SUBJECT: Allowing creation of a regional transit authority in the Rio Grande Valley

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Canales, Landgraf, Y. Davis, Goldman, Martinez, Ortega, Raney, E. Thompson

1 nay — Hefner

4 absent — Bernal, Krause, Leman, Thierry

WITNESSES: For — (*Registered, but did not testify*: Mario Martinez, City of Brownsville)

Against — (*Registered, but did not testify*: Terri Hall, Texas TURF, Texans for Toll-free Highways; and 10 individuals)

On — Andrew Canon, Hidalgo County MPO; Tom Logan, LRGVDC; Eric Gleason, Texas Department of Transportation

DIGEST: HB 71 would allow the creation of a regional transit authority, by election, in a county contiguous to both the Gulf of Mexico and the Mexican border and adjacent counties (Cameron, Willacy, and Hidalgo counties). The bill would provide for the governing structure, general powers, and other regulations of a regional transit authority.

Authority confirmation. HB 71 would allow the board of directors of the regional planning commission in the applicable counties to initiate the process to create a regional transit authority. The board would have to conduct public hearings on the creation of an authority and, after the hearing process, the board could designate the name of the authority and authorize an interim executive committee.

The bill would require the interim committee to develop a service plan and, upon approval from the commissioners court of each county, submit a proposition on the creation of the authority to the voters. The authority would be confirmed by a majority of votes from each county.

The board of directors would pay the cost of the confirmation election. An authority that was not confirmed would expire three years after the day the process was initiated.

Governing structure. An executive committee, made up of the board of directors of the regional planning commission, would be responsible for the management, operation, and control of an authority. Members would be subject to statutory regulation concerning conflicts of interest.

The committee could adopt rules for the safe and efficient operation and maintenance of the public transportation system, use of the system, fare payment, and regulation of privileges on property controlled by the authority. The committee would be required to hold at least one regular meeting each month and could take action by a majority vote.

The executive committee could appoint a chief executive officer, who could be designated as the general manager or executive director, to administer the daily operation of an authority and manage employees. The committee also could establish a security force.

General powers. HB 71 would provide the general powers of a regional transit authority. An authority would be a public political entity and corporate body that could contract with any person and accept grants and loans. An authority would have to use a competitive bidding process to award contracts for construction, services, or property, with certain exemptions.

The authority would have to encourage to the maximum extent feasible the participation of private enterprise.

An authority could coordinate the provision of services with a municipality. HB 71 would allow an authority to leverage funds to finance a project with a municipality that provided public transportation services in the authority's territory.

The bill would allow an authority to issue bonds, as well as notes, at any time for any amount necessary to develop its public transportation system or fund insurance, retirement, or pension funds. The state or a political subdivision of the state would not be obligated to pay the principal of or interest on the bond, and the faith, credit, and taxing power of the state would not be pledged to bond payment.

Acquisition of property. HB 71 would allow an authority to use a public way and directly or indirectly alter the route or construction of a person's property for a purpose related to the operation of a public transportation system. An authority could contract with the property owner to allow the owner to alter the property by the owner's own means and provide for reimbursement of related costs. The authority could not begin activity to alter or damage property of others without the property owner's written permission.

If an authority altered the route or construction of a road, cable line, pipeline, or related property, the authority would be required to pay all expenses of the alteration and any damages incurred by a property owner.

The bill would prohibit an authority from relocating the property of a telecommunications provider without that provider's permission. If an authority otherwise relocated a provider's property, the authority would have to reimburse those costs.

An authority could agree with a public or private utility, communication system, common carrier, or transportation system for the joint use of property or establishment of through routes, joint fares, or passenger transfer.

Eminent domain. An authority could use eminent domain to acquire an interest in real property without adhering to the above requirements for the acquisition of property. Eminent domain could not be exercised in a manner that would allow the authority to run a vehicle on a railroad track that is used to transport property.

An eminent domain proceeding would be initiated by a resolution adopted by the executive committee after a notice and hearing. The resolution would be required to describe the property interest to be acquired by the authority, declare the public necessity for the acquisition, and state that the acquisition was necessary for the construction or development of a public transportation system.

The bill would not grant eminent domain authority to a regional transit authority unless the bill received a vote of two-thirds of the membership of each house.

Public transportation system operation. The bill would allow an authority to:

- acquire, construct, operate, and maintain a public transportation system within its territory;
- contract with a municipality, county, or other political subdivision to provide public transportation services outside its territory; and
- lease the system to, or contract for the operation of the system by, an operator.

An authority would be required to determine the routes of its public transportation system.

Station or terminal complex. A station or terminal complex could not be included in the public transportation system unless the executive committee found that it would encourage efficient and economical public transportation, facilitate access to public transportation, reduce vehicular congestion and air pollution, and be reasonably essential to the successful operation of the system.

