

BILL ANALYSIS

Senate Research Center

S.B. 1263
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

First, mass transit agencies are not able to participate in the state's contract travel services. The state's contract travel services program includes state credit cards, travel agencies, airlines, vehicles, Internet-based reservation and ticketing, lodging, and other modes and necessities of state business-related travel. Because the comptroller of public accounts negotiates better prices for these services based on a volume basis, officers and employees are usually able to travel for the lowest overall cost. However, mass transit agencies are not able to participate in this cost-effective program.

Second, under current circumstances, certain mass transit authorities would need to call upon commissioned peace officers to conduct fare inspections and issue citations to individuals who do not show proof of payment for boarding a bus or train. The activities of these peace officers would be better utilized in the enforcement of more serious criminal behavior against persons or the property of these mass transit authorities. It would be more efficient for these mass transit authorities to utilize noncommissioned personnel in the enforcement of fares, but there is no statutory mechanism that would permit the engagement of fare enforcement officers that would give them proper jurisdiction to enforce fares. Additionally, this offense is a theft of service, which is considered a crime of moral turpitude.

Third, the Transportation Code provides that commissioned peace officers employed by certain mass transit authorities have enforcement jurisdiction anywhere in the service area of these authorities. However, there is some doubt that the Transportation Code is clear enough to provide that contract commissioned peace officers engaged by certain mass transit authorities have enforcement jurisdiction in a part of the service area that is not their usual jurisdiction.

S.B. 1263 amends current law relating to certain mass transit entities.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 451.0611(e) and (f), Transportation Code, as follows:

(e) Authorizes the notice required by Subsection (d)(2) (relating to failure to pay the appropriate charge for use of public transportation system) to be included in a citation issued to the person under Article 14.06 (Must Take Offender Before Magistrate), Code of Criminal Procedure, or under Section 451.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) Provides that an offense under Subsection (d) is a Class C misdemeanor and is not a crime of moral turpitude.

SECTION 2. Amends Subchapter B, Chapter 451, Transportation Code, by adding Section 451.0612, as follows:

Sec. 451.0612. FARE ENFORCEMENT OFFICERS IN CERTAIN AUTHORITIES.

(a) Authorizes an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 to employ persons to reserve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system and issuing a citation to a person described by Section 451.0611(d)(1) (relating to using public transportation system without having evidence of paying the fee being an offense).

(b) Requires a person, before commencing duties as a fare enforcement officer, to complete a 40-hour training course approved by the authority that is appropriate to the duties required of a fare enforcement officer.

(c) Requires a fare enforcement officer, while performing duties, to wear a distinctive uniform that identifies the officer as a fare enforcement officer and work under the direction of the authority's manager of safety and security.

(d) Authorizes a fare enforcement officer to request evidence showing payment of the appropriate fare from passengers of the public transportation system, request personal identification from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer, request that a passenger leave the public transportation system if the passenger does not possess evidence of payment of the appropriate fare, and file a complaint in the appropriate court that charges the person with an offense under Section 451.0611(d).

(e) Prohibits a fare enforcement officer from carrying a weapon while performing duties under this section.

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

SECTION 3. Amends Section 451.108(c), Transportation Code, to authorize a peace officer commissioned under this section, except as provided by Subsections (d) and (e), or a peace officer contracted for employment by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 to make certain arrests, enforce certain laws, and provide certain services.

SECTION 4. Amends Section 451.061, Transportation Code, by amending Subsection (d) and adding Subsection (d-1), as follows:

(d) Creates an exception under Subsection (d-1).

(d-1) Provides that the establishment of or a change to fares, tolls, charges, rents, and other compensation by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000, takes effect immediately on approval by a majority vote of the board, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

SECTION 5. Amends Section 451.071, Transportation Code, by adding Subsections (g) and (h), as follows:

(g) Provides that this section does not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement to build, operate, or maintain a fixed rail transit system for another entity. Authorizes the authority, notwithstanding Subsection (d) (relating to the building and operation of a rail plan), to spend funds of the authority to enter into a contract and operate under that contract to build, operate, or

maintain a fixed rail transit system if the other entity will reimburse the authority for the funds.

(h) Provides that a referendum held by a political subdivision, the authority, or an entity other than the authority at which funding is approved for a fixed rail transit system is considered to meet the requirements of Subsections (d) and (e) (relating to a subsequent referendum under Subsection (d) and Section 451.3625 (Bonds for Rail System; Certain Authorities) if the notice for the election called by the political subdivision, the authority, or other entity contains the description required by Subsection (c) (relating to the notice of an election called under this section). Authorizes the referendum to allow for financial participation of more than one political subdivision or entity. Authorizes the authority to only spend funds of the authority if the referendum authorizes that expenditure.

