

SUBJECT: Revising provisions governing coordinated transportation authorities

COMMITTEE: Transportation — committee substitute recommended

VOTE: 6 ayes — Phillips, Fletcher, Harper-Brown, Lavender, McClendon, Pickett

2 nays — Martinez, Rodriguez

1 present not voting — Y. Davis

2 absent — Darby, Bonnen

WITNESSES: For — Charles Emery and Rider Scott, Denton County Transportation Authority; (*Registered, but did not testify:* Ken Whalen, Texas Daily Newspaper Association, Texas Press Association)

Against — None

BACKGROUND: Transportation Code, ch. 460 allows a county commissioners court in a county adjacent to another with a population greater than one million (counties around Harris, Dallas, Tarrant, Bexar, and Travis counties) to initiate a process to create a coordinated county transportation authority. Current law establishes procedures for adoption of a service plan and tax rate for the transportation authority. A service plan can be implemented only in an area of a participating county with a majority vote for the associated tax in an authorization election.

To date, Denton County is the only county to implement a coordinated county transportation authority. The Denton County Transportation Authority (DCTA) was approved by voters in 2002 and offers bus service, shuttle service, and the A-Train — a regional passenger train planned to run from Denton to Carrollton upon completion.

DIGEST: CSHB 2884 would revise provisions governing coordinated transportation authorities, including establishing penalties for not paying fares for using transportation services, allowing authorities to employ fare enforcement officers, increasing the amount of a contract an authority's board could approve without a competitive bid, and establishing tax increment financing areas for services provided by a transportation authority.

Penalties for not paying fares. CSHB 2884 would allow the board of a coordinated county transportation authority to prohibit a person from using the public transportation system without paying a fare and to assess a reasonable administrative fee for not doing so. An offense for not paying a fare would be a misdemeanor punishable by a fee no greater than \$100. It would be an admission of guilt if a person did not provide adequate proof of paying a fare, as outlined in the bill, and did not pay an administrative fee within 30 days of receiving notice from the authority. The authority could enter into an agreement with a justice court in its service area to try all nonpayment of fare cases.

Fare enforcement officers. An authority could employ fare enforcement officers who could request and inspect evidence showing payment of the appropriate fare and issue a citation to a person who did not pay. A fare enforcement officer could:

- request evidence showing payment of the appropriate fare or an exemption from the payment requirement;
- request personal identification or other documentation designated by the authority from a passenger who did not offer evidence of paying a fare;
- instruct a passenger who did not have evidence of paying a fare to immediately leave the public transportation system; or
- file a complaint in the appropriate court that charged the person with an offense.

Fare enforcement officers could not carry a weapon while on duty unless they were certified peace officers, and could not enforce an unrelated criminal law. The bill would establish requirements for training and uniforms for fare enforcement officers.

Tax increment financing for public transportation. As an alternative to current procedures, the bill would allow a municipality to adopt an ordinance designating a public transportation financing area. The area would have to include one or more transit facilities and would have to be within one-half mile on either side of a proposed route served by those facilities. The ordinance would have to designate a portion of the amount of the tax increment to the authority and state whether the increment would come from property taxes, sales and use taxes, or both. The municipality would have to hold a public hearing to create the financing area and would have to post notice of the hearing.

A service plan could be implemented in an area of a municipality that did not authorize an authority's sales and use tax if the combined sales and use tax from the municipality and other local governments would exceed 2 percent, and the municipality agreed with the authority to provide public transportation services in a transportation financing area in exchange for a portion of the tax increment in that area.

The amount designated in the increment could not be greater than the amount that would be collected by the authority if the municipality had authorized its sales and use tax levy, unless the increment was not enough to cover the costs of providing services. In that case, the municipality would have to designate to the authority, upon its request, the entire amount of the tax increment. The municipality would have to reach an agreement with the comptroller to administer payments from the tax increment financing zone. An agreement could require a municipality to pay a capital recovery fee to the authority. The bill would establish procedures for use of surplus tax increment payments and for terminating a transportation financing area.

An authority that reached a service agreement with a municipality would have to establish a tax increment account. Taxes in the increment account could be used only to compensate the authority for expenses — including capital costs and a capital recovery fee— of providing public transportation services, as well as bonds or other obligations issued for public transportation projects.

Noncompetitive contracts. The bill would increase the amount of a contract the board could negotiate without a competitive bid to \$50,000 from the current limit of \$25,000.

The bill would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 2884 would improve the operations of the DCTA. The bill would make a number of statutory changes to assist DCTA with operations of the A-Train, a commuter rail system anticipated to launch in June that will provide service from Denton to Carrollton and link up with Dallas Area Rapid Transit (DART). DCTA, to assist with operating the A-Train and to adopt procedures similar to DART, needs the authority to enforce fares on the line.

For this purpose, the bill would grant DCTA the authority to hire fare enforcement officers, who could board trains and ask a passenger for evidence of a ticket. The bill would create a \$100 fine and misdemeanor offense for a person who skipped a fare. This authority is in keeping with powers granted to other transportation authorities under different statutes, such as METRO in Houston, VIA in San Antonio, and Capital Metro in Austin.

The bill would allow municipalities who wished to participate in DCTA service, such as Corinth and Lake Dallas, a means to do so without reallocating their portion of sales and use tax. It would allow municipalities, upon their motion, to establish a public transportation financing area, similar to a tax increment financing zone. The municipality could designate an area around a transit facility and devote any incremental increase of either property or sales and use taxes in that area over a number of years to the DCTA. The bill establishes procedures and requirements for an agreement between a municipality and the DCTA, including allowing the municipality to gradually satisfy membership fees owed to the authority. These measures would provide a means for municipalities that were “capped out” in their allocations of sales and use taxes to become DCTA members.

Authorizing the tax financing areas would allow local governments to maximize available resources without tax increases. Although property values in a financing area could increase as a result of economic development stemming from a transit facility, no property would be taxed at a higher rate due to its inclusion.

CSHB 2884 also would increase the minimum threshold for a requirement for the DCTA board to hold a noncompetitive bid to \$50,000. This would reflect recent increases in this threshold for other transportation authorities in the state, as well as for municipalities, counties, and school districts that were increased in 2009. Raising the threshold would reduce administrative burdens without reducing transparency. Anyone seeking information about the transaction could contact DCTA and request the desired information.

**OPPONENTS
SAY:**

By allowing competitive sealed proposals for contracts up to \$50,000, CSHB 2884 could diminish the transparency of the transportation authority’s transactions and result in the availability of less information for the public about how tax dollars were being spent. Decreasing information

available to the public would lessen the opportunity for citizens to object to the decisions of DCTA with which they may disagree.

Authorizing municipalities to designate transportation financing areas to direct property and sales and use taxes to a transportation authority is problematic. For one, this would be an expansion of the troubling practice of using property taxes to fund transportation projects and services. Transportation financing areas are a questionable use of property taxes — which are problematic and antiquated in themselves — and could create an incentive to increase appraisals of property in the area. Further, the increment dedicated to paying the costs to DCTA would be diverted from other pressing local needs.

Allowing municipalities to dedicate an increment of the local sales and use tax also would take funds away from other necessary services and would be a way around the current statutory process of holding a vote to designate a service area and set a tax rate. That process was put in place to ensure that people had a voice in designating service zones for transportation authorities. Through tax-financing areas, DCTA would not have to hold a public vote.

NOTES:

The companion bill, SB 1422 by Nelson, passed the Senate by 31-0 on the Local and Uncontested Calendar on May 5 and was referred to the House Transportation Committee on May 9.