointed by a panel composed of:

(A) the mayors of the municipalities in the authority, excluding the mayor of the principal municipality; and

(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

(2) one member appointed by the commissioners court of the principal county.

(d) In an authority having four additional members, the additional members are appointed as follows:

(1) two members appointed by a panel composed of:

(A) the mayors of the municipalities in the authority, excluding the mayor of the principal municipality; and

(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

(2) two members appointed by the commissioners court of the principal county.

(e) In an authority having six additional members, the additional members are appointed as follows:

(1) two members appointed by a panel composed of:

(A) the mayors of the municipalities in the
authority, excluding the mayor of the principal municipality; and

(B) the county judges of the counties having
unincorporated area in the authority, excluding the county judge of
the principal county;

(2) three members appointed by the commissioners court
of the principal county; and

(3) one member, who serves as presiding officer of the
board, appointed by a majority of the board. (V.A.C.S. Art. 1118x,
Secs. 3B(d) (part), 4(a)(1) (part), (2) (part), 6B(a) (part), (b)
(part), (c) (part), (d) (part).)

Source Law

[Sec. 3B]
(d) . . . The members shall be appointed by the
mayor of the alternate city subject to confirmation by
the governing body of the alternate city. . . .

[Sec. 4]
(a)(1) . . . [five members] who shall be
appointed by the governing body of the principal
city . . . .
(2) [In metropolitan areas where the
principal city's population exceeds 1,200,000 according
to the last preceding federal census or any federal
census hereafter, . . . five of whom] shall be
appointed by the mayor of the principal city subject to
confirmation by the governing body of the principal
city . . . .

Sec. 6B. (a) . . . plus one additional member
to be appointed jointly by the mayors of all
incorporated municipalities except the principal city
within the authority as confirmed, and one other
additional member to be appointed by the commissioners
court of the county described in this subsection.
(b) . . . plus two additional members to be
appointed jointly by the mayors of all incorporated
municipalities, except the principal city, located
within the authority, and two other members appointed
by the commissioners court of the county. Population
figures shall be computed on the basis of the last
preceding United States census.
(c) . . . two additional members appointed
jointly by the mayors of all incorporated
municipalities except the principal city located within
the authority, three other additional members appointed
by the commissioners court of the county, and one
member, who serves as chairman, who is appointed by a
majority of the board. . . .
(d) . . . If the boundaries of the authority at
any time include unincorporated areas of a county other
than the county described in Subsection (a) of this
section, the county judge of the appropriate county is
entitled to serve on the appointment board, with powers
equal to the other members of the board, as if the
unincorporated area of the county were a municipality
and the county judge of that county were the mayor of
the municipality.

Revisor's Note

(1) Section 4(a)(2), V.A.C.S. Article 1118x, in part, provides for the composition of boards in authorities in which the principal municipality has a population in excess of 1.2 million. With the exception of the appointment of the original five members being made by the mayor subject to confirmation by the governing body of the principal municipality, the appointment of that board is the same as the requirements under Section 6B, to the extent that 6B does not prevail. Section 4(a)(2) also provides by its own terms that in case of conflict Section 6B prevails. That provision is codified in Section 451.663 of this code. That portion of Section 4(a)(2) providing for the appointment of board members of an authority in which the principal municipality has a population of more than 1.2 million is omitted as unnecessary. The omitted provision reads:

(2) In metropolitan areas where the principal city's population exceeds 1,200,000 according to the last preceding federal census or any federal census hereafter... a board composed of seven members... one of whom shall be appointed by the commissioners court of the county of the principal city, and one of whom shall be appointed jointly by the mayors of all incorporated municipalities within the county of the principal city except the principal city...

(2) Section 6B, V.A.C.S. Article 1118x, refers to "incorporated municipalities." The revised law omits "incorporated" because under the Local Government Code, all municipalities must be incorporated.

(3) Section 6B(d), V.A.C.S. Article 1118x, provides that appointments to a panel for an unincorporated county area are treated the same as appointments for a municipality and that the county
judge serving on the panel is treated the same as a
mayor. This provision is omitted as unnecessary
because as revised the county judge is a member of the
panel equal to other members.

Revised Law
Sec. 451.503. APPOINTMENTS PANEL. (a) The mayor of the
most populous municipality represented on a panel under Section
451.502 serves as the presiding officer of the panel.
(b) The presiding officer shall, by giving written notice to
each member, call a meeting of the panel as necessary to make an
appointment. An appointment shall be made not later than the 60th
day after the date a position becomes vacant, including the initial
vacancy on the creation of the position. (V.A.C.S. Art. 1118x,
Sec. 6B(d) (part).)

Source Law
(d) When this Act requires that the mayors of
municipalities except the principal city appoint a
member of the board, the mayor of the municipality of
greatest population among the municipalities shall
serve as chairman of an appointment board composed of
the mayors of all appropriate municipalities and shall,
by notice in writing to all members, call meetings of
the appointment board as necessary to make the
appointments. Appointments shall be made within 60
days after a position comes into existence or becomes
vacant...

Revised Law
Sec. 451.504. BOARD VACANCIES. (a) A vacancy on a board is
filled by the person or entity that appointed the member who was in
the position that is vacant. If confirmation of the previous
position was required, confirmation of the vacancy appointment is
required in the same manner.
(b) A vacancy for an unexpired term is for the remainder of
the term only.
(c) A member of the board who is appointed as presiding
officer under Section 451.502(e)(3) vacates the previous board
position. (V.A.C.S. Art. 1118x, Secs. 3B(d) (part); 4(b) (part);
6B(c) (part), (f) (part), (h) (part), (i) (part), (j) (part), as added by Sec. 1, Ch. 138, Acts 72nd Leg., R.S., 1991; Sec. 6B(j) (part), as added by Sec. 4, Ch. 503, Acts 72nd Leg., R.S., 1991.)

Source Law

[Sec. 3B]
(d) . . . A vacancy shall be filled for the remainder of the term in the same manner as that provided for original appointment. . . .

[Sec. 4]
(b) All vacancies on the board, whether by death or resignation shall be filled for the remainder of the term in the manner provided for the original appointment. . . .

[Sec. 6B]
(c) . . . If a member of the board is appointed under this subsection to serve as chairman, the member is considered to have vacated the member's other position on the board, and a successor shall be appointed as provided by Subsection (f) of this section. . . .

(f) Vacancies on the board are filled by appointment by the same agency that made the original appointments for the vacant positions. . . .

(b) A member of the board of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census . . . . A vacancy on a board subject to this subsection shall be filled by the agency that appointed the member whose position has become vacant for the remainder of the unexpired term. In the case of a vacancy in a position whose previous occupant was appointed by the mayor of the principal city and confirmed by that city’s governing body, the vacancy shall be filled by appointment of the mayor and confirmation of the governing body. . . .

(i) A member of the board of an authority in which the principal city has a population of less than 300,000, according to the most recent federal census . . . . A vacancy on a board subject to this subsection shall be filled by the agency that appointed the member whose position has become vacant for the remainder of the unexpired term. . . .

(j) Members of the board of an authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000, according to the most recent federal census . . . . A vacancy on a board subject to this subsection shall be filled by the agency that appointed the member whose position has become vacant for the remainder of the unexpired term. . . .

(j) Members of the board of an authority confirmed at a tax election before July 1, 1985, and in which the principal city has a population of less than 750,000, according to the most recent federal census . . . . A vacancy on a board subject to this subsection shall be filled by the agency that appointed the member whose position has become vacant for the remainder of the unexpired term. . . .
Revisor's Note

Section 6B(f), V.A.C.S. Article 1118x, provides in part, "Each member of the board whose term expires shall continue to serve until his successor has been appointed." That provision is omitted from the revision because the provision is substantively identical to Article XVI, Section 17, of the Texas Constitution. The policy of the legislative council's statutory revision program is to omit from the revised codes the duplicating statutory provisions because a statute that tracks the language of the constitution is not only superfluous but may foster the erroneous belief that a constitutional requirement is merely statutory and subject to amendment through the ordinary legislative process. The omitted provision reads:

Each member of the board whose term expires shall continue to serve until his successor has been appointed.

Revised Law

Sec. 451.505. BOARD TERMS. (a) The term of board membership is two years.

(b) The terms of members of a board are staggered if the authority was:

(1) created before 1980 and has a principal municipality with a population of less than 1.2 million; or

(2) confirmed before July 1, 1985, and has a principal municipality with a population of less than 750,000. (V.A.C.S. Art. 1118x, Secs. 3B(d) (part); 4(a)(1) (part), (2) (part); 6B(h) (part), (i) (part), (j) (part), as added by Sec. 1, Ch. 138, Acts 72nd Leg., R.S., 1991; Sec. 6B(j) (part), as added by Sec. 4, Ch. 503, Acts 72nd Leg., R.S., 1991.)

Source Law

[Sec. 3B] (d) ... who serve for terms of two years. ... Sec. 4. (a)(1) ... and shall serve for a term
of two years.

(2) ... Each member shall serve a term of two years.

[Sec. 6B]

(h) A member of the board of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census, serves a term of two years.

(i) A member of the board of an authority in which the principal city has a population of less than 300,000, according to the most recent federal census, serves a term of two years.

(j) Members of the board of an authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000, according to the most recent federal census, serve staggered terms of two years.

(j) Members of the board of an authority confirmed at a tax election before July 1, 1985, and in which the principal city has a population of less than 750,000, according to the most recent federal census, serve staggered terms of two years.

Revisor's Note

(1) Section 6B(j), V.A.C.S. Article 1118x, as added by Section 4, Chapter 503, Acts of the 72nd Legislature, Regular Session, 1991, refers to an authority confirmed at a tax election before July 1, 1985, and in which the principal city has a population of less than 750,000. The reference to "tax election" is omitted for the reason stated in Revisor's Note (1) to Section 451.065.

(2) Section 6B(e), V.A.C.S. Article 1118x, generally provides in part for four-year terms for members of boards. The four-year term of office requirement is omitted as impliedly repealed because the board of each authority now in existence and of every authority that may be created is required to have terms of office of two years. Furthermore, the establishment of a four-year term of office is in violation of Section 30, Article XVI, Texas Constitution, limiting the duration of all offices to two years, with certain exceptions not applicable to the boards of transportation authorities. See: Letter
Opinion LO-88-66 of the attorney general. The omitted provision reads:

(e) The terms of office of any members of the board appointed after the confirmation and tax election and after the effective date of this Act are four years, except as otherwise provided by this section and except that in order to provide staggered terms, the terms of office of one-half of the first members appointed by an appointing agency after the effective date of this Act, if an even number is to be appointed by an agency, and a bare majority of the first members appointed by the agency, if an odd number greater than one is to be appointed by an agency, are two years. In addition, the appointing agency may shorten the initial terms to make the expiration dates coincide with those of the previously existing positions. . . . Except as provided by Subsection (c) of this section, a person may not serve more than two consecutive four-year terms as a member of the board.

Revised Law
Sec. 451.506. TERM LIMITATIONS. (a) A member of the board may be reappointed except as provided by this section.

(b) An individual may not serve more than eight years on the same board and may not be appointed to a term for which service to the completion of the term would exceed this limitation. This subsection applies only to a board of an authority:

(1) in which the principal municipality has a population of more than 1.2 million or less than 300,000;

(2) created before 1980 and in which the principal municipality has a population of less than 1.2 million; or

(3) confirmed before July 1, 1985, and in which the principal municipality has a population of less than 750,000.

(c) An individual may serve two terms as presiding officer under Section 451.502(e)(3), in addition to any service on the board before being appointed under that subsection. This subsection does not apply to an individual serving on the board of an authority described by Subsection (b).

(d) A term limitation provided by this section does not apply to service on the board by a holdover pending the
qualification of a successor. (V.A.C.S. Art. 1118x, Secs. 3B(d)
(part); 4(b) (part); 6B(c) (part), (h) (part), (i) (part), (j)
(part), as added by Sec. 1, Ch. 138, Acts 72nd Leg., R.S., 1991;
Sec. 6B(j) (part), as added by Sec. 4, Ch. 503, Acts 72nd Leg.,
R.S., 1991.)

Source Law

[Sec. 3B]
(d) . . . On expiration of a term of office of
a member of the board, the member may be reappointed
. . . for a succeeding term. . . .

[Sec. 4]
(b) . . . On expiration of the terms of office
of the members of the board, all or any may be
reappointed . . . for the succeeding term.

[Sec. 6B]
(c) . . . A person appointed under this
subsection may serve two consecutive terms as chairman,
in addition to any service the person served on the
board before the person's appointment as chairman.

(h) A member of the board of an authority in
which the principal city has a population of more than
1,200,000, according to the most recent federal
census . . . . A person may not serve a total of more
than eight years, whether or not consecutive, on a
board subject to this subsection, except as a holdover
pending the qualification of a successor, and may not
be appointed if, at the end of the term for which the
person is being considered, the person's service would
exceed this requirement.

