

BILL ANALYSIS

Senate Research Center

C.S.S.B. 657
By: Barrientos
State Affairs
4-3-97
Committee Report (Substituted)

DIGEST

Currently, Texas law does not provide for the creation of intermunicipal commuter rail districts to provide commuter rail services between certain municipalities that are located no farther than 100 miles apart. Local officials from San Antonio and Austin have concluded that the overcrowding of IH-35 due to population growth, increased truck traffic due to NAFTA, and the lack of air transportation between the two cities make commuter rail a viable option. The officials recommended, and the San Antonio and Austin metropolitan planning organizations requested, the Texas Department of Transportation (TxDOT) to conduct an Origin-Destination Study of the corridor and the feasibility of commuter rail between the two locations. TxDOT is conducting both studies with financial participation from local governments, transit authorities, and the metropolitan planning organizations. The metropolitan planning organizations have also requested legislation to create a single governmental entity that could coordinate commuter rail service between the two cities. This bill would set forth the guidelines for the development and regulation of intermunicipal commuter rail districts to provide commuter rail services between certain municipalities that are located no farther than 100 miles apart.

PURPOSE

As proposed, C.S.S.B. 657 sets forth the guidelines for the development and regulation of intermunicipal commuter rail districts to provide commuter rail services between certain municipalities.

RULEMAKING AUTHORITY

Rulemaking authority is granted to a board of an intermunicipal commuter rail district in SECTION 1 (Sections 3(g), 4(f) and (r), and 6, Article 6550c-1, V.T.C.S.) and to an intermunicipal commuter rail district in SECTION 1 (Sections 4(h) and (l), Article 6550c-1, V.T.C.S.) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 13, Title 112, V.T.C.S., by adding Article 6550c-1, as follows:

Art. 6550c-1. INTERMUNICIPAL COMMUTER RAIL DISTRICTS

Sec. 1. DEFINITIONS. Defines "commission," "commuter rail facility," "creating municipality," "department," "district," and "system."

Sec. 2. CREATION OF DISTRICT. Authorizes an intermunicipal commuter rail district to be created to provide commuter rail service between two municipalities, each of which has a population of more than 450,000 and are located no farther than 100 miles apart. Provides that a district is created on passage of a resolution favoring the creation of the district by the governing body of each creating municipality and the governing body of each county in which a creating municipality is located. Authorizes certain political subdivisions to become a part of a district created under this section with the approval of the governing body of the political subdivision. Provides that, for purposes of this article, a municipality is located in a county only if 90 percent or more of the population of the municipality resides in that county according to the most recent federal census.

Sec. 3. BOARD. Provides that a district is governed by a board of directors (board), which is responsible for the management, operation, and control of the district. Provides that the board is composed of two public members appointed by the Texas Transportation Commission (commission); one member appointed by each political subdivision that has become a part of the district under Section 2 of this article; one member appointed by each creating municipality to represent the regional planning organization of which the municipality is a part; one member appointed by each creating municipality to represent the business community of the municipality; one member appointed by each authority created under Chapter 451, Transportation Code, that serves a creating municipality; one member appointed by each county in which a creating municipality is located to represent transportation providers that provide service to rural areas in the county; and one member appointed by all other board members to represent all municipalities in the district that do not otherwise have represented on the board. Provides that a vacancy on the board is filled in the same manner as the original appointment and that each member serves a term of two years. Requires the members of the board to elect one member as a presiding officer, who is authorized to select another member to preside in the absence of the presiding officer. Requires the presiding officer to call at least one meeting of the board a year and authorizes such officer to hold other meetings. Provides that a member of the board is not entitled to compensation for serving as a member, but is entitled to reimbursement for reasonable expenses incurred while serving as a member. Requires the board to adopt rules for its proceedings and appoint an executive committee and authorizes the board to employ and compensate persons to carry out the powers and duties of the district. Provides that Chapter 171, Local Government Code, applies to a board member.