SECTION 6. Amends Subchapter J, Chapter 451, Transportation Code, by adding Sections 451.458, 451.459, and 451.460, as follows:

Sec. 451.458. INTERNAL AUDITOR. (a) Provides that this section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) Requires the board to appoint a qualified individual to perform internal auditing services for a term of five years. Authorizes the board to remove the auditor only on the affirmative vote of at least three-fourths of the members of the board.

(c) Requires the auditor to report directly to the board.

Sec. 451.459. SUNSET REVIEW. (a) Provides that an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but is prohibited from being abolished under that chapter. Requires that the review be conducted as if the authority were scheduled to be abolished September 1, 2011. Requires that another review, in addition, be conducted as if the authority were scheduled to be abolished September 1, 2017. Requires that the reviews conducted under this section include an assessment of the governance, management, and operating structure of the authority and the authority's compliance with the duties and requirements placed on it by the legislature.

(b) Requires the authority to pay the cost incurred by the Sunset Advisory Commission in performing a review of the authority under this section. Requires the Sunset Advisory Commission to determine the cost, and the authority to pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Sec. 451.460. ANNUAL REPORT. (a) Provides that this section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) Requires the authority to provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county.

SECTION 7. Amends Section 451.5021, Transportation Code, by amending Subsections (a), (b), (d), and (e), and adding Subsections (b-1), (d-1), (d-2), and (d-3), as follows:

(a) Provides that this section applies only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 750,000, rather than in which each member of the governing body of the principal municipality is elected at large.

(b) Sets forth the manner in which members of the board are appointed, rather than sets forth that the board is composed of seven members who are appointed in a certain manner.

(b-1) Provides that notwithstanding Section 451.505 (Board Terms), members of the board serve staggered three-year terms, with the terms of two or three members, as applicable, expiring June 1 of each year.

(d) Provides that a person appointed under Subsection (b)(1) (relating to composition of the board), (3) (relating to composition of the board), or (5) (relating to composition of the board), except as provided by Subsection (b)(2) (relating to composition of the board) must meet certain requirements, rather than that a person appointed under Subsection (b)(2), (3), (4) (relating to composition of the board), or (5) must meet certain requirements.

(d-1) Requires at least two members appointed under Subsections (b)(1), (6) (relating to composition of the board), and (7) (relating to composition of the board) to be qualified voters residing in the principal municipality.

(d-2) Requires that a person appointed under Subsection (b)(3) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the principal county or be a qualified voter of the principal county.

(d-3) Requires that a person appointed under Subsection (b)(4) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority; or be a qualified voter of the county, other than the principal county, that has the largest population of the counties in the authority.

(e) Provides that a panel appointing a member under Subsection (b)(5), rather than this section, operates in the manner prescribed by Section 451.503 (Appointments Panel).

SECTION 8. Amends, Section 451.505(b), Transportation Code, to delete existing text providing that the terms of members of a board are staggered if the authority was confirmed before July 1, 1985, and has a principal municipality with a population of less than 750,000.

SECTION 9. Repealer: Sections 451.5021(g) (relating to application of this section to composition of the board) and (h) (relating to appointments to the board).

SECTION 10. (a) Provides that this section applies only to a member of the board of a metropolitan rapid transit authority created before July 1, 1985, in which the principal municipality has a population of 750,000 or less.

(b) Provides that the term of a board member that is scheduled, under the law as it existed before the effective date of this act, to expire after the effective date of this Act but before January 1, 2010, is extended to December 31, 2009; and on or after January 1, 2010, expires on the date the term was scheduled to expire under this law as it existed before the effective date of this Act.

(c) Provides that as soon as practicable on or after the effective date of this Act, but not later than December 31, 2009, the persons and entities specified in Section 451.5021, Transportation Code, as amended by this Act, are required to appoint the members of the board in compliance with that section, as amended, to serve terms that begin, as applicable and as subject to Subsection (d) of this section, January 1, 2010; or the day after a term expires under Subdivision (2), Subsection (b) of this section.

(d) Sets forth the manner in which a vacancy created because of the expiration of a term under Subsection (b) of this section is filled.

(e) Requires the members of the board appointed under Subsection (c) of this section to draw lots to determine which terms of two members expire June 1, 2011, which terms of

three members expire June 1, 2012, and which terms of three members expire June 1, 2013.

(f) Requires the metropolitan planning organization, as soon as practicable after the metropolitan planning organization specified by Section 451.5021(b)(8), Transportation Code, as added by this Act, determines that subdivision applies to the metropolitan rapid transit authority, to appoint one member of the board of the authority for a term to expire June 1, 2011, or if that date has passed, the following six-year anniversary of that date; and one member of the board of the authority for a term to expire June 1, 2013, or if that date has passed, the following six-year anniversary of that date.

SECTION 11. Effective date: September 1, 2009.