

AN ACT

relating to management of certain metropolitan rapid transit authorities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 451, Transportation Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. ADDITIONAL MANAGEMENT PROVISIONS FOR CERTAIN AUTHORITIES

Sec. 451.131. APPLICABILITY. This subchapter applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than one million.

Sec. 451.132. FIVE-YEAR CAPITAL IMPROVEMENT PLAN. (a) The board shall adopt a five-year plan for capital improvement projects that supports the strategic goals outlined in Section 451.135 and that:

(1) describes planned projects, including type and scope;

(2) prioritizes the projects;

(3) addresses proposed project financing, including any effect a project may have on ongoing operational costs;

(4) identifies sources of funding for projects, including local and federal funds; and

(5) establishes policies for projects, including policies on:

- 1 (A) planning;
- 2 (B) approval;
- 3 (C) cost estimation;
- 4 (D) project reports;
- 5 (E) expense tracking;
- 6 (F) participation of historically underutilized
7 businesses; and
- 8 (G) cost-benefit analyses.

9 (b) The board shall hold a public meeting on a proposed
10 capital improvement plan before adopting the plan and must make the
11 proposed plan available to the public for review and comment.

12 (c) The board shall annually reevaluate and, if necessary,
13 amend the capital improvement plan to ensure compliance with this
14 section.

15 (d) The capital improvement plan should, as appropriate,
16 align with the long-range transportation plan of the metropolitan
17 planning organization that serves the area of the authority.

18 (e) The board may not adopt a plan for participation of
19 historically underutilized businesses in capital improvement
20 projects that require a quota or any similar requirement. The board
21 may not conduct a capital improvement project in a way that has the
22 effect of creating a quota for the participation of historically
23 underutilized businesses.

24 Sec. 451.133. OPERATING EXPENSES AND CAPITAL EXPENDITURES.

25 (a) An authority may not spend for capital improvements money in
26 excess of the total amount allocated for major capital expenditures
27 in the annual budget.

1 (b) The board shall adopt rules requiring each major
2 department of the authority to report quarterly on operating
3 expenses and capital expenditures of the department.

4 (c) The board shall establish a system for tracking the
5 progress of the authority's capital improvement projects.

6 (d) The board shall maintain, update, and post on the
7 authority's Internet website accounting records for each authority
8 account, including:

9 (1) the account's balance at the end of the fiscal
10 year;

11 (2) deposits to the account;

12 (3) account expenditures; and

13 (4) interest income to the account.

14 Sec. 451.134. OPERATING RESERVE ACCOUNT. (a) The board
15 shall establish, in an account separate from other funds, a reserve
16 account in an amount that is not less than an amount equal to actual
17 operating expenses for two months.

18 (b) The board shall adjust the amount held in the reserve
19 account at least once annually based on the authority's actual
20 operating reserves for the 12 months immediately preceding the
21 adjustment.

22 (c) The board may make an expenditure from the reserve
23 account that causes the balance in the account to be less than the
24 amount required under Subsection (b) only if the board considers
25 the expense necessary to address circumstances that could not have
26 been planned for or anticipated. The board shall adopt criteria for
27 expenditures under this subsection.

1 (d) If reserve funds are spent under Subsection (c), the
2 board shall, as soon as practicable, restore the balance of the
3 reserve account to at least the amount in the account at the
4 beginning of the fiscal year in which the spending occurred.

5 (e) The board shall maintain, update, and post on the
6 authority's Internet website accounting records of the reserve
7 account's:

8 (1) balance at the end of the fiscal year;

9 (2) deposits;

10 (3) expenditures; and

11 (4) interest income.

12 Sec. 451.135. STRATEGIC PLAN. (a) The board shall adopt a
13 strategic plan that establishes the authority's mission and goals
14 and summarizes planned activities to achieve the mission and goals.

15 (b) The plan must set policies and service priorities to
16 guide the authority in developing a budget and allocating
17 resources.

18 (c) The plan should, as appropriate, align with the
19 long-range transportation plan of the metropolitan planning
20 organization that serves the area of the authority.

21 (d) The board shall annually reevaluate and, if necessary,
22 amend the plan to ensure compliance with this section.

23 Sec. 451.136. RAIL SAFETY PLAN AND REPORTS. (a) The board
24 shall adopt and the general manager shall implement a rail safety
25 plan in accordance with federal and industry standards for all
26 authority rail activities, including commuter and freight rail
27 activities.

1 (b) The plan must address and emphasize ongoing maintenance
2 and safety of the authority's railroad bridges.