Sec. 4. POWERS AND DUTIES OF DISTRICT. (a) Provides that a district created under this article is a public body and a political subdivision of the state exercising public and essential government functions and has all the powers necessary or convenient to carry out the purposes of this article. Provides that a district is performing only governmental functions and is a governmental unit within the meaning of Chapter 101, Civil Practice and Remedies Code.

(b) Provides that district has perpetual succession and is subject every 12th year to review under Chapter 326, Government Code (Texas Sunset Act).

(c) Authorizes a district to sue and be sued in all courts of competent jurisdiction, to institute and prosecute suits without giving security for costs, and to appeal from a judgment without giving supersedeas or cost bond. Sets forth the venue for an action at law or in equity against the district and for eminent domain proceedings.

(d) Authorizes a district to acquire by grant, purchase, gift, devise, lease, or otherwise and to hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this article.

(e) Authorizes a district to acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities inside, or connect political subdivisions in, the district. Sets forth the parameters for achieving these purposes.

(f) Provides that a district has the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under, or above lands. Provides that the power of eminent domain under this section does not apply to land under the jurisdiction of the department or a rail line owned by a common carrier or municipality. Requires the district to use existing rail or intermodal transportation corridors for the alignment of its railroad. Provides that the proceedings for the exercise of the power of eminent domain are begun by the adoption of a resolution by the board. Provides that the resolution of the district is conclusive evidence of the public necessity of the proposed acquisition and that the real or personal property or interest in property is necessary for public use.

(g) Authorizes a district to make agreements with any other public utility, private utility,

communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or properties within and for the establishment of through routes, joint fares, and divisions of tariffs.

(h) Authorizes a district to adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, in order to protect the health, safety, and general welfare of residents of the district.

(i) Authorizes a district to make joint ownership agreements with any person.

(j) Requires a district to establish and maintain rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district that is reasonable and nondiscriminatory and, together with grants received by the district, is sufficient to produce revenues adequate to cover certain expenses.

(k) Authorizes a district to make contracts, leases, and agreements with, and accept grants and loans from, the U.S., the state, and public or private corporations and persons and to perform all acts necessary for the full exercise of vested powers. Authorizes the commission to enter an interlocal agreement with a district under which a district may exercise a power or duty of the commission for the development and efficient operation of intermodal corridors in the district. Authorizes a district to acquire certain property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Provides that any revenue bond indenture may provide limitations on the exercise of the powers granted by this section, and the limitations apply so long as any of the revenue bonds issued pursuant to the indenture are outstanding and unpaid.

(l) Authorizes a district to adopt rules, by resolution, governing the use, operation, and maintenance of the system. Requires the district to determine all routings and change them when the board considers it advisable.

(m) Authorizes a district to lease the commuter rail facilities or contract for the use or operation of the commuter rail facilities by any operator. Requires a district to encourage the participation of private enterprise in the operation of commuter rail facilities. Prohibits the term of an operating contract from exceeding 20 years.

(n) Authorizes a district to contract with any county or other political subdivision of the state for the district to provide commuter rail transportation services to any area outside the boundaries of the district on such terms and conditions as the parties agree to.

(o) Authorizes a district to purchase an additional insured provision to any liability insurance contract.

(p) Requires, before beginning the operation of commuter rail facilities, the board of a district to adopt an annual operating budget. Requires the district to adopt an operating budget for each succeeding fiscal year. Provides that the fiscal year of the district ends September 30. Requires the board to hold a public hearing before adopting each budget except after the initial budget. Sets forth the notice requirements for such hearings. Authorizes a budget to be amended at any time if notice of the proposed amendment is given in the notice of meeting. Prohibits an expenditure that is not budgeted from being made.

(q) Provides that a district is eligible to participate in the Texas County and District Retirement System.

