

BILL ANALYSIS

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S.B. 1251
By: Brimer
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law provides for certain formations of regional mobility authorities (mobility authority). Existing transportation authorities of various types have expressed concern regarding their treatment under these mobility authorities.

As proposed, S.B. 1251 provides necessary, but permissive, accommodations to facilitate the formation of a mobility authority. It provides for the transfer of assets from one authority to another or to a new authority subject to the constitution, property, and contract rights and the effect on bonds; provides for dissolution of an authority and transfer of assets and debts; allows for a proposal of a structure for the initial board of directors; allows the transfer of turnpike projects to the authority subject to property and contract rights and effects on bonds; and sets forth other necessary provisions and accommodations to facilitate the formation of an authority.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Transportation Commission in SECTION 1 (Section 284.011, Transportation Code) and in SECTION 2 (Section 366.036, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 284, Transportation Code, by adding Section 284.011, as follows:

Sec. 284.011. TRANSFER OF ASSETS. (a) Authorizes a county, acting through the commissioners court of the county, to submit a request to the Texas Transportation Commission (commission) for authorization to create a regional mobility authority (mobility authority) under Chapter 370 (Regional Mobility Authorities) and to transfer all projects under this chapter to the mobility authority if certain conditions are met.

(b) Authorizes the county to submit to the commission a proposed structure for the initial board of directors of the mobility authority and a method for appointment to the board of directors at the creation of the mobility authority. Provides that subsequent appointments to the board of directors are subject to the requirements of Subchapter F (Governance), Chapter 370.

(c) Authorizes the county, after commission authorization, to transfer each of its projects under this chapter to the mobility authority to the extent authorized by the Texas Constitution if property and contract rights in the projects and bonds issued for the projects are not affected unfavorably.

(d) Requires the commission to adopt rules governing the creation of a mobility authority and the transfer of projects under this section.

SECTION 2. Amends Subchapter 366, Transportation Code, by adding Subchapter H, as follows:

SUBCHAPTER H. DISSOLUTION OF AUTHORITY

Sec. 366.036. DISSOLUTION OF AUTHORITY; TRANSFER OF ASSETS. (a) Authorizes a regional tollway authority (tollway authority) to submit a request to the commission for authorization to dissolve the tollway authority and to create a mobility authority under Chapter 370 if certain conditions are met.

(b) Authorizes the tollway authority to submit a proposed structure for the initial board of directors of the mobility authority and a method for appointment to the board of directors at the creation of the mobility authority. Provides that subsequent appointments to the board of directors are subject to the requirements of Subchapter F, Chapter 370.

(c) Authorizes the tollway authority, after commission authorization, to transfer each of its projects under this chapter to the mobility authority to the extent authorized by the Texas Constitution if property and contract rights in the projects and bonds issued for the projects are not affected unfavorably.

(d) Requires the commission to adopt rules governing the creation of a mobility authority and the transfer of projects under this section.

SECTION 3. Amends Section 370.003, Transportation Code, to redefine "transportation project" and define "mass transit," "service area," "transit provider," and "transit system."

SECTION 4. Amends Section 370.033, Transportation Code, by amending Subsections (a), (k), and (m) and adding Subsection (o), as follows:

(a) Authorizes a mobility authority, through its board, to install, construct, or contract for the construction of public utility facilities, including for transit system purposes as provided by Sections 370.351(e) and (f), direct the time and manner of construction of a public utility facility in certain areas of a transportation project, or request the removal or relocation of a public utility facility in certain areas of a transportation project.

(k) Makes a conforming change.

(m) Authorizes the Texas Mobility Fund, or the state highway fund, if a mobility authority receives money from the general revenue fund, to use the money only for certain actions for a turnpike project under Section 370.003(14)(A) or (D) (Definitions), or a transit system under Section 370.351.

(o) Prohibits a mobility authority from providing a transit system in a service area where another transit provider has implemented taxing authority unless the service is provided under a written agreement with the transit provider or under Section 370.186.

SECTION 5. Amends Section 370.170(a), Transportation Code, to make a conforming change.