3 (c) To ensure that contractor services on the authority's
4 rail system meet safety obligations, the plan must include
5 specifics regarding monitoring of contractors for safety-related
6 performance, including regular:

7 (1) hazard analyses;

8 (2) risk assessments; and

9 (3) safety audits.

10 (d) The general manager shall report quarterly to the board
11 on the safety of the authority's rail system. The authority shall
12 provide to the Texas Department of Transportation all reports
13 provided to the Federal Railroad Administration or Federal Transit
14 Administration regarding any aspect of the rail system's safety at
15 the time the reports are delivered to the Federal Railroad
16 Administration or Federal Transit Administration.

17 Sec. 451.137. COMPETITIVE BIDS FOR AND PURCHASE OF TRANSIT
18 SERVICES. (a) Except as provided by Subsection (f), after
19 providing notice of a proposal, a board must submit to competitive
20 bids a contract for and must purchase transit services that:

21 (1) include:

22 (A) administration of motor bus or sedan transit
23 services;

24 (B) motor bus or sedan driving, maintenance, or
25 repair;

26 (C) transit services for persons who have
27 disabilities, including through a program established under

1 Section 451.254; or

2 (D) rail transit services; and

3 (2) are not provided wholly by an employee of the
4 authority who is directly paid by the authority and works under the
5 daily supervision of the authority's general manager.

6 (b) For the purposes of Subsection (a)(2), services are not
7 provided wholly by an employee of the authority if the person is an
8 employee of an entity incorporated as a state nonprofit by the board
9 of the authority and with which the authority contracts for transit
10 or employee services.

11 (c) Notice under Subsection (a) must be published in a
12 newspaper of general circulation in the area in which the authority
13 is located at least once each week for eight consecutive weeks
14 before the date set for receiving the bids. The first notice must
15 be published at least 60 days before the date set for receiving
16 bids.

17 (d) A contract let under this section must include:

18 (1) performance control measures;

19 (2) incentives for performance;

20 (3) penalties for noncompliance; and

21 (4) a contract termination date.

22 (e) The board shall adopt rules on:

23 (1) the taking of bids;

24 (2) the awarding of contracts; and

25 (3) the waiver of the competitive bidding requirement

26 if there is:

27 (A) an emergency; or

1 (B) only one source for the service or purchase.

2 (f) Subsection (a) does not apply to a contract or purchase:

3 (1) in an amount of \$25,000 or less;

4 (2) for personal or professional services; or

5 (3) for the acquisition of an existing transit system.

6 Sec. 451.138. PUBLIC INVOLVEMENT POLICY. (a) The board
7 shall adopt a policy of involving the public in board decisions
8 regarding authority policies. The policy must:

9 (1) ensure that the public has an opportunity to
10 comment on board matters before a vote on the matters;

11 (2) ensure that any consent agenda or expedition of
12 consideration of board matters at board meetings is used only for
13 routine, noncontroversial matters;

14 (3) establish a time frame and mechanism for the board
15 to obtain public input throughout the year; and

16 (4) plan for dissemination of information on how the
17 public can be involved in board matters.

18 (b) The board shall post the policy adopted under this
19 section on the authority's Internet website.

20 Sec. 451.139. ISSUANCE OF BONDS FOR SELF-INSURANCE OR
21 RETIREMENT OR PENSION FUND RESERVES. (a) An authority may issue
22 bonds only in an amount necessary for managing or funding retiree
23 pension benefit obligations for pension plans existing as of
24 January 1, 2011, and that result from the competitive bidding of
25 transit services required by Section 451.137.

26 (b) Section 451.352(c) does not apply to bonds described by
27 Subsection (a).

1 SECTION 2. Section 451.610, Transportation Code, is amended
2 to read as follows:

3 Sec. 451.610. CONTINUATION OF SERVICES TO PERSONS WITH
4 DISABILITIES. (a) An authority shall continue to provide
5 transportation services for persons with disabilities in a
6 withdrawn unit of election. The authority may not charge a fare for
7 transportation services to persons with disabilities in the
8 withdrawn unit that is more than the fare for those services for
9 persons in the authority.

10 (b) An authority shall provide the same level of
11 transportation services under Subsection (a) to persons with
12 disabilities in a unit of election that withdrew from the authority
13 before January 1, 2011, as those persons received on January 1,
14 2011. This subsection applies only to an authority to which
15 Subchapter C-1 applies.

16 SECTION 3. Subchapter M, Chapter 451, Transportation Code,
17 is amended by adding Section 451.6101 to read as follows:

18 Sec. 451.6101. CONTINUATION OF SERVICES TO PERSONS WITH
19 DISABILITIES; ALTERNATIVE PROGRAM. (a) This section applies only
20 to an authority to which Subchapter C-1 applies.