(i) A member of the board of an authority in
which the principal city has a population of less than
300,000, according to the most recent federal
census . . . Notwithstanding any authority in
Subsection (c) of Section 6B of this Act to the
contrary, a person may not serve a total of more than
eight years, whether or not consecutive, on a board
subject to this subsection, except as a holdover
pending the qualification of a successor, and may not
be appointed to the board or as chairman if, at the end
of the term for which the person is being considered,
the person's service would exceed this requirement.

(j) Members of the board of an authority created
before January 1, 1980, in which the principal city has
a population of less than 1,200,000, according to the
most recent federal census . . . . Notwithstanding any
authority in Subsection (c) of this section to the
contrary, a person may not serve a total of more than
eight years, whether or not consecutive, on a board
subject to this subsection, except as a holdover
pending the qualification of a successor, and may not
be appointed to the board or as chairman if, at the end
of the term for which the person is being considered,
the person's service would exceed this requirement.

(j) Members of the board of an authority
confirmed at a tax election before July 1, 1985, and in
which the principal city has a population of less than
750,000, according to the most recent federal
census . . . . Notwithstanding any authority in
Subsection (c) of Section 6B of this Act to the contrary, a person may not serve a total of more than eight years, whether or not consecutive, on a board subject to this subsection, except as a holdover pending the qualification of a successor, and may not be appointed to the board or as chairman if, at the end of the term for which the person is being considered, the person's service would exceed this requirement.

Reviser's Note
(1) Section 6B(j), V.A.C.S. Article 1118x, as added by Section 4, Chapter 503, Acts of the 72nd Legislature, Regular Session, 1991, refers to an authority confirmed at a tax election. The reference to "tax election" is omitted for the reason stated in Reviser's Note (1) to Section 451.065.
(2) Sections 3B(d) and 4(b), V.A.C.S. Article 1118x, provide in part that a person other than the incumbent may be appointed to a vacant position. Those provisions are omitted as unnecessary because the power of appointment is not otherwise limited by this chapter. The omitted provisions read:

[Sec. 3B] (d) ... or another person may be appointed to replace the member ... .

[Sec. 4] (b) ... or another person may be appointed to replace the member ... .

Revised Law
Sec. 451.507. BOARD MEMBERSHIP: RESIDENCY IN AUTHORITY. A member of the board must be a qualified voter residing in the authority. (V.A.C.S. Art. 1118x, Secs. 4(d)(1) (part), 6B(e) (part).)

Source Law
[Sec. 4] (d)(1) The members of the board, who shall be resident citizens and qualified voters of the authority . . . .

[Sec. 6B] (e) ... To be eligible for appointment to the board, a person must be a qualified voter residing within the boundaries of the authority. . . .
Revisor's Note

Section 4(d)(1), V.A.C.S. Article 1118x, requires that a board member be a citizen of an authority. The requirement is omitted as unnecessary because under Section 11.002, Election Code, citizenship is included in the meaning of "qualified voter."

Revised Law

Sec. 451.508. REMOVAL BY BOARD. (a) A board member may be removed from office by the other members of the board because of a ground for removal described by Section 451.510(1) or (2).

(b) In an authority in which the principal municipality has a population of less than 750,000 or more than 1.2 million, a board member may also be removed under Subsection (a) because of any other ground described by Section 451.510. (V.A.C.S. Art. 1118x, Secs. 4(e)(1) (part), (5)(A), (7)(A).)

Source Law

(e)(1) Any member of the board may be removed from office by . . . the remaining members of the board for [inefficiency, neglect of duty or malfeasance in office . . . .]

(5)(A) In addition to the grounds described by Subdivision (1) of this subsection, it is a ground for removal from the board of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census, if a member:

[(i) does not have at the time of appointment the qualifications required by Sections 4(d) and 6B(e) of this Act;
(ii) does not maintain during service on the board the qualifications required by Sections 4(d) and 6B(e) of this Act;
(iii) violates a prohibition established by Subsection (d) of this section or Chapter 171, Local Government Code;
(iv) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or
(v) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.]

(7)(A) In addition to the grounds described by Subdivision (1) of this subsection, it is a ground for removal from the board of an authority in which the principal city has a population of less than 750,000, according to the most recent federal census,
if a member:

(i) does not have at the time
of appointment the qualifications required by
Subsection (d) of Section 4 and Subsection (e) of
Section 6B of this Act;

(ii) does not maintain during
service on the board the qualifications required by
Subsection (d) of Section 4 and Subsection (e) of
Section 6B of this Act;

(iii) violates a prohibition
established by Subsection (d) of Section 4 of this Act
or Chapter 171, Local Government Code;

(iv) cannot discharge the
member's duties for a substantial part of the term for
which the member is appointed because of illness or
disability; or

(v) is absent from more than
half of the regularly scheduled board meetings that the
member is eligible to attend during a calendar year
unless the absence is excused by majority vote of the
board.]
(c) In an authority in which the principal municipality has a population of more than 1.2 million, a member of the board may be removed for any ground described by Section 451.510 by the person or entity that appointed the member. If the person who appointed the member is the mayor of the principal municipality, the removal is by recommendation of the mayor and confirmation by the municipality's governing body. If the member to be removed was appointed by the mayor of the principal municipality, the statement required by Section 451.511(a) shall be given by the mayor, and confirmation of removal by the governing body of the municipality is necessary.

(d) In an authority in which the principal municipality has a population of less than 750,000 or more than 1.2 million, a general manager who has knowledge that a potential ground for removal applicable to a member of the authority's board exists shall notify the presiding officer of the board of the ground, and the presiding officer shall notify the person that appointed the member against whom the potential ground applies of the ground.

(V.A.C.S. Art. 1118x, Secs. 4(e)(3), (4) (part), (5)(C), (6) (part), (7)(C).)

Source Law

(e) . . .

(3) In an authority in which the principal city has a population of less than 500,000 according to the last preceding federal census and in which the rate of the sales and use tax is one percent, a board member may be removed from office by a majority vote of the body that appointed that member for malfeasance or nonfeasance in office.

(4) In addition to the methods of removal of board members provided by Subdivisions (1) and (2) of this subsection, a board member of an authority in which the principal city has a population of more than 1,200,000, according to the most recent federal census, may be removed by the agency that appointed the member. In the case of the principal city, removal under this subsection is by recommendation of the mayor and confirmation of that city's governing body. Grounds for removal under this subdivision are the grounds described by Subdivisions (1) and (5) of this subsection. Before removing a board member under this subdivision, . . . or, in the case of a member appointed by the mayor of the principal city and confirmed by that city's governing body, the mayor of the principal city shall furnish . . . if the . . . confirming agency determines that the charges are true,
it shall remove the member from the board.

(5) ...  

(C) If the general manager of the authority has knowledge that a potential ground for removal exists, the general manager shall notify the chairman of the board of the ground. The chairman shall then notify the appointing agency that a potential ground for removal exists.

(6) In addition to the method of removal of board members provided by Subdivision (1) of this subsection, a board member of an authority in which the principal city has a population of less than 300,000, according to the most recent federal census, may be removed by the agency that appointed the member. This subdivision does not apply to the removal of a member serving as chairman appointed by the board. Grounds for removal under this subdivision are the grounds described by Subdivisions (1) and (7) of this subsection. ...  

(7) ...  

(C) If the general manager of the authority has knowledge that a potential ground for removal exists, the general manager shall notify the chairman of the board of the ground. The chairman shall then notify the appointing agency that a potential ground for removal exists.

Revisor's Note

The applications of Sections 4(e)(5)(C) and (7)(C), V.A.C.S. Article 118x, are limited to certain authorities described by Sections 4(e)(5)(A) and (7)(A), respectively, codified in this code in Section 451.508(b). The same limiting descriptions are added to Subsection (d) of the revised law to ensure the continued application of the limitations to this section.

Revised Law

Sec. 451.510. GROUNDS FOR REMOVAL FROM BOARD. The grounds for removal of a member of a board are:

(1) inefficiency in office;
(2) nonfeasance or malfeasance in office;
(3) not having at the time of appointment or not maintaining during service on the board the qualifications for office described by Section 451.507;
(4) a violation of Chapter 171, Local Government Code, or Section 451.112;
(5) the inability, because of illness or disability, to discharge the member's duties of office during a substantial part of the term for which the member is appointed; and

(6) absence, without having been excused by a majority vote of the board, from more than one-half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year. (V.A.C.S. Art. 1118x, Secs. 4(e)(1) (part), (3) (part), (5)(A) (part), (7)(A) (part)).

Source Law

(e)(1) Any member of the board may be removed from office . . . for inefficiency, neglect of duty or malfeasance in office; . . . .

(3) . . . a board member may be removed from office . . . for malfeasance or nonfeasance in office.

(5)(A) In addition to the grounds described by Subdivision (1) of this subsection, it is a ground for removal from the board of an authority . . . if a member:

(i) does not have at the time of appointment the qualifications required by Sections 4(d) and 6B(e) of this Act;

(ii) does not maintain during service on the board the qualifications required by Sections 4(d) and 6B(e) of this Act;

(iii) violates a prohibition established by Subsection (d) of this section or Chapter 171, Local Government Code;

(iv) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(v) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(7)(A) In addition to the grounds described by Subdivision (1) of this subsection, it is a ground for removal from the board of an authority . . . if a member:

(i) does not have at the time of appointment the qualifications required by Subsection (d) of Section 4 and Subsection (e) of Section 6B of this Act;

(ii) does not maintain during service on the board the qualifications required by Subsection (d) of Section 4 and Subsection (e) of Section 6B of this Act;

(iii) violates a prohibition established by Subsection (d) of Section 4 of this Act or Chapter 171, Local Government Code;

(iv) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or
disability; or

half of the regularly scheduled board meetings that the
member is eligible to attend during a calendar year
unless the absence is excused by majority vote of the
board.

Revisor's Note

In Section 4(e)(1), V.A.C.S. Article 1118x, a
ground for removal is stated as "neglect of duty."
while in Section 4(e)(3), a ground is stated as
"nonfeasance in office." The revised law, for
consistency, uses the term "nonfeasance" in both
references, as the terms in the context used are
synonymous.

Revised Law

Sec. 451.511. REMOVAL OF BOARD MEMBER: NOTICE AND HEARING.

(a) The person or entity proposing to remove a board member under
Section 451.508 or 451.509 shall give the member a written
statement of the grounds for removal. The member is entitled to a
hearing before the board or entity if, before the 11th day after
the date the statement is received, the member requests a hearing.
The member may be represented by counsel at the hearing.

(b) At a hearing under this section, the board or entity
shall confirm the removal of the member if the board or entity
finds that the charges are true.

(c) A removal by the board is by a majority vote of the
other members. (V.A.C.S. Art. 1118x, Secs. 4(e)(1) (part), (4)
(part), (6) (part).)

Source Law

(e)(1) Any member . . . may be removed from
office by a majority vote of the remaining members of
the board . . . provided, however, that the board shall
furnish to such member a statement in writing of the
nature of the charges as grounds for such removal, and
the member, before the 11th day after receipt of the
statement, may request a hearing before the board and
opportunity to be heard in person or through counsel.
After any such hearing, if the board by a majority vote
finds that the charges are true, it shall confirm its
decision to remove the member.
(4) . . . Before removing a board member under this subdivision, the appointing agency or, in the case of a member appointed by the mayor of the principal city and confirmed by that city's governing body, the mayor of the principal city shall furnish to the member a statement of the charges as grounds for removal. Before the 11th day after the date the member receives the statement, the member may request a hearing before the appointing or confirming agency. At a hearing, the member is entitled to be represented in person or through counsel. After a hearing, if the appointing or confirming agency determines that the charges are true, it shall remove the member from the board.

(6) . . . Before removing a board member under this subdivision, the appointing agency shall furnish to the member a statement of the charges as grounds for removal. Before the 11th day after the date the member receives the statement, the member may request a hearing before the appointing agency. At a hearing, the member is entitled to be represented in person or through counsel. After a hearing, if the appointing agency determines that the charges are true, it shall remove the member from the board.

Revisor's Note
Sections 4(e)(1), (4), and (6), V.A.C.S. Article 1118x, contain the procedural requirements that are codified in this section. The grounds and authorization for removal contained in those sections are codified in Sections 451.508 and 451.509 of this code. Those sections are referenced in this section to ensure the applicability of the procedural requirements to the removal authorized by those sections.

Revised Law
Sec. 451.512. GROUND FOR REMOVAL: VALIDITY OF BOARD ACTS.
(a) Except as provided by Subsection (b), in an authority in which the principal municipality has a population of less than 750,000 or more than 1.2 million, an action of the board is not invalid because a ground for removal of a board member exists.

(b) An action that was taken when a ground for removal under Section 451.510(4) existed and that would not have passed the board without the vote of the person who is the subject of the ground for removal is voidable. (V.A.C.S. Art. 1118x, Secs. 4(e)(5)(B), (7)(B).)
(5) ... [of an authority in which the principal city has a population of more than 1,200,000] ...  

