

BILL ANALYSIS

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S.B. 2096
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In an effort to address local and regional transportation needs, a variety of entities have been authorized by the state, including metropolitan transit authorities, regional mobility authorities, and advanced transportation districts. Each of these entities has a distinct scope of authority, unique financing options, and its own governance guidelines and planning responsibilities. For urban areas, the multitude of transportation development can lead to inefficiencies and even duplication in planning, financing, and developing the facilities that will best meet a community's needs.

Additionally, as urban populations increase, the need for both congestion mitigation and mass transit options increases. Coordinating the development of transportation facilities permits the joint financing of transit and roadway projects, allowing multiple revenue sources to support a menu of multi-modal transportation options for a community.

As proposed, S.B. 2096 authorizes certain communities that have already created local transportation entities, specifically a regional mobility authority, a metropolitan transit authority, and an advanced transportation district, to create an urban transportation authority.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 451, Transportation Code, by adding Subchapter R, as follows:

SUBCHAPTER R. URBAN TRANSPORTATION AUTHORITIES

Sec. 451.901. DEFINITIONS. Defines "advanced transportation district," "authority," "board," "comprehensive advanced transportation," "comprehensive mobility enhancement," "comprehensive transportation system," "construction costs," "costs," "debt," "finance costs," "regional mobility authority," "revenue," "transportation project," and "urban transportation authority."

(b) Provides that a word or phrase that is not defined in this subchapter but is defined in Subchapter O (Advanced Transportation District) has the meaning in this subchapter that is assigned by that subchapter.

(c) Provides that a word or phrase that is not defined in this subchapter but is defined in Chapter 370 (Regional Mobility Authorities) has the meaning in this subchapter that is assigned by that chapter.

Sec. 451.902. LIBERAL CONSTRUCTION. Requires that this subchapter be liberally construed to carry out its purposes. Requires that a provision of this subchapter that conflicts with Subchapter A (General Provisions) or O or with Chapter 370 be construed to grant the broadest power.

Sec. 451.903. CREATION OF URBAN TRANSPORTATION AUTHORITY AUTHORIZED. (a) Authorizes the governing body of an authority in which the

principal municipality has a population of more than 700,000 and in the territory of which both an advanced transportation district and a regional mobility authority exist to approve and submit a petition to the governing bodies of the advanced transportation district and the regional mobility authority that seeks consent to the creation of an urban transportation authority under this subchapter.

(b) Authorizes the creation of an urban transportation authority under this subchapter if certain entities consent to the creation of the urban transportation authority.

(c) Requires that the petition of the authority and the consents described in Subsection (b) approve the transfer of the assets, liabilities, rights, and obligations of each entity to the urban transportation authority or make adequate provision therefore by the applicable entity.

Sec. 451.904. EFFECT OF CREATION OF URBAN TRANSPORTATION AUTHORITY. (a) Provides that an urban transportation authority is created only after the occurrence of the actions required by Section 451.903. Provides that on the first day of the calendar month after the month in which the final action required by that section is taken, an urban transportation authority is considered to have been created. Provides that the urban transportation authority has the rights, powers, duties, and privileges granted to an authority under this chapter, to an urban transportation authority under this subchapter, to an advanced transportation district under Subchapter O, and to a regional mobility authority under Chapter 370, including the right to plan and develop transportation projects in any county in which the urban transportation authority is located.

(b) Provides that on the date the urban transportation authority is considered to have been created, the urban transportation authority becomes the successor entity to the authority, the advanced transportation district, and the regional mobility authority. Provides that on that date the authority, the advanced transportation district, and the regional mobility authority cease to exist.

(c) Provides that the urban transportation authority succeeds to and is obligated for all assets, liabilities, rights, and obligations not otherwise provided for of the authority, the advanced transportation district, and the regional mobility authority, on terms and conditions that, upon succession, are no less beneficial to employees than those extant immediately before the creation of the urban transportation authority, including continuation of all rights, privileges, and benefits such as pension rights and benefits, wages, and working conditions, afforded to employees under an existing agreement.

Sec. 451.905. POWERS. (a) Provides that an urban transportation authority has the powers necessary or convenient to implement this subchapter or to effect a purpose of this subchapter.

(b) Authorizes an urban transportation authority through its governing body to plan, study, evaluate, design, finance, acquire, construct, maintain, repair and operate a transportation project, individually or as one or more comprehensive transportation systems.

