

SUBJECT: Creating an advanced transportation district in San Antonio

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 8 ayes — Carter, Bailey, Burnam, Clark, Edwards, Ehrhardt, Hill, Najera
0 nays
1 absent — Hodge

WITNESSES: For — Reba Malone, American Public Transit Association; John Milam, Richard Tankerson, and Lewis Tarver, Jr., VIA Metropolitan Transit
Against — None

BACKGROUND: Voters approved the creation of San Antonio's VIA Metropolitan Transit Authority in 1977 to be funded with a ½-cent sales tax levied in San Antonio and seven other incorporated cities. VIA has the authority to provide public transportation services for the citizens within its service area, which includes almost all of Bexar County and also portions of Comal and Guadalupe counties within the city of Selma. VIA is governed by an 11-member board appointed to staggered two-year terms. Five members are appointed by the city council, three by the commissioners court, and two by suburban mayors.

DIGEST: CSHB 3705 would amend the Transportation Code to allow the board of the VIA Metropolitan Transit Authority to call an election to create an advanced transportation district within the authority's boundaries and to impose a sales tax that the district could use only for advanced transportation purposes. The rate of the sales tax, if approved by voters, would be 1/4 of 1 percent.

The bill would define advanced transportation to include light rail, commuter rail, fixed guideways, high-occupancy vehicle (HOV) lanes, traffic monitoring systems, and other advanced transportation facilities and services, including planning, feasibility studies, and professional and other services in connection with those facilities and services.

The advanced transportation district would have the same powers as the VIA authority under Transportation Code, chapter 451. If a city in the district annexed territory, that territory would become part of the district.

The 11-member VIA board would act as the governing board of the district and would be responsible for managing, operating, and controlling the district. Authority employees acting under the direction of the authority's general manager would conduct the district's business. The district could enter into contracts with the authority or with other private or public entities to conduct its business. An asset of the district would be held in the name of the authority, but the authority would have to keep separate books and accounting records for the district.

At least 120 days before the date of the proposed election, the board would have to provide written notice to the governing board of each city and the commissioners court of each county any part of which was in the authority's boundaries. The authority would have to pay for the election.

The election would have to be conducted so that the votes were tabulated and canvassed separately and the result could be declared in each city and in each unincorporated area of each county in the authority. If a majority of votes cast in San Antonio favored the proposition, the district would be created. The district would include San Antonio and each city and each unincorporated area of each county within the authority in which the majority of votes favored the proposition.

If a district were created, the board would have to adopt an order creating the district. That order would have to include a tabulation of the number of votes cast for or against the proposition in each city and each unincorporated area of a county within the district's boundaries. The order would have to be accompanied by a map of the district.

If the voters of a city or of an unincorporated area of a county did not vote to join the district in the initial election, the governing body of that city or the commissioners court of the county could order an election at a later date on the question of joining the district. Such an election would have to be held in the same manner as the initial election except that the city or county calling the election would have to pay for it.

The combined rate of all sales taxes imposed by the district and all other political subdivisions of the state could not exceed 2 percent in any part of the district. If, after an election was held, the imposition of the district's tax would cause the tax rate of a city or unincorporated area of a county to exceed 2 percent, the election of the participating city or county area would repeal all other local sales taxes except for the sales tax of the VIA authority and a sales tax of not more than 1 percent imposed by a city.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Imposition or repeal of any sales taxes would take effect on the first day of the second calendar quarter beginning after the date the comptroller received a copy of the order canvassing the results of the election.

**SUPPORTERS
SAY:**

CSHB 3705 would allow the VIA Metropolitan Transit Authority to plan for the region's future transportation needs and to take positive steps to ensure that San Antonio will not become a "nonattainment" region under the federal Clean Air Act. The bill also would enable the authority to build a reserve of money for matching funds so that in the future, the authority would be eligible to apply for federal funds provided by the Transportation Equity Act for the 21st Century (TEA-21). A 1/4-cent tax could be imposed only if the region's voters approved it, and each city and portion of Bexar County within the authority's boundaries would vote separately on whether or not they wanted to participate in the district.

Population is growing rapidly in the San Antonio region, and VIA must look for dynamic solutions for traffic congestion problems that will only grow more serious in the future. CSHB 3705 would allow the authority to consider options including light rail, commuter rail, and HOV lanes.

The San Antonio region must have the flexibility to adopt advanced transportation measures that could decrease the region's air pollution. The area already is approaching nonattainment status, according to the Texas Natural Resource Conservation Commission. If measures are not taken to reduce emissions from vehicles in the area, the city could be declared a nonattainment area for not meeting federal air-quality standards. This automatically would restrict development in the area and would result in mandatory regulations

governing all sources of air pollution, including vehicles. This would be very expensive for everyone in the area and could cause Texas to lose federal funds.

VIA now imposes only a 1/2-cent sales tax, and the tax that the district would impose with voter approval would raise the total to 3/4 of a cent. Other major metropolitan transit authorities in Texas impose a full 1-cent tax. VIA has needed to raise money for some time to meet the needs of the region but has been unable to do so because a city within the district's boundaries, Balcones Heights, has reached the 2 percent sales-tax cap because of a tax levied to create a crime control district. Parts of Comal and Guadalupe counties within the city of Selma also have reached the 2 percent cap.

Since state law requires that the authority tax uniformly within its boundaries, VIA has been unable to increase its tax rate. CSHB 3705 would give the city a way to do this. If Balcones Heights, for example, chose to join the district, the city's current sales taxes would be repealed except for a 1-cent tax by the city and the 1/4-cent tax imposed by the district. Any city could choose not to join the district with no loss of basic service provided by the authority.

OPPONENTS
SAY:

The Legislature should not allow the VIA Metropolitan Transit Authority to create a district that could impose more sales taxes on people of the region. Even though the taxes would have to be voted on, voters might not realize that this money is not needed urgently but would merely be for future plans that might or might not come to fruition. It would be unwise to give a transit authority *carte blanche* for "advanced transportation," a category so broad that the money might end up being wasted on unnecessary planning and feasibility studies that would come to nothing.

There is no guarantee, for example, that San Antonio would be able to draw down federal funds with the money when TEA-21 is reauthorized. The U.S. Department of Transportation may require areas to compete for some of these federal funds, and VIA no longer would be guaranteed access to these monies just by coming up with matching funds. Some areas within the authority's boundaries also fear that if they did not opt to join the district, they would not receive the same level of service as they did before and would not be included in any future improvements made by the authority.

NOTES:

The original bill would have allowed the authority to call an election to impose a sales tax for local development rather than for advanced transportation purposes and would have provided that a sales tax of 1/4 cent would increase to 1/2 cent on January 1, 2011. The original bill also would have required the comptroller to maintain an account of the sales tax collected by each city and each unincorporated area of a county and to provide monthly reports to the governing body of the district.

The companion bill, SB 769 by Madla, which is almost identical to CSHB 3705, passed the Senate on the Local and Uncontested Calendar on April 18 and was reported favorably by the House Urban Affairs Committee on April 21, making it eligible to be considered in lieu of HB 3705.