(B) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists. However, an action taken when a ground for removal exists under Paragraph (A)(iii) of this subdivision is voidable if the measure that was the subject of the action would not have passed the board without the vote of the person who is the subject of that ground for removal.

(7) ... [of an authority in which the principal city has a population of less than 750,000] ...  

(B) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists. However, an action taken when a ground for removal exists under Subparagraph (iii) of Paragraph (A) of this subdivision is voidable if the measure that was the subject of the action would not have passed the board without the vote of the person who is the subject of that ground for removal.

Revised Law

Sec. 451.513. RECALL OF MEMBERS: CERTAIN AUTHORITIES. (a)  
A board member of an authority that imposes a sales and use tax at the rate of one percent and that has a principal municipality with a population of more than 1.2 million may be removed, as provided by this section, on a petition for the recall of the member submitted by the registered voters of the authority. Recall of a member under this section is in addition to any other method for removal under this subchapter.

(b) The entity that confirmed a board member, or if there is no confirmation, the entity that appointed a board member, shall take action under this section to remove the member or to reconfirm the member's appointment:

(1) on receipt of notice from the secretary of state that a valid recall petition was presented to the entity; or

(2) if the secretary of state fails to notify the entity as required by Subsection (d).

(c) A recall petition under this section is valid if:

(1) it states that the petition is to require the
consideration of the removal of a specified board member;

(2) it is signed by registered voters of the authority
in a number equal to or greater than 10 percent of the number of
votes cast in the authority in the preceding gubernatorial
election;

(3) the signatures meeting the requirement in
Subdivision (2) are collected not earlier than the 90th day before
the date the petition is presented to the entity; and

(4) it is presented to the entity before the first day
of the final six months of the term of the member who is the
subject of the petition.

(d) After receiving a petition under this section the entity
shall send it to the secretary of state. The secretary of state
shall, not later than the 10th day after the date the petition is
received, determine whether the petition is valid and notify the
entity of the determination.

(e) Not later than the 30th day after the date a member is
removed under this section, the vacancy shall be filled as
otherwise provided by this chapter, except that the individual
removed by recall may not be reappointed to fill the vacancy.
Beginning on the day after the date of the removal, the individual
removed may not be appointed to any other position on the board for
a period equal to the normal term of office for a board member.

(V.A.C.S. Art. 1118x, Sec. 4(e)(2).)

Source Law

(A) In addition to the methods of
removal of board members provided by Subdivisions (1)
and (4) of this subsection, board members of an
authority in which the rate of the sales and use tax is
one percent and whose principal city has a population
of more than 1,200,000, according to the most recent
federal census, are subject to removal by the recall
procedure provided by this subdivision.

(B) The qualified voters of the
authority by petition may require that the appointing
political subdivision reconsider their appointment of a
board member to determine whether a member of the board
is to be removed from office. A petition is valid if
it states that it is intended to require a
reconsideration on the question of removing an
identified board member, if it is signed by qualified
voters equal in number to at least 10 percent of the
number of voters of the authority voting in the previous governor's election, if the signatures are collected within a period of 90 days prior to the date on which the petition is presented to the appointing political subdivision, and if it is submitted to the appointing political subdivision before the first day of the final six months of the term of the member whose removal is sought.

(C) After receiving a petition, the appointing political subdivision shall submit it to the secretary of state, who, not later than the 10th day after the day he or she receives the petition, shall determine whether or not the petition is valid and shall notify the appointing political subdivision of the finding. If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.

(D) If the appointing political subdivision receives notice from the secretary of state that the petition is valid or if the secretary of state has failed to act within the time allowed, the appointing political subdivision shall reconsider such appointment and take action to either remove or reconfirm such appointee.

(E) The appointing authority that appointed the member removed by recall shall fill the vacancy not later than the 30th day after the day of removal.

(F) A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the board for a length of time after the day of removal equal to the length of a normal term of a member of the board.

Revisor's Note

Section 4(e)(2)(E), V.A.C.S. Article 1118x, states that the "appointing authority that appointed the member removed" fills the vacancy. The revised law omits the reference to the "appointing authority" and substitutes the requirement that the vacancy be filled as otherwise required by this chapter, which has the same effect. Section 451.504 of this code provides that the person or entity that appointed the person whose office becomes vacant fills the vacancy.

Revised Law

Sec. 451.514. BOARD MEETINGS: WHEN HELD. (a) A board shall hold at least one regular meeting each month to transact the business of the authority. The board by resolution recorded in the minutes of the board's meetings shall set the place, date, and time
for each regular meeting.

(b) The presiding officer of the board or the general manager of the authority may by written notice call a special meeting of the board. (V.A.C.S. Art. 1118x, Sec. 4(f) (part).)

Source Law

(f) The board shall hold at least one regular meeting during each month for the purpose of transacting the business of the authority. Upon written notice, the chairman or the general manager may call special meetings as may be necessary. The board, when organized, shall by resolution spread upon the minutes, set the time, place and day of the regular meetings . . . .

Revised Law

Sec. 451.515. BOARD MEETINGS: VOTING. (a) An action of a board requires a vote of a majority of the members of the board present at a board meeting unless the bylaws of the board require a larger number for a particular action.

(b) This section does not permit a board action in the absence of a quorum. (V.A.C.S. Art. 1118x, Sec. 4(f) (part).)

Source Law

(f) . . . A majority of the members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and action may be taken by the authority upon a vote of a majority of the board members present unless the bylaws require a larger number for a particular action.

Revisor's Note

Section 4(f), V.A.C.S. Article 1118x, provides that a majority of the members shall constitute a quorum for the purpose of conducting its business and exercising its powers. The revised law omits this provision as unnecessary because it duplicates general law. Section 312.015, Government Code, applicable to civil statutes, provides that a majority of a board or commission constitutes a quorum. The revised law adds Subsection (b) to ensure that Subsection (a) is not interpreted as an exception to the quorum rule.
Revised Law

Sec. 451.516. INCREASE OF MEMBERSHIP: CONTINUITY. If the membership of a board is increased under Section 451.501, the board as constituted immediately before the increase may continue as the board of the authority until the additional members are appointed and seated. (V.A.C.S. Art. 1118x, Sec. 6B(g).)

Source Law

(g) In the event the membership of the board must be increased under the provisions of this section, the board as previously constituted may continue to act as the governing board of the authority until the additional members have been appointed and seated.

Revised Law

Sec. 451.517. BOARD MEETINGS: RULES AND BYLAWS. A board by resolution may adopt rules and bylaws for the conduct of board meetings. These rules and bylaws shall be recorded in the minutes of board meetings. (V.A.C.S. Art. 1118x, Sec. 4(f) (part).)

Source Law

(f) [ ... The board . . . shall by resolution spread upon the minutes] . . . and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings. . . .

Revisor's Note

Section 4(f), V.A.C.S. Article 1118x, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 451.518. BOARD MEETINGS: NOTICE. In addition to notice required by Chapter 551, Government Code, a board shall post a board meeting notice in the authority's administrative offices.
and at the courthouse of the most populous county in which the
principal municipality of the authority is located, each on a
bulletin board at a place convenient to the public. (V.A.C.S.
Art. 1118x, Sec. 4(g).)

Source Law

(g) The board shall notice and hold its meetings
pursuant to Chapter 271, Acts of the 60th Legislature,
Regular Session, 1967, as amended (Article 6252-17,
Vernon's Texas Civil Statutes), except that the board
shall have notices of its meetings posted on a bulletin
board located at a place convenient to the public at
its administrative offices and a bulletin board located
at a place convenient to the public at the county
courthouse of the most populous county in which the
principal city is located.

Reviser's Note

Section 4(g), V.A.C.S. Article 1118x, requires
the board to give notice for, and hold meetings
pursuant to, Chapter 271, Acts of the 60th Legislature,
Regular Session, 1967, as amended (Article 6252-17,
Vernon's Texas Civil Statutes). That law is the open
meetings law codified in 1993 as Chapter 551,
Government Code, and the revised law reflects that
citation. The requirement for the authority to hold
its meetings pursuant to that law is omitted as
unnecessary. Under Chapter 551, a board is a
governmental body whose deliberations are covered.

Revised Law

Sec. 451.519. BOARD MEMBERS: EXPENSES; PER DIEM. (a) An
authority shall reimburse a board member for all necessary expenses
incurred in the discharge of official authority duties.

(b) Except as provided by Subsection (c), an authority in
which the principal municipality has a population of more than
600,000 shall pay a member $50 for each meeting of the board
attended by the member not exceeding five meetings in a calendar
month.

(c) A board member in an authority created by an alternate
municipality receives no compensation for attending a board meeting. (V.A.C.S. Art. 1118x, Sec. 3B(d) (part), 4(c) (part).)

Source Law

[Sec. 3B] (d) . . . A member of the board is entitled to reimbursement for necessary and reasonable expenses incurred in the discharge of duties as a board member. A board member in an alternate city authority receives no compensation for attending a board meeting. Section 6B of this Act does not apply to authorities created by alternate cities.

[Sec. 4] (c) Each member of the board shall be reimbursed for his necessary and reasonable expenses incurred in the discharge of his duties. Each member of a board in a metropolitan area in which the principal city's population exceeds 600,000, according to the most recent federal census, is entitled to $50 for each meeting of the board attended, not to exceed five meetings in a calendar month. . . .

Revisor's Note

Section 3B(d), V.A.C.S. Article 1118x, provides that Section 6B of the act does not apply to authorities created by alternate cities. The reference to Section 6B is omitted because the relevant portions of Section 6B codified in this subchapter are either duplicative of provisions in Section 3B, in which case the revised law does apply to the board of an alternate city authority, or the revised law contains an exception for boards of alternate city authorities. Portions of Section 6B are codified in Sections 451.501-451.507 and 451.516 of this code.

Revised Law

Sec. 451.520. BOARD OFFICERS AND SECRETARIES. (a) The board shall elect from among its membership a presiding officer, an assistant presiding officer, and a secretary. This subsection does not apply to the selection of a presiding officer who is appointed under Section 451.502(e)(3).

(b) The board may appoint one or more assistant secretaries, who are not required to be members.
(c) The secretary and assistant secretaries shall keep a permanent record of the proceedings and transactions of the board and perform other duties required by the board. (V.A.C.S. Art. 1118x, Sec. 4(d)(1) (part).)

Source Law

(d)(1) ... shall elect from among their number a chairman, a vice-chairman and a secretary, except that if the board is constituted in the manner provided in Subsection (c) of Section 6B of this Act, the chairman shall be selected as specified in that subsection. The board may appoint such assistant secretaries, either members or nonmembers of the board, as it deems necessary. The secretary and assistant secretaries shall, in addition to keeping the permanent records of all proceedings and transactions of the authority, perform such other duties as may be assigned to them by the board. . . .

Revisor's Note

Section 4(d)(1), V.A.C.S. Article 1118x, refers to "Subsection (c) of Section 6B of this Act." The pertinent portion of that provision is revised in Section 451.502(e)(3), and the revised law references that section.

[Sections 451.521-451.550 reserved for expansion]

SUBCHAPTER L. ADDITION OF TERRITORY

Revised Law

Sec. 451.551. ADDITION OF TERRITORY BY MUNICIPAL ANNEXATION. When a municipality that is part of an authority annexes territory that before the annexation is not part of the authority, the annexed territory becomes part of the authority. (V.A.C.S. Art. 1118x, Sec. 6A(d).)

Source Law

(d) If a city or town which is a part of an authority lawfully annexes additional territory which is not a part of the authority, the annexed territory becomes a part of the authority.

Revised Law

Sec. 451.552. ADDITION OF MUNICIPALITY BY ELECTION. (a)
The territory of a municipality that is not a part of an authority may be added to an authority if:

1. any part of the municipality is located in a county, or in any county adjacent to a county, in which the authority is located;

2. the governing body of the municipality orders an election under this section on whether the territory of the municipality should be added to the authority; and

3. a majority of the votes received in the election favor the measure.

(b) The governing body of the municipality shall certify to the authority the result of an election in which the addition is approved. (V.A.C.S. Art. 1118x, Sec. 6A(b).)

Source Law

(b) The governing body of any incorporated city or town located in whole or in part within either a county in which any portion of the authority territory is situated or a county adjacent to a county in which any portion of the authority territory is situated may hold an election on the question of whether the city or town shall be annexed to the authority. If a majority of the qualified voters in the city or town voting at the election votes for annexation, the governing body shall certify the results of the election to the board of the authority, and the city or town shall become a part of the authority, except as provided in Subsection (f) of this section.

Revisor's Note

The last sentence of Section 6A(b), V.A.C.S. Article 1118x, contains an exception and references Subsection (f) of that section. The exception is omitted as unnecessary. Subsection (f) is codified in Section 451.554 of this code and by its own terms makes clear that the exception is created.