21 (b) Notwithstanding Section 451.610, an authority shall
22 establish an alternative program to provide transportation
23 services to persons with disabilities in a withdrawn unit of
24 election who are eligible to receive services under the program. An
25 authority shall require interested persons with disabilities to
26 apply to be program participants. The program must be available to
27 a person with a disability who:

1 (1) resides, at the time of application to the
2 program, in a withdrawn unit of election;

3 (2) can prove, at the time of application, residence
4 in the corporate limits of the withdrawn unit of election as those
5 limits existed at the time of the withdrawal and continuous
6 residence in the corporate limits of the withdrawn unit of election
7 since withdrawal;

8 (3) meets eligibility criteria established by the
9 authority for demand-responsive transportation service for persons
10 with disabilities and can prove, at the time of application, that
11 the person has had the same disability since the unit of election
12 withdrew; and

13 (4) applies to the program before January 1, 2012.

14 (c) The program must:

15 (1) include only transportation services that meet the
16 requirements of all applicable federal laws, rules, or regulations;
17 and

18 (2) include transportation services between the
19 residence of a program participant and a destination within the
20 authority's service area or a destination within the withdrawn unit
21 of election where the person with a disability resides that is:

22 (A) the participant's place of work or a place
23 where the participant is seeking employment;

24 (B) a physician's office;

25 (C) a pharmacy;

26 (D) the participant's place of voting;

27 (E) a grocery store within five miles of the

1 participant's residence or within the withdrawn unit of election;
2 or

3 (F) a government building.

4 (d) Subsection (c)(1) does not expand the service area or
5 add to the destinations in Subsection (c)(2).

6 (e) The requirement for transportation services to a
7 grocery store under Subsection (c)(2)(E) is for services once per
8 week. The requirement for transportation services to a government
9 building under Subsection (c)(2)(F) is for services twice per week.

10 (f) A withdrawn unit of election must reimburse the
11 authority for the costs of all services in the manner provided by
12 Section 451.616 unless otherwise agreed to in a memorandum of
13 understanding between the authority and the withdrawn unit of
14 election.

15 (g) A withdrawn unit of election that does not provide
16 transportation services to a program participant in the withdrawn
17 unit of election through a third-party service provider shall
18 provide the participant with use of the authority's transportation
19 services. If a withdrawn unit of election chooses to have a
20 third-party service provider provide services under this
21 subsection, the authority may, with the withdrawn unit's consent:

22 (1) provide necessary dispatch services; and

23 (2) ensure the provider receives payment from the
24 withdrawn unit of election.

25 (h) An individual may not receive transportation services
26 under the program and subsequently receive transportation services
27 under Section 451.610.

1 (i) A person who ceases to reside in the withdrawn unit of
2 election may not continue as a program participant.

3 (j) This section and any program established under this
4 section expire on January 1, 2020.

5 SECTION 4. Subsection (a), Section 451.133, Transportation
6 Code, as added by this Act, applies only to a budget adopted on or
7 after September 1, 2012.

8 SECTION 5. Not later than September 1, 2016, a metropolitan
9 rapid transit authority required to establish a reserve account
10 under Section 451.134, Transportation Code, as added by this Act,
11 shall establish the account. Not later than December 31, 2014, the
12 authority shall file a report on the authority's progress in
13 fulfilling this requirement with the lieutenant governor, speaker
14 of the house of representatives, and each member of the
15 legislature.

16 SECTION 6. Not later than September 30, 2012, a
17 metropolitan rapid transit authority required by Section 451.132,
18 Subsection (c), Section 451.133, and Sections 451.135, 451.136, and
19 451.138, Transportation Code, as added by this Act, to establish a
20 five-year capital improvement plan, a capital improvement projects
21 tracking system, a strategic plan, a rail safety plan, and a public
22 involvement policy, respectively, shall develop the plans, policy,
23 and system.

24 SECTION 7. Not later than September 1, 2012, individuals
25 providing for a metropolitan rapid transit authority transit
26 services described by Section 451.137, Transportation Code, as
27 added by this Act, must be providing those services as employees of

1 the authority or under a contract or agreement that complies with
2 the competitive bidding and purchase requirements of that section.

3 SECTION 8. Not later than September 30, 2012, a
4 metropolitan rapid transit authority required to adopt rules under
5 Subsection (b), Section 451.133, Transportation Code, as added by
6 this Act, shall adopt those rules.

7 SECTION 9. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 650 passed the Senate on April 14, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 23, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 650 passed the House, with amendments, on May 19, 2011, by the following vote: Yeas 138, Nays 1, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor