

## **BILL ANALYSIS**

Senate Research Center

S.B. 472  
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As Filed

### **DIGEST**

Currently, numerous transit authorities across the nation used Defeased Tax Leases (DTL) as a tool to generate cash benefits for the authorities. A DTL is used to transfer tax attributes such as depreciation of an asset from a transit authority, which, as statutorily created special districts, cannot recognize the tax benefit of ownership to a private equity investor. These transactions take the form of long-term lease/leasebacks or sale/leasebacks and obligations under such transactions would be prepaid or "defeased" before the transaction occurred. The tax benefits from a DTL would be recognized as a cash payment that an authority would receive upon closing of the transaction.

The Dallas Area Rapid Transit Authority (DART) is currently statutorily restricted to five years maximum maturity for any type of financial agreement. S.B. 472 would allow DART to participate in DTL, which generally requires terms ranging from 12 to 30 years in order to be beneficial.

### **PURPOSE**

As proposed, S.B. 472 outlines provisions regarding powers of certain regional transportation authorities.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 452.102, Transportation Code, by adding Subsection (c), to authorize the authority directors who serve as the governing body of the authority to invest authority funds in any investment authorized for an entity under Chapter 2256, Government Code, in addition to the other investments authorized by this section.

SECTION 2. Amends Section 452.108, Transportation Code, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Prohibits an authority consisting of one subregion governed by a subregional board created under Subchapter O from entering a certain lease or financing agreement, except as provided by Subsection (d).

(d) Authorizes an authority consisting of one subregion governed by a subregional board created under Subchapter O to enter into and execute contracts, agreements, notes, security agreements, conveyances, bills of sale, deeds, leases as lessee or lessor, and currency hedges, swap transactions, or agreements relating to foreign and domestic currency, to provide tax benefits to another party that are available with respect to property under the laws of a foreign country or to encourage private investment with a transportation authority in the United States, and notwithstanding any other provision of this chapter. Authorizes the agreements or instruments to have the terms, maturities, duration, provisions as to governing law, indemnities, and other provisions that are approved by the subregional board. Requires the authority to deposit in trust, escrow, or similar arrangement cash or lawful investments securities that, including interest to be earned on the cash or securities, are sufficient in amount to pay when due all amounts required to be paid by the authority as rent over the full

term of the transaction plus any optional purchase price due under the transaction, in connection with any transaction authorized by this subsection. Provides that a certification in advance by an independent financial expert, banker, or certified public accountant, who is not an employee of the authority, certifying compliance constitutes conclusive evidence of compliance.

(e) Provides that property sold, acquired, or otherwise transferred under Subsection (d) is considered for all purposes to be property owned and held by the authority and used for public purposes. Provides that the property is exempt from ad valorem taxes imposed in this state and a leasehold interest in the property is exempt from Section 25.07(a), Tax Code. Provides that a sale, lease, sublease, or other transfer of personal property by or to the authority under Subsection (d) is exempt from all sales, use, and motor vehicle taxes imposed by this state or a political subdivision of this state.

SECTION 3. Emergency clause.

Effective date: upon passage.