Revised Law

Sec. 451.553. ADDITION OF COUNTY AREA BY ELECTION. (a) The territory of a part of a county that is not a part of an authority and that is designated by the commissioners court of the county may
be added to an authority if:

(1) any part of the county is located in the authority or any part of an adjacent county is located in the authority;

(2) the commissioners court orders an election in the designated area under this section on whether the area should be added to the authority; and

(3) a majority of the votes received in the election favor the measure.

(b) In designating an area under this section, the commissioners court may not, to the extent practicable, divide a county election precinct.

(c) The commissioners court shall certify to the authority the result of an election in which the addition is approved.

(V.A.C.S. Art. 1118x, Sec. 6A(c).)

Source Law

(c) The commissioners court of a county in which the authority is situated in whole or in part or that is adjacent to a county in which the authority is situated in whole or in part may hold an election in any one or more of the designated election areas, formed for the election by order of the commissioners court, on the question of whether the area in which the election is held shall be annexed to the authority. The boundaries of a designated election area shall coincide, to the extent practicable, with a boundary of a county voting precinct, so that insofar as practicable no county voting precinct is divided. If a majority of the qualified voters in a designated election area voting at the election votes in favor of annexation, the commissioners court shall certify the results of the election to the board of the authority, and the area shall become a part of the authority, except as provided in Subsection (f) of this section.

Revisor's Note

The last sentence of Section 6A(c), V.A.C.S. Article 1118x, contains an exception and references Subsection (f) of that section. The exception is omitted as unnecessary. Subsection (f) is codified in Section 451.554 of this code and by its own terms makes clear that the exception is created.
Sec. 451.554. BOARD APPROVAL OF ANNEXATION: EFFECTIVE DATE.

(a) The addition of territory approved under Section 451.552 or 451.553 does not take effect if, before the effective date of the addition under Subsection (b), the board of the authority gives written notice to the governing body of the municipality or the commissioners court of the county that held the election that the addition would create a financial hardship on the authority because:

(1) the territory to be added is not contiguous to the territory of the existing authority; or

(2) the addition of the territory would impair the imposition of the sales and use tax authorized by this chapter.

(b) In the absence of a notice under Subsection (a), the addition of territory approved under Section 451.552 or 451.553 takes effect on the 31st day after the date of the election.

(V.A.C.S. Art. 1118x, Sec. 6A(f).)

(f) Territory in which an election is held as provided in Subsections (b) or (c) of this section becomes a part of the authority on the 31st day after the election, if the voters approve the addition as provided in Subsections (b) or (c), and unless the board of the authority notifies the appropriate governing body in writing before that date that the addition, because it is not contiguous to the existing authority or because the addition would impair the imposition of the sales and use tax authorized by this Act, would create a fiscal hardship on the authority.

Sec. 451.555. ADDED TERRITORY: EFFECTIVE DATE OF TAXES.

(a) Except as provided by Subsection (b), a tax imposed by an authority takes effect in territory added to the authority when the addition takes effect.

(b) A sales and use tax imposed by an authority under Subchapter I takes effect in territory added to the authority under this subchapter on the first day of the first calendar quarter that begins after the date the comptroller receives:
(1) a certified copy of an order adding the territory
or of an order canvassing the returns and declaring the result of
the election; and
(2) a map of the authority showing clearly the
territory added.
(c) The presiding officer of the board shall send the order
and map required under Subsection (b) to the comptroller by
certified or registered mail.
(d) The order must include the effective date of the tax.
(e) The comptroller may delay implementation of the sales
and use tax in the added territory for one calendar quarter by
notifying the presiding officer of the board before the 11th day
after the date the comptroller receives the order and map under
this section that the comptroller requires more time. If
implementation is delayed, the tax takes effect on the first day of
the second calendar quarter that begins after the date the
comptroller receives the order and map. (V.A.C.S. Art. 1118x, Sec.
6A(e).)

Source Law
(e)(1) At the time territory is added to an
authority under the provisions of this section, any tax
other than a local sales and use tax which the board of
the authority has already been authorized to levy
applies to the added territory.
(2) If an authority in which a local sales
and use tax has been imposed changes or alters its
boundaries, the presiding officer of the board shall
forward to the comptroller of public accounts by United
States registered mail or certified mail a certified
copy of the order adding territory to the authority or
of the order canvassing the returns and declaring the
result of the election. The order shall reflect the
effective date of the tax and shall be accompanied by a
map of the authority clearly showing the territory
added or detached. Upon receipt of the order and map,
the tax imposed by Section 11B of this Act shall be
effective in the added territory on the first day of
the next succeeding quarter. However, if the
comptroller notifies the presiding officer of the board
in writing within 10 days after receipt of the order
and map that he requires more time, the comptroller
shall be entitled to delay implementation one whole
calendar quarter. Thereafter, the tax shall be
effective in the added territory on the first day of
the next calendar quarter following the elapsed
quarter.
Reviser's Note
(End of Subchapter)

Section 6A(a), V.A.C.S. Article 1118x, provides that territory may be added to an authority only as provided by that section. The provision is omitted as unnecessary. No other law provides a way to add territory to an authority under that act. The omitted provision reads:

Sec. 6A. (a) Territory may be added to an authority only according to the provisions of this section.

[Sections 451.556-451.600 reserved for expansion]

SUBCHAPTER M. WITHDRAWAL OF TERRITORY FROM AUTHORITY

Revised Law

Sec. 451.601. UNIT OF ELECTION DEFINED. In this subchapter, "unit of election" means:

(1) a municipality, including a principal municipality; or
(2) an unincorporated area designated by a commissioners court under Section 451.657 as a discrete unit for the purposes of a confirmation election. (V.A.C.S. Art. 1118x, Secs. 6F(b), 6G(b).)

Source Law

[Sec. 6F]
(b) For purposes of this section only "unit of election" means:

(1) a principal city;
(2) an unincorporated area designated by a commissioners court under Section 5 of this Act as a discrete unit for purposes of a confirmation election;
or
(3) an incorporated municipality other than a principal city.

[Sec. 6G]
(b) In this section, "unit of election" means an incorporated municipality or an unincorporated area of a county designated by a commissioners court under Section 5 of this Act as a discrete unit for purposes of a confirmation election.

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Revised Law

Sec. 451.602. AUTHORITIES COVERED BY SUBCHAPTER. Except as provided by Section 451.617, this subchapter applies only to an authority in which the principal municipality has a population of less than 750,000 and that was confirmed before July 1, 1985. (V.A.C.S. Art. 1118x, Sec. 6F(a).)

Source Law

Sec. 6F. (a) This section applies only to those authorities in which the principal city has a population of fewer than 750,000 persons according to the last preceding federal census and that was confirmed at a tax election before July 1, 1985.

Revisor's Note

Section 6F(a), V.A.C.S. Article 1118x, refers to an authority "in which the principal city has a population of fewer than 750,000 ... and that was confirmed at a tax election before July 1, 1985." The reference to "tax election" is omitted as unnecessary because the limitation does not exclude or include other authorities. All rapid transit authorities confirmed before 1985 have been confirmed at a "tax election."

Revised Law

Sec. 451.603. WITHDRAWAL OF UNIT OF ELECTION. (a) The governing body of a unit of election may order an election to withdraw the unit of election from an authority.

(b) On the determination by a governing body of a unit of election that a petition for withdrawal under this subchapter is valid, the governing body shall order an election to withdraw the unit of election from the authority.

(c) An election to withdraw may not be ordered, and a petition for an election to withdraw may not be accepted for filing, on or before the fifth anniversary after the date of a previous election in the unit to withdraw from the authority.
(d) An attempt by a unit of election to withdraw from an authority in a manner other than as provided by this subchapter is void. (V.A.C.S. Art. 1118x, Secs. 6F(c) (part), (d) (part), (e) (part), (f).)

Source Law

(c) An attempt to withdraw from an authority in a manner other than that provided by this section is void.

(d) Subject to other provisions of this section, the governing body of a unit of election may on its own initiative call an election in the unit of election.

(e) If the governing body determines that the petition conforms with the requirements of this section, the governing body, subject to the other provisions of this section, shall call an election in the unit of election. If the governing body determines that the petition conforms to the requirements of this section, the governing body shall call an election.

(f) An election for withdrawal in a unit of election under this section, whether by governing body initiative or by petition, may be called at any time, subject to Subsection (g) of this section; except that in a unit of election in which a previous election for withdrawal has been held the election may not be called before the expiration of five years after the date of the most recent previous election for withdrawal held in the unit of election under this section and a petition calling for an election for withdrawal may not be accepted for filing during those five years.

Reviser's Note

(1) Section 6F(e), V.A.C.S. Article 1118x, refers to a petition that "conforms with the requirements of this section." The revised law substitutes "valid" in reference to the petition to conform to the usage in Section 6F(i) of that article, codified in part in Section 451.604, of this code.

(2) Section 6F(c), V.A.C.S. Article 1118x, provides that a unit of election may withdraw from an authority created under that act only in accordance with that section. The provision is omitted as unnecessary. No other law provides a way to withdraw from an authority under that act. The omitted provision reads:

(c) A unit of election may withdraw
from an authority created under this Act
only in accordance with this section. . . .

Revised Law
Sec. 451.604. PETITION FOR WITHDRAWAL ELECTION. (a) At the
request of a registered voter of a unit of election in an
authority, the municipal secretary or other clerk or administrator
of the unit of election shall deliver to the voter, in the number
requested, petition signature sheets for a petition to withdraw
from the authority prepared by, numbered, and authenticated by the
municipal secretary or other official. During the period that
signatures on the petition may be obtained, the official shall
authenticate and deliver additional petition signature sheets as
requested by the voter. Only one petition for withdrawal may be in
circulation at a time.

(b) Each sheet of a petition must have a heading in capital
letters as follows:
"THIS PETITION IS TO REQUIRE AN ELECTION TO BE HELD IN
(name of the unit of election) TO DISSOLVE (name of
authority) IN (name of the unit of election) SUBJECT TO
THE CONTINUED COLLECTION OF SALES TAXES FOR THE PERIOD
REQUIRED BY LAW."

(c) In addition to the requirements of Section 277.002,
Election Code, to be valid a petition must:

(1) be signed on authenticated petition sheets by not
less than 20 percent of the number of registered voters of the unit
of election as shown on the voter registration list of each county
in which the unit of election is located;

(2) be filed with the secretary, clerk, or
administrator of the unit of election not later than the 60th day
after the date the first sheet of the petition was received under
Subsection (a);

(3) contain signatures that are signed in ink or
indelible pencil by the voter; and

(4) have affixed or printed on each sheet an affidavit
that is executed before a notary public by the person who circulated the sheet and that is in the following form and substance:

"STATE OF TEXAS
"COUNTY OF _______________
"I, __________, affirm that I personally witnessed each signer affix his or her signature to this page of this petition for the dissolution of (name of authority) in the (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the signature was affixed to this page.

______________________________

"Sworn to and subscribed before me this the ___ day of ___, ___.
(SEAL)

______________________________
Notary Public, State of Texas"

(d) Each sheet of the petition must be filed under Subsection (c)(2) at the same time as a single filing. (V.A.C.S. Art. 1118x, Secs. 6F(i) (part), (j).)

Source Law

(i) A person who is a qualified voter of a unit of election may apply to and obtain from the city or town secretary or other clerk or administrator of the unit of election officially numbered and properly authenticated petitions for withdrawal prepared by the city or town official in accordance with this subsection, in an amount requested by the person. Not more than one petition may be outstanding at any one time. The secretary, clerk, or administrator shall authenticate and deliver additional sheets to the person as requested during the period for obtaining signatures. To be valid, a petition must contain the personal and actual signatures of not less than 20 percent of the registered voters of the unit of election, as listed on the official voter registration lists of the county or counties in which the unit of election is located, and be filed with the secretary, clerk, or administrator of the unit of election not later than the 60th day after the date the person
received the first sheets of the petition. . .

(j) A petition may consist of multiple sheets, each of which must be authenticated by the secretary, clerk, or administrator. Each sheet shall be headed with a statement in all capital letters regarding the nature of the petition as follows:

"THIS PETITION IS TO REQUIRE AN ELECTION TO BE HELD IN (name of the unit of election) TO DISSOLVE (name of authority) IN (name of the unit of election) SUBJECT TO THE CONTINUED COLLECTION OF SALES TAXES FOR THE PERIOD REQUIRED BY LAW."

An affidavit of the person who circulated each sheet shall be affixed or printed on each sheet in the following form and substance, and the affidavit shall be executed before a notary public:

"STATE OF TEXAS
COUNTY OF ____

"I, _____, affirm that I personally witnessed each signer affix his or her signature, the date of signing, his or her voter registration number, and his or her residence address and zip code to this page of this petition for the dissolution of (name of authority) in the (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the signature was affixed to this page.