SECTION 6. Amends Sections 370.181(d) and (e), Transportation Code, to make conforming changes.

SECTION 7. Amends Chapter 370, Transportation Code, by adding Subchapters I and J, as follows:

SUBCHAPTER I. TRANSIT SYSTEMS

Sec. 370.351. TRANSIT SYSTEMS. (a) Authorizes a mobility authority to construct, own, operate, and maintain a transit system.

(b) Requires a mobility authority to determine each transit route, including transit route changes.

(c) Provides that if a mobility authority contracts with another entity to construct, maintain, or operate electric buses operated by the authority under this chapter, the electric bus system is not subject to any state law regulating or governing the

design, construction, or operation of a railroad, railway, street railway, street car, or interurban railway.

(d) Provides that for the purposes of ownership or transfer of ownership of an interest in real property, an electric bus system operating under this chapter on property previously used by a railroad, railway, street railway, or interurban railway is a continuation of an existing rail use.

(e) Authorizes a mobility authority, if it establishes a transit system that includes or is to include bus service propelled by electric power in a service area all or part of which is served by the electric power distribution systems of more than one electric utility company or municipally owned electric utility system, to exercise certain powers.

(f) Authorizes the parties to a contract made under Subsection (e)(3) to fulfill the terms of the contract notwithstanding any order or rule of the Public Utility Commission of Texas with respect to certification, except that any supply of power or energy by a utility into the service area of another utility is required to be provided over transmission or distribution lines owned by a mobility authority.

(g) Provides that this chapter does not prohibit an authority, municipality, or transit provider from providing any service that complements a transit system, including providing parking garages, special transportation for certain persons, or medical transportation services.

Sec. 370.352. PUBLIC HEARING ON FARE AND SERVICE CHANGES. (a) Defines "service change," "transit revenue vehicle mile," "transit route," and "transit route mile."

(b) Requires a mobility authority to hold a public meeting on certain fare and service changes, except as provided by Section 370.353.

(c) Requires a mobility authority to hold the public hearing required by Subsection (b) before the cumulative amount of service changes in a fiscal year equals a percentage amount described in Subsection (b)(2)(A) or (B).

Sec. 370.353. PUBLIC HEARING ON FARE AND SERVICE CHANGES: EXCEPTIONS. (a) Defines "experimental service change."

(b) Provides that a public hearing under Section 370.352 is not required for certain actions.

(c) Authorizes a hearing on an experimental service change in effect for more than 180 days to be held before or while the experimental services change is in effect and provides that the hearing satisfies the requirement for a public hearing if the hearing notice required by Section 370.354 states that the change may become permanent at the end of the effective period. Requires the service that existed before the change, if a hearing is not held before or while the experimental service change is in effect, to be reinstated at the end of the 180th day after the change became effective and a public hearing to be held in accordance with Section 370.352 before the experimental service change may be continued.

Sec. 370.354. NOTICE OF HEARING ON FARE OR SERVICE CHANGE. (a) Requires the mobility authority, after calling a public hearing required by Section 370.352, to publish and post notice by a certain procedure.

(b) Requires the notice to contain certain information.

(c) Provides that the requirement for a public hearing under Section 370.352 is satisfied at a public hearing required by federal law if certain requirements are met and the proposed fare or service change is addressed at the meeting.

Sec. 370.355. CRIMINAL PENALTIES. (a) Authorizes a mobility authority by resolution to prohibit the use of the transit system by a person who fails to possess evidence showing that the appropriate fare for the use of the system has been paid and to establish reasonable and appropriate methods, including using peace officers under Section 370.181(c), to ensure that persons using the transit system pay the appropriate fare for that use.

(b) Authorizes a mobility authority by a resolution to provide that a fare for or charge for the use of the transit system that is not paid incurs a penalty, not to exceed \$100.

(c) Requires a mobility authority to post signs designating each area in which a person is prohibited from using the transit system without possession of evidence showing that the appropriate fare has been paid.

(d) Provides that a person commits an offense if the person uses the transit system without paying the appropriate fare or fails to pay the appropriate fare or other charge and any penalty within 30 days of being notified of the amount of fare or charge and penalty.