A station or terminal complex would have to include adequate provisions for the transfer of passengers among the various means of transportation available at the complex and could include provisions for residential, institutional, recreational, commercial, and industrial facilities. The location of the station or terminal would be determined by an authority after notice and a hearing.

Fares. The bill would require an authority to impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other compensation for the use of the public transportation system sufficient to pay:

- necessary operation and maintenance costs;
- the principal cost of and interest on issued bonds; and
- an amount to fulfill the terms of bondholder agreements.

Compensation to use the public transportation system could be set according to a zone system or another reasonable classification.

HB 71 would intend that the compensation would not exceed the amounts necessary to meet an authority's obligations.

Fare enforcement. The executive committee could prohibit the use of the public transportation system by a person who did not pay an appropriate fare and establish an administrative fee for nonpayment. The authority would have to post signs designating each area in which a person was prohibited from using the system without payment.

A person who used the system without paying the appropriate fare would commit a misdemeanor offense punishable by a fine of up to $100. If a person provided proof of payment of a fare or administrative fee within 30 days of notification from the authority and paid the administrative fee, if any, the person would be exempt from the offense.

The bill would allow a justice court to enter into an agreement with the authority to try all criminal cases for nonpayment of fares.

HB 71 would allow the authority to hire fare enforcement officers, who could request and inspect evidence of fare payment, including personal identification, and issue citations. A fare enforcement officer would have to complete at least eight hours of relevant training approved by the authority before commencing duties.

The bill would prohibit a fare enforcement officer from carrying a weapon while performing duties, unless that person was a certified peace officer. A fare enforcement officer would not have authority to enforce other criminal law and would not constitute a peace officer.

Additional bridge fee. An entity that operated an international bridge could impose a fee of $1 for passenger vehicles, $2 for commercial motor vehicles, and 25 cents for pedestrians. The entity would have to enter into a written agreement with an authority before imposing a fee providing for fee collection and remittance.

Of the fees collected, 25 percent would be retained by the entity for transportation projects or complementary services, 25 percent would be used for regional high capacity transit, and 50 percent would be used for a rail mass transit system. The entity could retain the percentage for regional high capacity transit if the entity was a mass transit provider in the municipality where the bridge was located on or before January 1, 2019.

Financing. The executive committee would have to make a proposed annual budget available to the commissioners courts of counties in the authority at least 30 days before the final adoption of the budget.

The executive committee would be required to have an annual audit of the affairs of the authority prepared by an independent certified public accountant or firm. The final audit report would be open to public inspection.

HB 71 would require excess revenue from the transportation system to be used to pay the expenses of operation and maintenance, including salaries, materials, and repairs, and to fund operating reserves.

Existing rail use. A rail mass transit system line operating on property previously used by a railroad would be a continuation of existing rail use.

Commuter rail districts. If an authority created by this bill had boundaries that overlapped with the boundaries of a commuter rail district's territory, the rail district would be dissolved and all assets and liabilities would be transferred to the authority.

High occupancy vehicle lanes. The bill would allow the executive committee to regulate or prohibit improper entrance into, exit from, and vehicle occupancy in high occupancy vehicle lanes operated by the authority.

Tax exemptions. The property, revenue, and income of an authority would be exempt from state and local taxes. The interest on bonds issued by an authority also would be tax exempt.

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, 2019.

SUPPORTERS SAY:

HB 71 would allow the counties of Hidalgo, Cameron, and Willacy to establish a regional transit authority to coordinate, develop, and maintain public transportation in the Rio Grande Valley. The bill would provide a planning shell for the authority, which would be run by local elected officials from all three counties. By allowing for the creation of a regional transit authority, HB 71 would give the Rio Grande Valley the same tool already used by several other regions of the state to develop necessary public transportation.

A regional transit authority would promote mass transit, bus and rail, and passenger light rail in the area, which are sorely needed. Not only is the population of the Valley quickly increasing, but thousands of workers commute daily between the region's counties, and the number of student riders who rely on public transportation is growing. Public transportation services also need to be improved for colonias, rural areas of the counties, and low-income communities in order to provide access to education, healthcare, and job opportunities.

HB 71 would ensure that any action by the authority was transparent and responsive to the local community. Elected officials from the local council of government, the Lower Rio Grande Valley Development Council, would make up the executive committee overseeing the authority. Regional transit authorities typically may use eminent domain, but the bill would ensure that this ability could not be used without a public hearing. HB 71 would not provide taxing authority and the regional transit authority would be subject to independent financial audits. It is necessary to create this authority in the Valley because there is a lack of private transportation providers in the region.

OPPONENTS SAY:

HB 71 would establish another level of unnecessary bureaucracy in the transportation system in Texas. The Legislature should not allow the creation of new entities with the ability to raise additional fees or seize property through eminent domain. These transportation projects could be accomplished within the existing transportation financing framework or through the private sector.