Sworn to and subscribed before me this the ____ day of _____, 19 ___.
(SEAL)

Notary Public, State of Texas"

Each sheet of a petition shall be submitted at the same time and within the period prescribed by Subsection (i) of this section. Each person signing a petition must sign the petition in person in ink or indelible pencil and must personally enter beside his signature his current residence address and zip code, his correct voter registration number, and the date of signing.

Any signature not accompanied correctly by all of the information required by this subsection is void and may not be counted in determining the validity of the petition.

Reviser's Note

(1) Section 6F(i), V.A.C.S. Article 1118x, refers only to petitions "... prepared by the city or town official . . . ." The revised law adds a reference to other officials because a unit of election may include unincorporated areas of a county and because other provisions of that section make clear that applications for petitions may be made to a clerk or administrator other than a city secretary, which
would include a clerk or administrator of a county for
a unit of election that is not a municipality.

(2) Section 6F(j), V.A.C.S. Article 1118x, requires that the signer of a petition must "personally enter beside his signature his current residence address and zip code, his correct voter registration number, and the date of signing." The affidavit in that subsection also contains references to the subscriber having affixed the information. Section 277.002, Election Code, contains a requirement of the same information and further provides that only the signature of the signer is required to be in the handwriting of the signer. The Election Code provision prevails over conflicting provisions of Section 6F(j) and for that reason the requirements in Section 6F(j) are omitted.

(3) Section 6F(j), V.A.C.S. Article 1118x, also provides that "Any signature not accompanied correctly by all of the information required by this subsection is void and may not be counted in determining the validity of the petition." The provision is omitted as unnecessary. The law is clear that a signature or accompanying information that does not conform to the statutory requirements may not be not counted.

Revised Law
Sec. 451.605. REVIEW OF PETITION. (a) The secretary, clerk, or administrator of a unit of election in which a petition for withdrawal from an authority is filed shall examine the petition and file with the governing body of the unit a report stating whether the petition, in the opinion of the secretary, clerk, or administrator, is valid.

(b) On receipt of a petition and a report under Subsection (a), the governing body shall examine the petition to determine
whether the petition is valid. The governing body may hold public hearings and conduct or order investigations as appropriate to make the determination. The governing body's determination is conclusive of the issues. (V.A.C.S. Art. 1118x, Secs. 6F(e) (part), (i) (part).)

Source Law

(e) On receipt of a petition under Subsection (i) of this section, the governing body of a unit of election shall examine the petition. The governing body may call and hold public hearings and may conduct or order any investigations the governing body considers appropriate in making the determination under this subsection. The governing body's determination is conclusive of all issues involved.

(i) The secretary, clerk, or administrator shall examine the petition and file a report with the governing body of the unit of election stating whether, in the opinion of the secretary, clerk, or administrator, the petition conforms to the requirements of this section. On receipt of the report, the governing body shall conduct its examination as required by Subsection (e) of this section.

Revised Law

Sec. 451.606. INVALID PETITION. (a) The governing body of a unit of election that receives an invalid petition shall reject the petition.

(b) A petition that is rejected is void and the petition and each sheet of the rejected petition may not be used in connection with a subsequent petition. (V.A.C.S. Art. 1118x, Secs. 6F(e) (part), (i) (part).)

Source Law

(e) If the governing body determines that the petition does not conform to the requirements of this section, the governing body shall reject the petition and may not call an election. A petition rejected under this subsection is void and may not be used in connection with any subsequent petitioning process.

(i) If the governing body determines that a petition does not conform to the requirements of this section, a sheet of signatures that is a part of the petition containing valid signatures may not be used in connection with any subsequent petitioning process.
Revisor's Note

Section 6F(e), V.A.C.S. Article 1118x, states, "If the governing body determines that the petition does not conform to the requirements of this section, the governing body . . . may not call an election." The prohibition against calling an election is omitted because Section 6F(d), V.A.C.S. Article 1118x (codified in part in Section 451.603 of this code), authorizes the governing body to call an election on its own initiative. If the governing body rejects the petition as invalid, it could not be required to call an election because of the petition, but would retain the option of calling an election on its own.

Revised Law

Sec. 451.607. ELECTION. (a) An election to withdraw from an authority ordered under this subchapter must be held on the first applicable uniform election date occurring after the expiration of 90 days after the date the governing body orders the election.

(b) The governing body shall give notice of the election to the board, the Texas Department of Transportation, and the comptroller immediately on calling the election.

(c) At the election the ballot shall be printed to provide for voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?"

(d) The election shall be held in the regular precincts and at the regular voting places. (V.A.C.S. Art. 1118x, Secs. 6F(d) (part), (e) (part), (g), (h) (part); 6G(d), (e) (part).)

Source Law

[Sec. 6F] (d) . . . and submit to the voters of the unit of election the proposition prescribed by Subsection (h) of this section.

(e) . . . and submit to the voters of the unit of election the proposition prescribed by Subsection (h) of this section. . . .
(g) An election called under this section shall be held on the first uniform election date for that type of election under the Election Code following the expiration of 90 days after the date the election is called. Immediately on calling an election, the governing body of the unit of election shall give notice of the election to the board, the State Department of Highways and Public Transportation, and the comptroller of public accounts.

(h) In an election called under this section, the ballot shall be printed to permit voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?" The election shall be held in the regular precincts and at the regular voting places of the unit of election in accordance with the Election Code. The governing body of the unit of election shall canvass the returns of the election at the earliest practicable date after the election.

[Sec. 6G]

(d) An election called under this section shall be held on the first uniform election date for that type of election under the Election Code following the expiration of 90 days after the date the election is called. Immediately on calling an election, the governing body of the unit of election shall give notice of the election to the board, the State Department of Highways and Public Transportation, and the comptroller of public accounts.

(e) In an election called under this section, the ballot shall be printed to permit voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?" The election shall be held in the regular precincts and at the regular voting places of the unit of election in accordance with the Election Code. The governing body of the unit of election shall canvass the returns of the election at the earliest practicable date after the election.

Revisor's Note

(1) Section 6F(h), V.A.C.S. Article 1118x, expressly requires that the election be held according to the Election Code. That express requirement is omitted from the revised law because Section 1.002, Election Code, provides that the Election Code applies to all elections in the state.

(2) Sections 6F(h) and 6G(e), V.A.C.S. Article 1118x, require the governing body of the unit of election to canvass the returns of the election at the earliest practicable date after the election. This provision is omitted from the revised law because Section 67.003, Election Code, requires the canvass of
any election to be made by the governing body of the
city, town, or other political subdivision. The
Election Code provisions prevail over the provision in
Sections 6F and 6G.

(3) Sections 6F(g) and 6G(d), V.A.C.S. Article
1118x, refer to the "Texas Department of Highways and
Public Transportation." The revised law substitutes
"Texas Department of Transportation" for the reason
stated in the reviser's note to Section 201.003 of this
code.

Revised Law

Sec. 451.608. RESULT OF WITHDRAWAL ELECTION. (a) If a
majority of the votes received on the measure in an election held
under Section 451.607 favor the proposition, the authority
continues in the unit of election.

(b) If less than a majority of the votes received on the
measure in the election favor the proposition, the authority ceases
in the unit of election on the day after the day the election
returns are canvassed. (V.A.C.S. Art. 1118x, Secs. 6F(h) (part),
6G(e) (part).)

Source Law

[Sec. 6F]
(h) ... If a majority of the qualified voters
voting at the election vote in favor of the
proposition, the authority shall continue in the unit
of election. If a majority of the qualified voters
voting at the election vote against the proposition,
the authority ceases to exist in the unit of election
at midnight on the date the election returns are
canvassed . . . .

[Sec. 6G]
(e) ... If a majority of the qualified voters
voting at the election vote in favor of the
proposition, the authority shall continue in the unit
of election. If a majority of the qualified voters
voting at the election vote against the proposition,
the authority ceases to exist in the unit of election
at midnight on the date the election returns are
canvassed . . . .
Reviser's Note

Sections 6F(h) and 6G(e), V.A.C.S. Article 1118x, provide that the authority in the district ceases at midnight on the day the returns of the election are canvassed. The revised law expresses this time as the day after the canvass to be consistent with Section 6F(k) of the article, codified in Section 451.609 of this code, which provides that on the effective date of the withdrawal the authority shall cease transportation services in the unit of election.

Revised Law

Sec. 451.609. EFFECT OF WITHDRAWAL. (a) On the effective date of a withdrawal from an authority:

(1) the authority shall, except as provided by Section 451.610, cease providing transportation services in the withdrawn unit of election; and

(2) the financial obligations of the authority attributable to the withdrawn unit of election cease to accrue.

(b) Withdrawal from an authority does not affect the right of the authority to travel through the territory of the unit of election to provide service to a unit of election that is a part of the authority.

(c) Taxes of the authority continue to be collected in the territory of a withdrawn unit of election after withdrawal until the net financial obligation of the unit of election to the authority has been collected. (V.A.C.S. Art. 1118x, Secs. 6F(h) (part), (k), (l) (part); 6G(e) (part), (f), (g) (part).)

Source Law

[Sec. 6F]

(h) ... and the financial obligations of the authority attributable to the unit of election cease to accrue at that time.

(k) On the effective date of the withdrawal of a unit of election from an authority created under this Act, all public transportation services provided by the authority to the unit of election shall cease. The withdrawal, however, does not affect any existing or

74C263 JD-D 1766
future rights of the authority to proceed through the
corporate limits of the unit of election to continue
uninterrupted service to other units of election that
have not withdrawn or that become a part of the
authority in the future.

(1) ... Taxes shall continue to be collected
in the unit of election until an amount of taxes equal
to the total financial obligations of the unit of
election to the authority has been collected. . . .

[Sec. 6G]
(e) ... and the financial obligations of the
authority attributable to the unit of election cease to
accrue at that time.
(f) On the effective date of the withdrawal of a
unit of election from an authority created under this
Act, all public transportation services provided by the
authority to the unit of election shall cease. The
withdrawal, however, does not affect any existing or
future rights of the authority to proceed through the
corporate limits of the unit of election to continue
uninterrupted service to other units of election that
have not withdrawn or that become a part of the
authority in the future.
(g) ... Taxes shall continue to be collected
in the unit of election until an amount of taxes equal
to the total financial obligations of the unit of
election to the authority has been collected. . . .

Revisor's Note

(1) The revised law adds a cross-reference to
the exception provided by Section 451.610 of this code,
which codifies Section 6F(p)(1), V.A.C.S. Article
1118x, and requires the continuation of certain
services to persons with disabilities.

(2) Sections 6F(l) and 6G(g), V.A.C.S. Article
1118x, provide that a withdrawal is subject to the
state and federal constitution prohibiting the
impairment of contracts. The provisions are omitted as
unnecessary because the constitutional provisions are
operative without statutory authorization. The omitted
statutory provisions read:

[Sec. 6F]
(1) The withdrawal of a unit of
election under this section is subject to
the requirements of the federal and state
constitutions prohibiting the impairment of
contracts. . . .

[Sec. 6G]
(g) The withdrawal of a unit of
election under this section is subject to
the requirements of the federal and state
constitutions prohibiting the impairment of

74C263 JD-D 1767
contracts...

Revised Law

Sec. 451.610. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES. An authority shall continue to provide transportation services for persons with disabilities in a withdrawn unit of election. The authority may not charge a fare for transportation services to persons with disabilities in the withdrawn unit that is more than the fare for those services for persons in the authority. (V.A.C.S. Art. 1118x, Sec. 6F(p)(1).)

Source Law

(p)(1) An authority shall provide transportation services for disabled persons in a unit of election that has withdrawn from the authority. The authority may not charge a fare for these services that is higher than that charged to disabled persons within the authority.

Revised Law

Sec. 451.611. DETERMINATION OF TOTAL AMOUNT OF FINANCIAL OBLIGATIONS OF WITHDRAWN UNIT. (a) The net financial obligation of a withdrawn unit of election to the authority is an amount equal to:

(1) the gross financial obligations of the unit, which is the sum of:
    (A) the unit's apportioned share of the authority's outstanding obligations; and
    (B) the amount, not computed in Subdivision (1)(A), that is necessary and appropriate to allocate to the unit because of financial obligations of the authority that specifically relate to the unit; minus
    (2) the unit's apportioned share of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities.

(b) An authority's outstanding obligations under Subsection (a)(1)(A) is the sum of:
(1) the obligations of the authority authorized in the budget of, and contracted for by, the authority;

(2) outstanding contractual obligations for capital or other expenditures, including expenditures for a subsequent year, the payment of which is not made or provided for from the proceeds of notes, bonds, or other obligations;

(3) payments due or to become due in a subsequent year on notes, bonds, or other securities or obligations for debt issued by the authority;

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, note or bond holders, or other creditors or contractors; and

(5) the amount necessary for the full and timely payment of the obligations of the authority, to avoid a default or impairment of those obligations, including contingent liabilities.

(c) The apportioned share of a unit's obligation or assets is the amount of the obligation or assets times a fraction, the numerator of which is the number of inhabitants of the withdrawing unit of election and the denominator of which is the number of inhabitants of the authority, including the number of inhabitants of the unit.

