

SUBJECT: Consolidating state public transportation in the Transportation Department

COMMITTEE: Government Reform — committee substitute recommended

VOTE: 4 ayes — Swinford, Allen, Casteel, Cook
0 nays
3 absent — Gallego, Callegari, Smith

SENATE VOTE: On final passage, March 26 — voice vote (Shapleigh recorded nay; West recorded present, not voting)

WITNESSES: No public hearing

BACKGROUND: Several state health and human services (HHS) agencies offer transportation services to elderly and disabled Texans on a program-specific basis. For example, the Department of Mental Health and Mental Retardation (MHMR) may offer transportation services in an area to community residents with mental retardation, and the Department of Human Services (DHS) may offer transportation services in the same area for disabled residents.

The Texas Transportation Commission (TTC) is the appointed governing body for the Texas Department of Transportation (TxDOT), which manages public transportation grant programs along with its primary function of contracting highway construction and repair and performing maintenance.

DIGEST: CSSB 314 would require contracting for public transportation between TxDOT and all state HHS agencies, including MHMR, DHS, the Health and Human Services Commission, Texas Department of Health (TDH), Texas Department of Protective and Regulatory Services, Texas Rehabilitation Commission, Texas Commission on Alcohol and Drug Abuse, Commission for the Blind, Department on Aging, and Texas Workforce Commission. TxDOT would become the central contract manager for transportation services available for the HHS agencies' eligible clients. TTC also could require by rule any state agency responsible for ensuring public transportation services to contract with TxDOT to assume all of that agency's transportation

service responsibilities.

TxDOT could contract with any public or private transportation provider for public transportation services. TTC could increase or reduce grants to any public transportation provider (PTP) based on the provider's compliance with the bill's provisions, regardless of any other law. TTC also could consider whether providers in geographic areas were in full compliance with the bill in fulfilling TTC's other responsibilities to those areas of the state.

The bill would define a PTP as any governmental entity or entity receiving government financial assistance to provide public transportation services. The definition would exclude private carriers not receiving public funds. Public transportation services would exclude intercity rail or bus service, commercial air and water transportation, and nonstop service to or from another state.

TTC could require any PTP to submit detailed information on its services, including revenues, routes, maps, categories and numbers of customers served, and equipment use and condition. TxDOT could require that all or part of the vehicles used to provide services met specific emissions standards, which could vary geographically. This provision would not apply to transportation authorities. TTC could not direct transportation authorities' planning or operations except with regard to state-funded HHS programs.

TxDOT would have to identify service gaps and overlaps, including more effective privately funded resources, underused publicly owned equipment, and inefficient service provision. TxDOT would have to encourage providers to agree on allocating services and service areas to eliminate waste and maximize efficiency. TxDOT could develop an interim service plan in the absence of an agreed plan.

TxDOT would have to contract with and promote the use of private-sector transportation resources to the maximum extent feasible. TxDOT could contract with any public or private transportation provider or regional transportation broker to provide public transportation services.

TTC would have to appoint the nine-member Public Transportation Advisory Committee (PTAC) now appointed by the governor, lieutenant governor, and House speaker. The PTAC now includes five public members and one each

representing rural PTPs, large and small urban municipal transit systems, and providers for the elderly and disabled. The bill would change the committee's composition to four members representing a diverse cross-section of PTPs, three representing diverse users, and two representing the public. The committee would have to advise TTC on implementing CSSB 314, as well as on service providers' needs and problems, including fund allocation.

TxDOT would have to encourage cooperation among transportation providers, regional transportation brokers, and actual and potential clients to improve service delivery, enhance access, operate more efficiently, control costs, and increase service levels.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

A wide array of entities provide a variety of public transportation services throughout Texas. Funding can be federal, state, local, or a combination of all three and may be allocated among many agencies. Services are not centrally coordinated. These conditions have resulted in waste, inefficiency, lost opportunities, and consumer confusion. Functions such as contract management and funding allocation are duplicative and fragmented. Consequently, passenger service is well below optimum levels.

Transportation is an area of significant duplication among HHS agencies. Many different programs offering transportation to their target populations may visit the same geographic area. It would be more efficient for one service provider to visit a neighborhood and pick up all HHS clients than to do so by agency. The comptroller has estimated that outsourcing the management of TDH's Medical Transportation Program (MTP) to a transportation "broker" could save the state about \$4.3 million in general revenue related-funds during the next biennium.

The coordination proposed by CSSB 314 is essential to make these savings a reality. TxDOT should coordinate this type of centralized service delivery, because it already serves these clients, works with some of the same providers, and manages public transportation grant programs. TxDOT's status as a large state- and federally-funded agency with vast resources would enable

it to bring economies of scale to public transportation services. Individual agencies must contract with providers separately. In 2002, the state auditor estimated that better rate negotiation in the MTP contract alone could save \$1.7 million. TxDOT could combine health-related transportation services into its existing contract structure at considerable savings to the state, with much less geographic overlapping.

TxDOT must have additional authority to correct inequities in the provision of public transit services to rural and small urban communities. Current funding formulas exacerbate this problem. Instead of perpetuating the status quo that has produced “turf battles” among various providers, CSSB 314 would allow TxDOT to take a “big picture” approach by negotiating with all stakeholders. If the existing provider network cannot fill in service gaps more cost-effectively, TxDOT must be able to pursue other solutions to meet the needs of underserved populations.