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

(f) Provides that an offense under Subsection (d) is a Class C misdemeanor.

(g) Provides an offense under Subsection (d) is not a crime of moral turpitude.

SUBCHAPTER J. ACQUIRING TRANSIT SYSTEMS

Sec. 370.361. TRANSFER OF TRANSIT SYSTEMS. (a) Authorizes a mobility authority to request a transit provider to transfer the provider's transit system to the authority if the board determines that the traffic needs of the counties in which the authority operates could be most efficiently and economically met by the transfer.

(b) Authorizes the governing body of the transit provider, if a mobility authority makes a request under Subsection (a), to authorize the mobility authority to solicit public comment. Requires the mobility authority to conduct a public hearing in each county in the transit provider's services area if authorized by the governing body of the transit provider. Requires notice of the sharing to be published in the Texas Register, one or more newspapers of general circulation in the counties in the transit provider's area, and a newspaper, if any published in the counties of the requesting authority. Requires the notice to also solicit written comments on the proposed transfer.

(c) Authorizes the board of directors of a mobility authority (board) to approve the acquisition of the transit provider if the governing body of the transit provider approves transfer of its operations to the mobility authority and agrees to dissolve. Requires the board, before approving the acquisition, to consider public comments received under Subsection (b).

(d) Requires the governing body, if the transfer is approved under Subsection (c), to transfer to the mobility authority all property, funds, and employees of the transit provider.

(e) Requires the mobility authority to assume all debts or other obligations of the transferred transit provider in connection with the acquisition of property under Subsection (d).

(f) Requires the mobility authority to continue to collect any existing sales and use tax at a permissible rate that does not exceed the rate approved by the voters who reside in the service area of the transferred transit provider for use in that taxing area.

(g) Requires that the mobility authority, notwithstanding any other state law, to continue to collect any state or federal funding for which the transferred transit provider was eligible and receiving.

Sec. 370.362. SALES AND USE TAX. (a) Authorizes a mobility authority, if an authority acquires a transit provider with taxing authority, to impose a sales and use tax at a permissible rate that does not exceed the rate approved by the voters who reside in the services area of the transit provider's transit system at an election under this subchapter.

(b) Authorizes the mobility authority by resolution to take certain actions.

(c) Requires a mobility authority, if an authority orders an election, to publish notice of the election in a newspaper of general circulation in the territory of 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.

(d) Requires a resolution ordering an election and the election notice required by Subsection (c) to show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts.

(e) Requires a copy of the election notice required by Subsection (c) to be furnished to the commission and the comptroller.

(f) Provides that the permissible rates for a sales and use tax imposed under this subchapter are one-quarter of one percent or one-half of one percent.

(g) Provides that Chapter 322 (Sales and Use Taxes for Special Purpose Taxing Authorities), applies to a sales and use tax imposed under this subchapter.

Sec. 370.363. MAXIMUM TAX RATE. (a) Prohibits a mobility authority from adopting a sales and use tax rate, including a rate increase, that when combined with rates of all sales and use taxes imposed by all political subdivisions of this state having territory in the service area of the transferred transit system exceeds two percent in any location in the service area.

(b) Provides that an election to approve a sales and use tax or increase the rate of an authority's sales and use tax has no effect in certain circumstances.

Sec. 370.364. ELECTION TO CHANGE TAX RATE. (a) Requires the ballots, at an election ordered under Section 370.362(b)(2), to be printed with certain text, to permit voting for or against the proposition.

(b) Provides that the increase or decrease in the tax rate becomes effective only if it is approved by a majority of the votes cast.

(c) Requires a notice of the election and a certified copy of the order canvassing the election results to be sent to the commission and the comptroller and filed in the deed records of the county.

Sec. 370.365. SALES TAX: EFFECTIVE DATES. (a) Provides that a sales and use tax implemented under this subchapter takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives a copy of the order required to be sent under Section 370.364(c).

(b) Provides that an increase or decrease in the rate of a sales and use tax implemented under this subchapter takes effect on certain dates.

SECTION 8. Effective date: upon passage or September 1, 2005.