(d) The board shall determine the amount of each component of the computations required under this section, including the components of the unit's apportioned share, as of the effective date of withdrawal. The number of inhabitants shall be determined according to the most recent and available applicable data of an agency of the United States. (V.A.C.S. Art. 1118x, Secs. 6F(l) (part), (m) (part); 6G(g) (part), (h) (part).)

Source Law

[Sec. 6F]

(1) To determine the amount of the total financial obligations of the unit of election, the board shall compute, as of the date of withdrawal, the total of:

(1) the current obligations of the authority authorized in the current budget and
contracted for by the authority;
(2) the amount of contractual obligations outstanding at that time for capital or other expenditures in the current or subsequent years, the payment of which has not been made or provided for from the proceeds of notes, bonds, or other obligations;
(3) all amounts due and to become due in the current and subsequent years on all notes, bonds, or other securities or obligations for debt issued by the authority and outstanding;
(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, bond or note holders, or other creditors or contractors;
(5) any additional amount, which may include an amount for contingent liabilities, determined by the board to be the amount necessary for the full and timely payment of the current and continuing obligations of the authority, to avoid a default or impairment of those obligations; and
(6) any additional amount determined by the board to be necessary and appropriate to allocate to the unit of election because of current and continuing financial obligations of the authority that relate specifically to the unit of election.

(m) The unit of election's share of the financial obligations of the authority under the first five computations required by Subsection (1) of this section shall be in the same ratio that the population of the unit of election has to the total population of the authority, according to the most recent and available population data of an agency of the federal government, as determined by the board. The unit of election's gross financial obligation is its share of the sum of the first five computations required by Subsection (1) of this section plus the amount allocated directly to the unit of election under the last computation required by Subsection (1) of this section. A unit of election's net financial obligation is its gross financial obligation less the unit of election's share of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities. The unit of election's share of those assets is determined according to population in the same manner as provided for determining the unit of election's share of the first five computations required by Subsection (1).

[Sec. 6G] (g) . . . To determine the amount of the total financial obligations of the unit of election, the board shall compute, as of the date of withdrawal, the total of:
(1) the current obligations of the authority authorized in the current budget and contracted for by the authority;
(2) the amount of contractual obligations outstanding at that time for capital or other expenditures in the current or subsequent years, the payment of which has not been made or provided for from the proceeds of notes, bonds, or other obligations;
(3) all amounts due and to become due in the current and subsequent years on all notes, bonds, or other securities or obligations for debt issued by the authority and outstanding;
(4) the amount required by the authority
to be reserved for all years to comply with financial
covenants made with lenders, bond or note holders, or
other creditors or contractors;
(5) any additional amount, which may
include an amount for contingent liabilities,
determined by the board to be the amount necessary for
the full and timely payment of the current and
continuing obligations of the authority, to avoid a
default or impairment of those obligations; and
(6) any additional amount determined by
the board to be necessary and appropriate to allocate
to the unit of election because of current and
continuing financial obligations of the authority that
relate specifically to the unit of election.
(h) The unit of election's share of the
financial obligations of the authority under the first
five computations required by Subsection (g) of this
section shall be in the same ratio that the population
of the unit of election has to the total population of
the authority, according to the most recent and
available population data of an agency of the federal
government, as determined by the board. The unit of
election's total financial obligation is its share of
the first five computations required by Subsection (g)
of this section plus the amount allocated directly to
the unit of election under the last computation
required by Subsection (g) of this section and less the
unit of election's share of the total amount of the
unencumbered assets of the authority that consist of
cash, cash deposits, certificates of deposit, and
bonds, stocks, and other negotiable securities. The
unit of election's share of those assets is determined
according to population in the same manner as provided
for determining the unit of election's share of the
first five computations required by Subsection
(g)....

Revisor's Note
(1) Sections 6F(1) and 6G(g), V.A.C.S. Article
1118x, use the terms "current" and "current and
continuing" with reference to components of the
computations required by those sections. "Current" is
omitted as unnecessary because that subsection requires
the determinations for the computations to be made as
of the date of withdrawal. Therefore, the component on
the date of withdrawal would be the "current"
component. "Continuing" is omitted as unnecessary
because any obligation that is legally binding
continues until paid. The term is not used to make a
distinction between obligations that are not
enforceable and those that are enforceable.
Subdivision (3) of each subsection refers to "amounts
due . . . on all notes . . . issued by the authority and outstanding . . . ." The reference to "outstanding" is omitted as unnecessary because a note that is issued and is due (unpaid), is a note that is also outstanding.

(2) Sections 6F(m) and 6G(h), V.A.C.S. Article 1118x, refer to the "population" of the authority and the unit. The revised law substitutes "number of inhabitants" for "population" because "population" is defined by Section 311.005(3), Government Code, as determined by the most recent federal census. Subsections (m) and (h) provide a different standard for determining the number of people in the authority or unit. To avoid having the general definition of that term apply to these sections, "population" is not used.

Revised Law

Sec. 451.612. CERTIFICATION OF NET FINANCIAL OBLIGATION OF UNIT. (a) The board shall certify to the governing body of a withdrawn unit of election and to the comptroller the net financial obligation of the unit to the authority as determined under this subchapter.

(b) If there is no net financial obligation of the unit, the certification must show that fact. (V.A.C.S. Art. 1118x, Secs. 6F(m) (part), 6G(h) (part).)

Source Law

[Sec. 6F]  
(m) . . . The board shall certify to the governing body of the unit of election and to the comptroller of public accounts the amount of the net financial obligation of the unit of election as of the date of the unit of election's withdrawal from the authority, and shall indicate in the certification if the unit of election's net financial obligation is zero or less. . . .

[Sec. 6G]  
(h) . . . The board shall certify to the governing body of the unit of election and to the comptroller of public accounts the amount of the total
financial obligation of the unit of election. . . .

Revised Law

Sec. 451.613. COLLECTION OF SALES AND USE TAX AFTER WITHDRAWAL. (a) Until the amount of revenue from an authority's sales and use tax collected in a withdrawn unit of election after the effective date of withdrawal and paid to the authority equals the net financial obligation of the unit, the sales and use tax continues to be collected in the territory of the unit of election.

(b) After the amount described by Subsection (a) has been collected or if the share of the authority's assets computed for the unit of election under Section 451.611 is greater than the gross financial obligation of the unit to the authority, the comptroller shall discontinue collecting the tax in the territory of the unit of election. (V.A.C.S. Art. 1118x, Secs. 6F(m) (part), (n) (part), 6G(h) (part)).

Source Law

[Sec. 6F] . . . The comptroller of public accounts shall continue to collect taxes in the unit of election until an aggregate amount equal to the net financial obligation of the unit of election certified by the board has been collected and actually paid to the authority. After that amount has been collected, the comptroller of public accounts shall discontinue collecting in the unit of election the taxes imposed under this Act. . . .

(n) . . . If a unit of election's share of assets as determined under Subsection (m) of this section is greater than the gross financial obligation of the unit of election determined under Subsection (m) of this section, the comptroller shall discontinue collecting the sales and use tax in the unit of election . . . .

[Sec. 6G] . . . The comptroller of public accounts shall continue to collect taxes in the unit of election until an aggregate amount equal to the total financial obligation of the unit of election has been collected and actually paid to the authority. After that amount has been collected, the comptroller of public accounts shall discontinue collecting in the unit of election the taxes imposed under this Act.

Revised Law

Sec. 451.614. REFUNDS OF EXCESS SALES AND USE TAX REVENUE.
(a) The comptroller shall refund to the unit of election the amount of the authority's sales and use tax revenue:

(1) that is in excess of the net financial obligation of the unit and was collected in the unit after the date of withdrawal; or

(2) if the unit's share of authority assets exceeded the unit's gross financial obligation to the authority, that was collected in the unit after the date of withdrawal.

(b) The comptroller may:

(1) determine the amount refundable under Subsection (a) in any reasonable manner;

(2) subtract any deduction otherwise allowed by law; and

(3) determine whether to pay a refund under this section from the suspense account of the authority or from other sales and use tax revenue of the authority.

(c) If the withdrawn unit of election has continuously been a part of the authority since the authority was confirmed at the initial confirmation election, the comptroller shall also refund to the governing body of the unit an amount equal to the amount by which the unit's apportioned share of the authority's assets exceeds the gross financial obligation of the unit. (V.A.C.S. Art. 1118x, Secs. 6F(m) (part), (n) (part), (o) (part).)

Source Law

(m) . . . If the total amount of taxes collected in the unit of election after the unit of election's withdrawal from the authority exceeds the net financial obligation of the unit of election, the comptroller shall refund to the unit of election the amount of the excess less any deductions authorized by law. The comptroller shall determine that amount of taxes in any reasonable manner.

(n) If a unit of election's share of assets as determined under Subsection (m) of this section is greater than the gross financial obligation of the unit of election determined under Subsection (m) of this section, the comptroller shall . . . refund to the governing body of the unit of election an amount equal to the amount of taxes collected in the unit of election after the date of the unit of election's withdrawal from the authority less any deductions authorized by law. The amount of taxes collected in the unit of election after the date of withdrawal shall
be determined by the comptroller in any reasonable manner. If the unit of election has been part of the authority continuously since the creation of the authority was confirmed at the initial confirmation election, the comptroller shall also refund to the governing body of the unit of election an amount equal to the amount by which the unit's share of those assets exceeds the gross financial obligation of the unit of election.

(o) The comptroller shall pay a refund required by Subsection (m) or (n) of this section from the authority's suspense account or from other sales and use tax revenues of the authority, as determined by the comptroller.

Revised Law

Sec. 451.615. USE OF REFUNDED REVENUE. (a) The governing body of a unit of election that receives a refund under Section 451.614 may use the refund only for public purposes directly related to the functions of government that will benefit the residents of the unit as a whole.

(b) If the governing body distributes refund revenue to any other person, the governing body shall:

(1) ensure that the recipient spends the amount received to benefit the residents of the unit of election as a whole;

(2) ensure that the amount distributed is spent for public purposes that are the predominant purpose of the distribution; and

(3) condition the distribution by contract or other legal manner to provide the governing body with sufficient control of the use of the amounts distributed to ensure that the public purposes for which the distribution is made are carried out and to protect the public investment in the revenue. (V.A.C.S. Art. 1118x, Sec. 6F(o) (part)).

Source Law

(o) ... The governing body of the unit of election may use an amount refunded only for public purposes directly related to the functions of government that will benefit the residents of the unit of election as a whole. If the governing body distributes the revenue to any other person, the governing body shall:

(1) ensure that the recipient spends the amount it receives to benefit the residents of the unit
of election as a whole;
(2) ensure that the amount distributed is
spent for public purposes that are the predominant
purpose of the distribution; and
(3) distribute the amount subject to
contractual or other legal conditions providing the
governing body with sufficient control of the use of
the revenue to ensure that the public purposes for
which the revenue is distributed are carried out and to
protect the public investment in the revenue.

Revised Law
Sec. 451.616. REVENUE FROM WITHDRAWN UNIT FOR PROVIDING
SERVICES FOR PERSONS WITH DISABILITIES. (a) The comptroller shall
withhold from the amount of sales and use tax revenue refunded to a
unit of election that has withdrawn from an authority one-half of
the difference between the cost of providing services to persons
with disabilities in the unit of election and the fares charged
during the period in which the sales and use tax was collected and
remit this amount to the authority providing the services.
(b) The authority and the unit of election that has
withdrawn shall determine the amount of the cost of providing
services to persons with disabilities. If the authority and the
unit of election cannot agree on the amount, the comptroller shall
determine the amount. (V.A.C.S. Art. 1118x, Secs. 6F(p)(2), (3).)

Source Law
(2) The comptroller shall withhold from
the amount of sales and use tax revenue rebated to the
unit of election that has withdrawn from the authority
one half of the difference between the actual cost of
providing services to the disabled in the unit of
election and the fares charged during the period in
which the sales and use tax was collected and remit
this amount to the authority providing the services.
(3) The authority and the unit of election that has withdrawn shall determine the actual cost of
services provided to disabled persons. If the
authority and the unit of election are unable to agree
on an amount, the comptroller shall determine the
actual cost of services provided to disabled persons.

Revised Law
Sec. 451.617. WITHDRAWAL: ALTERNATIVE METHOD FOR CERTAIN
AUTHORITIES. (a) In an authority created before 1980 in which the
principal municipality has a population of less than 1.2 million, a
unit of election, other than the principal municipality, may withdraw from the authority, in addition to any other manner provided by law, by a vote of a majority of the registered voters of the unit of election voting at an election on the question of withdrawing from the authority.

(b) The governing body of a unit of election in the authority, other than the principal municipality, shall call an election under this section in a unit of election if a petition requesting that an election to withdraw from the authority be held is submitted to the governing body and is signed by at least 10 percent of the registered voters of the unit of election on the date the petition is submitted. To be counted for purposes of validating the petition, a signature on the petition must have been inscribed not earlier than the 120th day before the date the petition is submitted to the governing body.