TxDOT foresees no interruptions in health-related public transit services during the transition period, which likely would be handled by interagency memoranda of understanding. Consumers would benefit from easier access to services. Instead of having to contact agencies, await eligibility verification, and then schedule services with providers, riders could call TxDOT once and have all those functions performed at the same time.

While the risk of user fraud in these services is low, the opportunity for fraud is greater among providers, whose health-related service contracts total about \$56 million. Consolidating services under TxDOT could be valuable for accountability alone. CSSB 314 would allow TxDOT to contract with transportation brokers, if that proved to be a viable option.

HHSC would contract with TxDOT to operate the MTP, the largest segment of the health-care-related public transit network. The contract could be negotiated so that HHSC would retain oversight of the MTP, bringing its familiarity with Medicaid to bear and ensuring continued compliance with all pertinent federal regulations. Merely transferring the MTP to HHSC would represent a piecemeal approach to a larger problem that should be addressed across the entire public health-care transit network.

OPPONENTS
SAY:

CSSB 314 would give TTC and TxDOT too much discretion and authority over an area in which they lack sufficient experience and expertise. This bill, in conjunction with similar bills proceeding through the legislative process, nearly would eradicate local control over small urban and rural public transportation.

Small urban and rural transit districts, but not metropolitan and other transit authorities, would be affected adversely by proposed provisions giving TTC more control of public transit funding. “Notwithstanding any other law...,” TTC could increase or decrease grants to providers based on whether TTC found they were complying fully with the law, as amended by the bill. TTC’s control would extend over small urban and rural providers, but not over metropolitan and other transit authorities. Metropolitan transit authorities have local, dedicated sales taxes and directly receive their federal funding.

CSSB 314 would codify TTC actions of the previous two years allowing it to require that transit vehicles operating in areas served by small urban and rural transit districts meet specific emission standards stricter than those allowed by state law for air-quality nonattainment areas, as administered by the Texas Commission on Environmental Quality. The bill would exempt metropolitan and other transit authorities, where pollution is usually greatest, from air pollution reduction requirements. The bill also would allow TxDOT to place more stringent air-pollution standards on vehicles operated by rural and small urban transit providers than are required for all other transit vehicles, including those owned by metropolitan and other transit authorities. Such a requirement could force the rural and small urban transit providers to park some of their fleets or spend considerable capital to retrofit their vehicles. This would put an undue burden on small urban transit districts, rural transit providers, and private providers.

The “elimination of overlaps” provision allowing TxDOT, in the absence of an agreed-upon transit service plan, to develop an interim service plan for geographic areas, would not guarantee that TxDOT would not change, reduce, alter, or eliminate transit services as it chose. For that matter, TxDOT could change the configuration of the geographic service areas themselves. Again, this would affect only small urban transit districts, rural transit districts, or private providers, and not metropolitan or other transit authorities.

PTAC is an independent advisory body statutorily charged with the responsibility of advising TTC on methods for allocating state public transportation money and on rules involving public transportation, before and after their adoption by TTC. CSSB 314 would change PTAC to a committee appointed by the people they are supposed to advise — a classic example of “the fox guarding the henhouse.”

Brokerage contracts are causing problems in other states and are not a panacea for administrative costs. Large, out-of-state brokers might not provide sufficient program oversight. Using passes and increasing competition would be better methods of increasing service levels.

OTHER
OPPONENTS
SAY:

Not all public transportation programs are created equal, especially those related to health care. TxDOT has no expertise in dealing with Medicaid, which pays for much of the MTP and other health-care-related transit service programs. The state’s Medicaid office is within HHSC. If its contract with TxDOT were not negotiated properly, or if TxDOT did not comply fully with all Medicaid rules, the state’s share of federal funding for these programs could be jeopardized.

Most of the MTP’s more than 100,000 users are Medicaid clients. They would be served better by transferring the MTP from TDH to HHSC and by requiring capped contracts with transportation brokers to reduce administrative costs, as SB 314 originally proposed.

NOTES:

According to the fiscal note, CSSB 314 would save the state \$4.3 million in general revenue matching funds for Medicaid during fiscal 2004-05 and about \$12.9 million through fiscal 2008 by eliminating 77 full-time employees in fiscal 2004 and 153 in each subsequent year.

The Senate engrossed version of SB 314 would have transferred the MTP from TDH to HHSC and would have required HHSC to contract for program management with a single statewide transportation broker or with regional brokers.

Most provisions of CSSB 314 are contained in CSSB 1952 by Ellis, which is on today’s House Emergency Calendar. The House has considered similar bills previously this session. On April 28, the House approved HB 2292 by

Wohlgemuth and Heflin, which contains provisions similar to those of CSSB 314. HB 2292 has been placed on the Senate Intent Calendar. On May 9, the House amended CSHB 3588 by Krusee by adding CSHB 3343 by Wohlgemuth and Turner, which also contains provisions similar to those of CSSB 314. On May 10, the House passed HB 3343, which was heard May 23 by the Senate Infrastructure Development and Security Committee and left pending.