(r) Requires the board of a district, by resolution, to name one or more banks for the deposit of district funds. Provides that district funds are public funds. Authorizes the funds to be invested in securities permitted by Chapter 2256, Government Code. Requires

the funds, to the extent the funds are not insured by F.D.I.C. or its successor, to be collateralized in the manner provided for county funds.

Sec. 5. BONDS AND NOTES. (a) Authorizes a district to issue revenue bonds and notes in such amounts as its board considers necessary or appropriate for the general operation of its commuter rail facilities. Provides that all bonds and notes are fully negotiable, may be made redeemable before maturity, and may be sold at public or private sale.

(b) Requires a district to submit all bonds and notes authorized to be issued and the records relating to their issuance to the attorney general for examination before delivery. Requires the attorney general to approve the bonds and notes and the comptroller to register them upon the attorney general's determination that they have been issued in accordance with the constitution and this article and that they will be binding obligations of the district issuing them. Provides that bonds and notes issued under this article are incontestable after approval, registration, and sale and delivery of the bonds to the purchaser.

(c) Authorizes the district to encumber and pledge all or any part of the revenues of its commuter rail facilities, to mortgage and encumber all or any part of the properties of the commuter rail facilities, and to prescribe the terms and provisions of the bonds and notes in any manner not inconsistent with this article, in order to secure the payment of the bonds or notes. Authorizes a district to encumber separately any item of real estate or personalty if not prohibited by the resolution or indenture relating to outstanding bonds or notes.

(d) Provides that all bonds and notes are legal and authorized investments for banks, trust companies, savings and loan associations, and insurance companies. Provides that the bonds and notes are eligible to secure the deposit of public funds of the state, cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the state. Provides that the bonds and notes are lawful and sufficient security for the deposits to the extent of the principal amount or market value of the bonds or notes.

Sec. 6. COMPETITIVE BIDS. Provides that a contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may be let only on competitive bids upon certain public notification. Authorizes a board to adopt rules governing the taking of bids and the awarding of contracts. Provides that this section does not apply to personal or professional services; the acquisition of existing rail transportation systems; or a contract with a common carrier to construct lines and to operate commuter rail service on lines owned in whole or in part by the carrier.

Sec. 7. EXEMPTION FROM TAXES. Provides that the property, material purchases, revenues, and income of a district and the interest on bonds and notes issued by a district are exempt from all taxes levied by the state or a political subdivision of the state.

SECTION 2. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

Revises proposed relating clause.

SECTION 1.

Amends Section 1, Article 6550c-1, V.T.C.S., to propose the definition of "commission" and revise the proposed definition of "system."

Amends Section 3, Article 6550c-1, V.T.C.S., to revise the proposed composition of an intermunicipal commuter rail district board of directors (board) in Subsection (b). Requires

the board to appoint an executive committee in Subsection (g).

Amends Section 4, Article 6550c-1, V.T.C.S., to propose that an intermunicipal commuter rail district (district) is authorized to acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities, rather than just commuter rail facilities, in Subsection (e). Replaces the operation of commuter rail facilities with the operation of the system throughout the section. Proposes to prohibit a district from using or altering a road or highway in the state highway system without the permission of the commission in Subsection (e). Proposes that the power of eminent domain under this section does not apply to land under the jurisdiction of the department or a rail line owned by a common carrier or municipality in Subsection (f). Proposes to authorize the district to make agreement with, among other entities, a state agency in Subsection (h). Proposes to authorize the commission to enter an interlocal agreement with a district under which a district may exercise a power of duty of the commission for the development and efficient operation of intermodal corridors in the district in Subsection (k). Add proposed Subsections (o) and (q), and makes conforming changes to previously designated Subsections (o) and (p).

Amends Section 6, Article 6550c-1, V.T.C.S., to propose that this section does not apply to a contract with a common carrier to construct lines and to operate commuter rail service on lines owned in whole or in part by the carrier, among other items.

Amend Section 7, Article 6550c-1, V.T.C.S., to propose that material purchases, among other items, of a district are exempt from all taxes levied by the state or a political subdivision of the state.