(c) The governing body, before the 31st day after the date the petition is submitted to the governing body, shall determine whether a petition under this section is valid, and if the governing body fails to act on the petition before the expiration of that period, the petition is valid.


(e) An election may not be held under this section on a date earlier than the first anniversary of the date of the most recent election held under this section. (V.A.C.S. Art. 1118x, Secs. 6G(a), (c).)

Source Law

Sec. 6G. (a) This section applies only to an authority created before January 1, 1980, with a principal city having a population of less than 1,200,000 according to the most recent federal census.

(c) In addition to any other manner provided by law, a unit of election other than a principal city may withdraw from an authority as provided by this section. The governing body of the unit of election shall call an election in the unit of election on the question of withdrawing from the authority if a petition is
submitted to the governing body signed by not less than 10 percent of the qualified voters of the unit of election on the date the petition is submitted requesting that an election to withdraw from the authority be held. The governing body must determine whether the petition is valid not later than the 30th day after the date the petition is submitted. If the governing body does not act within that period, the petition is considered valid. A signature on the petition may not be counted for purposes of validating the petition if it is signed earlier than the 120th day before the date the petition is submitted to the governing body. An election may not be held under this section on a date earlier than one year from the date of the most recent election held under this section.

Revisor's Note

Section 6G, V.A.C.S. Article 1118x, added by Chapter 804, Acts of the 70th Legislature, Regular Session, 1987, and applicable only to an authority created before 1980 with a principal city having a population of less than 1,200,000, contains many provisions that are identical to provisions in Section 6F of that article. The revised law does not duplicate those identical provisions, but by cross-reference refers to the provisions of the revised law that are applicable to the authority covered by Section 6G and to the authority covered by Section 6F.

[Sections 451.618-451.650 reserved for expansion]

SUBCHAPTER N. CREATION OF AUTHORITY

Revised Law

Sec. 451.651. INITIAL PROCEEDINGS TO CREATE AUTHORITY. (a) The governing body of an alternate municipality shall, on receipt of a petition requesting the creation of an authority and signed by not fewer than 500 registered voters of the municipality, initiate proceedings to create the authority. The governing body of an alternate municipality may initiate those proceedings without a petition.

(b) To initiate proceedings to create an authority, the governing body of an alternate municipality, by ordinance or
resolution, must set a time and place for holding a public hearing and must define the boundaries of the areas proposed to be included in the authority.

(c) All the territory in the alternate municipality must be included in the initial authority, and the authority may include an area that is:

(1) completely surrounded by the alternate municipality; and

(2) designated by the alternate municipality as an industrial district. (V.A.C.S. Art. 1118x, Secs. 3(a), (b) (part); 3B(b) (part), (c).)

Source Law

Sec. 3. (a) The governing body of a principal city in a metropolitan area may, on its own motion, shall, as provided in Subsection (b) of this section, and shall, upon being presented with a petition so requesting signed by not less than 500 qualified voters residing within such metropolitan area, institute proceedings to create a rapid transit authority in the manner prescribed in this section.

(b) Such governing body shall by ordinance or resolution fix a time before December 31, 1985, and a place for holding a public hearing on the question of creating an authority. The governing body also shall by ordinance or resolution, after receipt of a petition as provided in Subsection (a) of this section, and may, on its own motion, fix a time and place for holding a public hearing on a proposal to create an authority. The ordinance or resolution shall define the boundaries of the area proposed to be included in such authority.

[Sec. 3B]

(b) Except as provided by Subsection (c) of this section, an alternate city may create a metropolitan transit authority in the same manner as a principal city with a population in excess of 1,200,000 according to the most recent federal census.

(c) The governing body of an alternate city shall by ordinance or resolution set a time and a place for holding a public hearing if an authority is proposed under either method provided by Subsection (a) of Section 3 of this Act. The ordinance or resolution must define the boundaries of the areas proposed to be included in the authority. The initial territory in an authority shall include all the territory in the jurisdiction of the alternate city and may include an area that the alternate city completely surrounds and has been designated by the alternate city as an industrial district.
Revisor's Note

Under V.A.C.S. Article 1118x, Section 3, as it existed before August 30, 1993, no more transit authorities could have been created. Section 3 required that the public hearing on the creation of an authority must have been held before December 31, 1985.

Chapter 610 (Senate Bill No. 530), Acts of the 73rd Legislature, Regular Session, 1993, added references to "alternate cities" and allowed an alternate city to create an authority. The creation of an authority by an alternate city is accomplished in the same manner as the creation of an authority in which the principal city has a population of more than 1.2 million. The revised law omits the references to the creation of an authority by principal cities because a principal city can no longer create an authority.

The revised law authorizes the creation of an authority by alternate cities and uses, as necessary, the law formerly applicable to the creation of an authority by a principal city. This use conforms to the requirement that an alternate city must create an authority in the same manner as a principal city having a population of more than 1.2 million creates an authority.

The method of creation of an authority by all principal cities is (or was) the same; consequently, the references to principal cities having a population of more than 1.2 million is unnecessary. The references to "principal city" in Sections 3 and 3B, V.A.C.S. Article 1118x, are omitted. As necessary to conform the language to the legislative intent to allow an alternate city to create an authority, some references to "principal city" are changed to
"alternate municipality." The following portion of Section 3(b), V.A.C.S. Article 1118x, is omitted because a principal city may not create an authority:

The initial territory included in an authority shall be all the territory included in the county in which the major portion of the principal city is situated, plus any additional territory that is in an adjacent county and is included in the ordinance or resolution.

Revised Law

Sec. 451.652. NOTICE OF HEARING. (a) Notice of the time and place of the hearing on the creation of an authority, including a description of the area proposed to be included in the authority, shall be published once each week for two consecutive weeks in a newspaper of general circulation in the alternate municipality. The first publication of the notice must be published not later than 15 days before the date scheduled for the hearing. (b) The governing body of the alternate municipality shall furnish a copy of the notice under Subsection (a) to the Texas Department of Transportation. (V.A.C.S. Art. 1118x, Sec. 3(c).)

Source Law

(c) Notice of the time and place of such public hearing, including a description of the area proposed to be included in such authority, shall be published once a week for two consecutive weeks in a newspaper of general circulation in such metropolitan area, the first publication to be not less than 15 days prior to the date fixed for such hearing. The governing body of any principal city shall furnish to the Texas Mass Transportation Commission or any successor thereof, a copy of the notice described herein.

Revisor's Note

Section 3(c), V.A.C.S. Article 1118x, refers to the Texas Mass Transportation Commission or any successor thereof. The revised law substitutes a reference to the Texas Department of Transportation as the successor to the Texas Mass Transportation Commission.
Sec. 451.653. CONDUCT OF HEARING. (a) The governing body of the alternate municipality shall conduct the hearing on the creation of the authority at the place and time specified in the notice of the hearing. The hearing may be continued during the periods necessary to complete the hearing.

(b) Any interested person may appear at the hearing and offer:

(1) evidence on the issues described by Section 451.654(a); or

(2) other facts bearing on the creation, construction, or operation of the proposed transit authority system. (V.A.C.S. Art. 1118x, Sec. 3(d) (part).)

Sec. 451.654. ORDINANCE OF CREATION; FINDINGS. (a) The governing body of an alternate municipality, after hearing the evidence presented at the hearing, shall adopt an ordinance creating an authority if the governing body finds that the creation of the authority and the operation of a transit authority system would be:

(1) of benefit to the persons and property in the boundaries of the proposed authority;

(2) of public utility; and

(3) in the public interest.

(b) An ordinance creating an authority must:

(1) contain a description of the territory to be in the authority; and
(2) provide a name for the authority.

(c) After the hearing, the governing body shall submit the proposed plan to the governor's interagency council for transportation for review and comment. (V.A.C.S. Art. 1118x, Secs. 3(d) (part), (e) (part), (f).)

Revised Law

Sec. 451.655. MUNICIPALITY TO FUND BOARD. The alternate municipality shall fund the board for research and planning purposes until the confirmation and tax election. (V.A.C.S. Art. 1118x, Sec. 4(a)(2) (part).)

Source Law

(2) ... Until a confirmation and tax election are held, the principal city shall fund the board for purposes of research and planning.

Revised Law

Sec. 451.656. BOARD TO ORDER ELECTION. The original board shall order a confirmation and tax election:

(1) when the board determines that implementation of the authority is feasible;

(2) after the board, by order recorded in its minutes,
has determined the nature and rate of any tax proposed to be
imposed; and

(3) after the board has notified the commissioners
court of each county included in whole or part within the initial
territory of the authority of the board's intention to order the
election. (V.A.C.S. Art. 1118x, Secs. 5(a), (b), (c) (part).)

Sec. 5. (a) After the original board is
organized, at such time as it deems implementation of
the authority to be feasible, it shall call a
confirmation and tax election in accordance with the
provisions of this section.
(b) Before ordering an election the board shall
by order entered in its minutes determine the nature
and rate of any tax that it desires to levy.
(c) Before ordering an election, the board shall
notify the commissioners court of each county included
in whole or part within the initial territory of the
authority of its intention to do so. . . .

Sec. 451.657. COMMISSIONERS COURT TO DESIGNATE ELECTION
AREAS. (a) Before the 31st day after the date a commissioners
court receives a notice under Section 451.656(3), the commissioners
court by order shall designate not more than five election areas in
the unincorporated area of the county. The designated areas must
include all of the unincorporated area of that county proposed to
be included in the authority.

(b) To the extent practicable, each designated area must
coincide with a boundary of a county election precinct so that no
county election precinct is divided between two designated areas.

(c) . . . Within 30 days after receipt of the
notice, each commissioners court by order shall create
not more than five designated election areas in the
unincorporated portion of the appropriate county. Each
designated election area's outer boundaries, to the
extent practicable, shall coincide with a boundary of a
county voting precinct so that insofar as practicable
no county voting precinct is divided between two
different designated election areas. The total area of
all designated election areas shall include all of the
unincorporated area within the initial territory of the
authority.
Sec. 451.658. ELECTION NOTICE. In addition to notice required by the Election Code, an election notice must contain a description of the nature and rate of any proposed tax. A copy of the election notice must be delivered to the Texas Department of Transportation and the comptroller. (V.A.C.S. Art. 1118x, Sec. 5(e).)

Sec. 451.659. PROPOSITION. The board, in ordering an election under this subchapter, shall submit to the voters the following proposition: "Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax be authorized?" (V.A.C.S. Art. 1118x, Sec. 5(d).)
Sec. 451.660. CONDUCT OF ELECTION: SEPARATE RESULTS FOR UNIT OF ELECTION. The election shall be conducted so that votes are separately tabulated and canvassed and that the result is declared in each unit of election in the authority as follows:

(1) the alternate city; and

(2) each election area designated under Section 451.657. (V.A.C.S. Art. 1118x, Sec. 5(f).)

Source Law

(f) The election shall be conducted so that votes are separately tabulated and canvassed and that the result is declared in separate units of election within the authority, as follows:

(1) the portion of the principal city inside the initial limits of the authority plus any incorporated cities or towns which are wholly located within the perimeter of the outer boundary of the principal city constitutes a unit of election;

(2) each designated election area created by a commissioners court constitutes a unit of election;

(3) every other incorporated city or town wholly located within the initial limits of the authority shall constitute a unit of election.

Revisor's Note

The references in Section 5(f), V.A.C.S. Article 1118x, to units of election consisting of the principal city and to other municipalities as being included in the proposed authority are omitted from the revised law as unnecessary because an authority created by an alternate city may not include the territory of a principal city or any municipality other than the alternate city. The reviser's note to Section 451.651 of this code contains information concerning the entities that may create an authority.

Revised Law

Sec. 451.661. RESULTS OF ELECTION; ORDER. (a) The board shall declare the results of the election separately by each unit of election. In each unit of election in which a majority
votes received favor the proposition, the authority is confirmed and continues in each of those units, except that if the authority is not confirmed in the alternate municipality, the authority ceases in every unit of election. In each unit of election in which a majority of the votes received do not favor the confirmation of the authority, the authority ceases.

(b) If the authority continues, the board shall record the results in its minutes and adopt an order:

(1) declaring that the creation of the authority is confirmed;
(2) describing the territory of the authority;
(3) stating the date of the election;
(4) containing the proposition;
(5) showing the number of votes cast for or against the proposition in each unit of election; and
(6) showing the number of votes by which the proposition was approved in each unit of election in which the proposition was approved.

(c) The order must be accompanied with a map of the authority that shows the boundaries of the authority.

(d) A certified copy of the order and map shall be filed:
(1) with the Texas Department of Transportation;
(2) with the comptroller; and
(3) in the deed records of each county in which the authority is located.

(e) If the authority does not continue, the board shall adopt an order declaring that the result of votes cast at the election is that the authority ceases in the entirety. A certified copy of the order shall be filed with the Texas Department of Transportation and the comptroller, and the authority is dissolved.

(V.A.C.S. Art. 1118x, Secs. 3(e) (part), 5(g), (h).)

Source Law

[Sec. 3]
(e) ... but the actual territory included in
the authority is subject to the results of the election
provided for in this Act.

[Sec. 5]

(g) Immediately after the election, the presiding judge of each election precinct shall return the results to the board, which shall canvass the returns and declare the results separately with respect to each unit of election. In those units of election where a majority of the votes cast is in favor of the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall continue to exist and be comprised of those units. In those units of election where a majority of the votes cast is against the confirmation of the creation of the authority and the levy of the proposed tax, the authority shall cease to exist. Unless the vote is favorable in the unit of election which includes the principal city, the authority shall cease to exist in its entirety. If the votes cast are such that the authority will continue to exist, the board shall enter the results on its minutes and adopt an order declaring that the creation of the authority is confirmed and describing the territory which comprises the authority. A certified copy of the order shall be filed with the State Department of Highways and Public Transportation or its successor, and with the comptroller of public accounts, and in the deed records of each county in which the authority is located. The order shall include the date of the election, the proposition voted on, the number of votes cast for and against the proposition in each election unit, and the number of votes of which the proposition was approved in each election unit in which it was approved and shall be accompanied by a map of the authority clearly showing the boundaries of the authority.

(h) If the votes cast at the confirmation and tax election are such that the authority ceases to exist in its entirety, the board shall enter an order so declaring and file a certified copy of the order with the State Department of Highways and Public Transportation or its successor and with the comptroller of public accounts, and the authority shall be dissolved.

Reviser's Note

(1) The references in Section 5(g), V.A.C.S. Article 1118x, to confirmation of the election in a principal city are omitted for the reasons given in the reviser's note to Section 451.651 of this code.

(2) Section 5(g), V.A.C.S. Article 1118x, refers to canvassing the results of the election and the return of the ballots by precinct officers. This provision is omitted as unnecessary because the conduct of elections, including the tabulation of votes, the report and return of election materials (supplies), and
canvassing the returns, is governed by Title 6, Election Code.

(3) Section 5(h), V.A.C.S. Article 1118x, refers to the "State Department of Highways and Public Transportation." The revised law substitutes "Texas Department of Transportation" for the reason stated in the reviser's note to Section 201.003 of this code.

Revised Law
Sec. 451.662. COSTS OF BOARD. (a) The alternate municipality shall pay the costs incurred under Section 451.519(a) by members of the board before the authority receives revenue.

(b) The authority, after receiving revenue, shall reimburse the alternate municipality for costs paid under Subsection (a).

(V.A.C.S. Art. 1118x, Sec. 4(c) (part).)

Source Law
(c) ... The principal city ... shall reimburse members for necessary and reasonable expenses incurred by the members or the board prior to receipt of revenues by the authority, but the authority, after receiving revenues, shall reimburse the principal city for all payments and reimbursements made as provided in this subsection.

Reviser's Note
(1) Section 4(c), V.A.C.S. Article 1118x, refers to payments by and to the principal city. References to "alternate municipality" are substituted for references to "principal city" for the reason given in the reviser's note to Section 451.651 of this code.

(2) Section 4(c) also authorizes the payment of members for attendance at meetings by a principal city. This authorization is omitted as repealed because under Section 451.519(c) of this code, alternate cities may not pay a per diem to members. The law from which Section 451.519(c) of this code is derived was enacted after the enactment of Section 4(c). The omitted
provision reads:

[The principal city] shall pay, from taxes or other funds, the sums provided by this subsection for attendance at meetings held before the authority has received any revenues, and . . . .

Revised Law

Sec. 451.663. COMPOSITION OF BOARD ON CONFIRMATION. Except as required by Subchapter K, the composition of the board is not changed by confirmation of the authority. (V.A.C.S. Art. 1118x, Sec. 4(a)(2) (part).)

Source Law

(2) . . . Upon confirmation, the board's composition shall remain the same except to the extent that it conflicts with the requirements of Section 6B of this Act. . . .

Revised Law

Sec. 451.664. COST OF ELECTION. The alternate municipality shall pay the cost of the confirmation and tax election. (V.A.C.S. Art. 1118x, Sec. 5(i).)

Source Law

(i) The cost of the confirmation and tax election shall be paid by the principal city.

Revisor's Note

"Alternate municipality" is substituted in the revised law for "principal city" occurring in Section 5(i), V.A.C.S. Article 1118x, for the reasons given in the revisor's note to Section 451.651 of this code.

Revised Law

Sec. 451.665. EXPIRATION OF UNCONFIRMED AUTHORITY. An authority, the existence of which has not been confirmed, ceases on the earlier of:

(1) the third anniversary of the effective date of the ordinance creating the authority; or

(2) the date the governing body of the alternate
municipality, with the consent of the board, abolishes the
authority. (V.A.C.S. Art. 1118x, Sec. 5(k).)

Source Law

(k) If the continued existence of an authority
is not confirmed by election within three years after
the effective date of the ordinance creating the
authority, the authority ceases to exist on the
expiration of the three years. In addition, the
governing body of a principal city that has created an
authority that has not been confirmed by election may,
with the consent of the board of the authority, abolish
the authority at any time before confirmation or
expiration of the authority under this section.

Revisor's Note

(End of Chapter)

(1) Various sections throughout V.A.C.S. Article
1118x describe a population number that is to be
determined according to the "last preceding or any
future federal census," "most recent federal decennial
census," "most recent decennial census," or "most
recent federal census." The revised law omits all
these references to the census because the references
are unnecessary. Section 311.005(3), Government Code,
defines "population" as population according to the
most recent federal decennial census. That definition
applies to the revised law.

(2) Various sections throughout V.A.C.S. Article
1118x refer to "city." In each of these references the
revised law substitutes the term "municipality" because
the terms have the same meaning and "municipality" is
the term used in the Local Government Code.

(3) Various sections throughout V.A.C.S. Article
1118x refer to the "Comptroller of Public Accounts," "State Comptroller of Public Accounts," or "Comptroller of Public Accounts of the State of Texas." The revised law refers in each of these references only to the "comptroller" because under Sections 312.011 and 403.001, Government Code, in any state statute
"comptroller" means the state comptroller.

(4) Section 1, V.A.C.S. Article 1118x, contains legislative findings relating to the need or justification for the creation of metropolitan rapid transit authorities. The findings are omitted from the revised law as executed. The omitted provision reads:

Art. 1118x
Sec. 1. The legislature finds that:
(a) A dominant part of the state's population is located in its rapidly expanding metropolitan areas which generally cross the boundary lines of local jurisdictions and often extend into two or more counties;
(b) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles which are generally powered by internal combustion engines that emit pollutants into the air, which emissions result in increasing dangers to the public health and welfare, including damage to and deterioration of property as well as harm to persons, and hazards to air and ground transportation;
(c) Such concentration of motor vehicles places an undue burden on existing streets, freeways and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizens and the economic life of the areas;
(d) The proliferation of the use of motor vehicles for passenger transportation in such areas is caused in substantial part by the absence or inefficiency and high cost of mass transit services available to the citizens of such areas, and it is in the public interest to encourage and provide for efficient and economical local mass rapid transit systems in such areas for the benefit and convenience of the people and for the purpose of improving the quality of the ambient air therein and reducing vehicular traffic congestion;
(e) The inalienable right of all natural persons to use the air for natural purposes does not vest in any person the right to pollute the air by artificial means, but such artificial use is subject to regulation and control by the state;
(f) Texas has continuing needs for regional public transportation combined with regional terminal complexes and other facilities which enhance area economic development by creating new jobs, maintaining existing jobs, and generally improving conditions under which a regional
economy may prosper; and a necessary relationship exists between the need for regional economic development facilities and coordinated mass public transportation;

(g) Rapid transit authorities, in conjunction with their principal cities and other affected municipalities, should have necessary powers to obtain, construct, and own stations and terminal complexes which include regional economic development facilities within currently authorized tax levels subject to approval at an election within the authority; and successful development of such complexes will enhance economic development of the area within the boundaries of the authority and will be a beneficial and integral part of the comprehensive regional transit plan for such area; and

(h) It is also a vital part of comprehensive coordinated mass public transportation that certain rapid transit authorities be made secure in their authority to include as part of their comprehensive transit plan parking facilities and the regulation of parking.

(5) Section 6D, V.A.C.S. Article 1118x, is omitted as expired. The provision allows withdrawal from an authority only if the election for withdrawal occurs on or before September 1, 1980. The omitted provision reads:

Sec. 6D. (a) The governing body of an incorporated city or town that is included within the territory of an authority and that has a population more than 90 percent of which resides outside the county in which the majority of the population of the principal city resides may on any date from April 1, 1980, to September 1, 1980, hold an election on the question of whether the city or town shall withdraw from the authority. If a majority of the qualified voters in the city or town voting on the question votes to withdraw from the authority, the governing body shall certify the results of the election to the board of the authority, and the city or town shall withdraw from the authority.

(b) The board shall enter the results on its minutes and adopt an order declaring the withdrawal of the city or town. A certified copy of the order shall be filed with the State Department of Highways and Public Transportation or its successor and the comptroller of public accounts and in the deed records of each county in which the authority is located. The order shall reflect the date of the election, the proposition voted on, the total number of votes cast for and against the proposition in each election unit, the number of votes by which the proposition
was approved in each election unit and
shall be accompanied by a map of the
authority clearly showing the boundaries of
the authority.

(c) Upon actual receipt of the
comptroller of public accounts of
notification of the withdrawal of a city or
town, there shall elapse one whole calendar
quarter prior to the withdrawal becoming
effective. Thereafter, the withdrawal
shall be effective beginning on the first
day of the next calendar quarter following
the elapsed calendar quarter.

(6) The revised law omits Section 18, V.A.C.S.

Article 1118x, providing that the article is severable,
because that provision duplicates Section 311.032,
Government Code (Code Construction Act), applicable to
the revised law, and Section 312.013, Government Code.
These provisions state that a provision of a statute is
severable from each other provision of the statute that
can be given effect. Section 18 reads:

Sec. 18. If any word, phrase,
clause, paragraph, sentence, part, or
provision of this Act or the application
thereof to any person or circumstance shall
be held to be invalid or unconstitutional,
the remainder of the Act shall nevertheless
be valid, and the legislature hereby
declares that this Act would have been
enacted without such invalid or
unconstitutional word, phrase, clause,
paragraph, sentence, part, or provision.

(7) The revised law omits as unnecessary the
portions of Section 19, V.A.C.S. Article 1118x,
relating to the cumulative effect of the article and
the superiority of the article over conflicting
statutes. Each of these provisions is unnecessary. An
accepted general principle of statutory construction
requires a statute to be given cumulative effect with
other statutes unless it provides otherwise or unless
the statutes are in conflict. A further principle of
statutory construction is that a specific and later
enactment prevails over a general and earlier
enactment. These principles are expressed in Chapters
311 and 312, Government Code, applicable to this
The part of Section 19 that is omitted reads:

This Act shall be cumulative of other laws on the subject but insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

CHAPTER 452. REGIONAL TRANSPORTATION AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 452.001. DEFINITIONS

Sec. 452.002. DETERMINATION OF POPULATION

Sec. 452.003. MUNICIPALITIES MAY PROVIDE TRANSPORTATION SERVICES

Sec. 452.004. EXECUTIVE COMMITTEE OF AUTHORITY CONSISTING OF ONE SUBREGION

[Sections 452.005-452.050 reserved for expansion]

SUBCHAPTER B. POWERS OF AUTHORITIES

Sec. 452.051. POWERS APPLICABLE TO CONFIRMED AUTHORITY

Sec. 452.052. NATURE OF AUTHORITY

Sec. 452.053. RESPONSIBILITY FOR CONTROL OF AUTHORITY

Sec. 452.054. GENERAL POWERS OF AUTHORITY

Sec. 452.055. CONTRACTS; GRANTS AND LOANS

Sec. 452.056. OPERATION OF PUBLIC TRANSPORTATION SYSTEM

Sec. 452.057. ACQUISITION OF PROPERTY BY AGREEMENT

Sec. 452.058. USE AND ACQUISITION OF PROPERTY OF OTHERS

Sec. 452.059. EMINENT DOMAIN PROCEEDINGS

Sec. 452.060. AGREEMENT WITH UTILITIES, CARRIERS

Sec. 452.061. FARES AND OTHER CHARGES

Sec. 452.062. INSURANCE

Sec. 452.063. TAX EXEMPTION

Sec. 452.064. LIGHT RAIL SYSTEM: REGULATORY EXEMPTION

Sec. 452.065. ELECTRIC POWER FOR RAIL SYSTEM: CERTAIN AUTHORITIES

Sec. 452.066. ELECTIONS

[Sections 452.067-452.100 reserved for expansion]