

- SUBJECT:** Representing the disadvantaged on transportation authority boards
- COMMITTEE:** Urban Affairs — favorable, with amendment
- VOTE:** 7 ayes — Carter, Burnam, Callegari, Edwards, Ehrhardt, E. Jones, Najera
1 nay — Hill
1 absent — Bailey
- WITNESSES:** For — Dennis Borel and Stacy Zoern, Coalition of Texans with Disabilities; Shirley De Libero, Houston Metropolitan Transit Authority; Glenn Gadbois, Texas Citizen Fund; *Registered but did not testify:* Maxine Barkan, League of Women Voters of Texas; Michael Plaster, Texas Transit Association

Against — None

On — Ron Lucey, Texas Commission for the Blind; *Registered but did not testify:* Margot Massey, Texas Department of Transportation
- BACKGROUND:** Separate chapters of the Transportation Code govern the transportation authorities of different cities, counties, and regions. Chapter 451 covers Austin, Corpus Christi, Houston, and San Antonio; chapter 452 applies to Dallas and Fort Worth; chapter 453 applies to El Paso and Laredo; and chapter 457 covers county transit authorities, of which none currently exist.
- DIGEST:** HB 1621 as amended would revise the Transportation Code to require the principal municipality in a transportation authority, except for El Paso and Laredo, to designate at least one of its appointees to the authority's board to represent the interests of the transportation disadvantaged, defined as the elderly, persons with disabilities, and low-income individuals. The boards of a municipal transit department for El Paso and Laredo would have to consider the interests of these people in making decisions.

The bill would apply only to a board member appointed on or after the effective date. It would not affect the entitlement of a current board member to complete his or her term and would not prohibit a current board member from being reappointed.

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, 2001.

SUPPORTERS
SAY:

HB 1621 would enhance the representation of the transportation disadvantaged during the decision-making processes of transportation authorities across the state. Many disadvantaged persons depend completely on public transportation, either because they cannot drive or because they cannot afford a car. By making it possible for them to get to work, keep appointments, and attend social events, public transportation offers them an opportunity for complete citizenship. It is imperative that the boards of the transportation authorities fully address the needs of some of their most frequent users.

The transportation disadvantaged make up a disproportionate share of public transportation users. A 1995 survey found that they accounted for more than half of Houston's bus ridership. In Austin, about 2.5 million transit boardings last year were made by persons with disabilities, according to the Texas Commission for the Blind. These riders often have special needs of which board members may not be aware, such as wheelchair accessibility, sounding mechanisms for the blind, and accessible bus pickup and drop-off locations. As the accessibility and availability of transportation is crucial for these groups to participate fully in other aspects of life, it is critical that they have a voice on the board.

Although many transportation authorities are making strides in addressing the special needs of the disadvantaged, only a voice in the policy-making process can guarantee that their concerns will be heard. An advisory committee can be helpful but ultimately has no authority. The transportation disadvantaged cannot always appear before a board to voice their concerns and complaints, as simply getting to a board meeting may present a challenge.

HB 1621 would require only that at least one board member be designated to represent the interests of the transportation disadvantaged. It would not require that the board member be from the class of transportation disadvantaged individuals. It would apply only to appointments made after the effective date of the act and would not require the removal of any current board member.

The concern that the needs of the different classes of individuals included in the transportation disadvantaged could conflict is dubious. In fact, the interests of these groups are likely to correspond much more often than they conflict. For instance, according to the Commission for the Blind, about 70 percent of persons with disabilities nationwide are unemployed, making nearly all of them low-income. Many of the elderly have fixed incomes that also qualify them as low-income. Designating a person to represent the transportation disadvantaged adds to the expertise of the board and makes all members more aware of the issues.

Requiring that a member of a transportation authority's board be designated to represent the transportation disadvantaged would help reduce the authority's liability to lawsuits. Dedicating a board member to address these issues would encourage the transportation disadvantaged to bring their concerns to the board and attempt to work them out rather than file lawsuits. Also, if a lawsuit were filed, the board would have greater protection because it could demonstrate that the board is considering these issues. Ultimately, though, a board should be held liable if it fails to meet the needs of the transportation disadvantaged. Access to public services is an issue of civil rights, and if a transportation board is not meeting its responsibility to provide this service to everyone, particularly the disabled, it should be held accountable.

**OPPONENTS
SAY:**

HB 1621 would interfere in what ought to be an issue of local control. The state should not micromanage local and regional transportation authorities, particularly when the state has received few complaints on this issue. Moreover, several of these boards already seek input on these issues. For example, Austin has an advisory committee for the mobility-impaired, and Houston has appointed a disabled person to its board. The Legislature should continue to allow these boards to handle these issues in ways that best meet their local needs. A person who has a problem with the authority has several local options to address the problem, including appearing at a board meeting, filing a complaint, and petitioning elected officials, rather than relying on a single statewide solution imposed by the Legislature.

The classes of individuals defined as transportation disadvantaged in HB 1621 are distinct and diverse groups with widely different, and sometimes conflicting, needs. Designating a single person to represent these groups could lead to conflicting pressures being exerted on the board member.

HB 1621 also could increase the likelihood that a transportation authority would be sued by the transportation disadvantaged for failing to address their needs adequately under the federal Americans with Disabilities Act. A person filing a lawsuit could argue that, by placing a requirement like this in statute, the state conferred a greater responsibility on the authority to address these issues, and a correspondingly greater liability if the authority did not fulfill that responsibility.

NOTES:

The committee amendment would add a separate definition of the transportation disadvantaged and reword the appointment requirement to specify that a board member appointed under the bill's provisions would not have to be a member of the class of transportation disadvantaged people but only would have to represent their interests.

The companion bill, SB 1259 by Gallegos, has been referred to the Senate Intergovernmental Relations Committee.