(c) Provides that an urban transportation authority has all of the rights, powers, duties, and privileges granted to an authority by this chapter, a regional mobility authority by Chapter 370, and an advanced transportation district by Subchapter O.

(d) Authorizes a right, power, duty, or privilege of an urban transportation authority described in Subsection (c) to be exercised independently or in combination to effect the purposes of this subchapter. Provides that except as otherwise provided by this subchapter, in the event of a conflict, the most liberal provision applies.

(e) Authorizes an urban transportation authority, in the manner and to the extent that an authority is authorized by this chapter, to develop and operate a transit system, set fares and other charges, and develop stations and terminal complexes for the use of the transit system and related right-of-way.

(f) Provides that an urban transportation authority has any right, power, duty, and privilege granted by Chapter 370 to a regional mobility authority that relates to mass transit or a transit system and that is not in conflict with this subchapter.

(g) Authorizes an urban transportation authority to impose any kind of tax or fee other than an ad valorem tax, including a sales and use tax. Provides that the applicable provisions of this chapter, including Subchapter O, and Chapter 370 apply to the imposition of a fee or tax by the urban transportation authority. Authorizes an urban transportation authority, if the legislature enacts provisions for local option transportation financing through a transportation finance authority or a centralized transportation finance entity, to serve as such an entity.

(h) Authorizes an urban transportation authority to develop and operate a turnpike project. Requires that the turnpike project be developed and operated under the provisions of Chapter 370, including any provision relating to the setting of toll rates.

(i) Requires the board (the governing body of an urban transportation authority), unless otherwise provided by this subchapter, to allocate the proceeds of the advanced transportation district sales and use tax in compliance with Subchapter O.

(j) Provides that, unless otherwise provided by this subchapter, an election relating to the sales and use tax or other boundaries of an advanced transportation district is governed by the provisions of Subchapter O relating to such an election of an advanced transportation district.

(k) Authorizes an urban transportation authority to create a transportation corporation or local government corporation under Chapter 431 (Texas Transportation Corporation Act).

(l) Provides that an urban transportation authority is a toll project entity and a local toll project entity to the same extent as a regional mobility authority under the provisions of this code.

(m) Requires the board, in its selection and prioritization of transportation projects, to consider the geographic location of other transportation projects funded by the state or the United States so as to foster geographic equity in the planning and development of the projects.

Sec. 451.906. NATURE OF URBAN TRANSPORTATION AUTHORITY. (a) Provides that an urban transportation authority is a body politic and corporate and a political subdivision of this state; has perpetual succession; and exercises public and essential governmental functions.

(b) Provides that the exercise of a right, power, or privilege granted by this subchapter is for a public purpose and is a matter of public necessity and is, in all respects, for the benefit of the people of the territory in which an urban transportation authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety.

(c) Provides that an urban transportation authority is a governmental unit under Chapter 101 (Tort Claims), Civil Practice and Remedies Code. Provides that the operations of the metropolitan transit and mobility authority are not proprietary functions for any purpose.

(d) Provides that an urban transportation authority is a public entity under Section 222.1045 (Contracts of Certain Public Entities) and a governmental agency under Subchapter A (Public Property Finance Act), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code.

(e) Provides that the property, revenue, and income of a metropolitan transit and mobility authority are exempt from state and local taxes.

Sec. 451.907. GOVERNANCE OF URBAN TRANSPORTATION AUTHORITY; INITIAL BOARD OF DIRECTORS. (a) Provides that an urban transportation authority is governed by a board of directors. Provides that the board consists of:

(1) five members appointed by the governing body of the principal municipality, with one member designated to represent the interests of the transportation disadvantaged;

(2) five members appointed by the commissioners courts of the county in which the urban transportation authority is located, or if the urban transportation authority is located in more than one county, jointly appointed by the commissioners courts of those counties;

(3) two members appointed by a panel composed of the mayors of the municipalities, other than the principal municipality, that are inside the boundaries of the authority and contribute sales and use tax revenue to the authority; and

(4) one member, who serves as presiding officer of the board, appointed by a majority of the members appointed under Subdivisions (1), (2) and (3).

(b) Requires the initial board of the urban transportation authority, on creation of the urban transportation authority, to be appointed from among the memberships of the governing body of the authority, the governing body of the advanced transportation district, and the governing body of the regional mobility authority, as extant immediately before the urban transportation authority was created.

(c) Provides that the board is responsible for the management, operation, and control of the urban transportation authority and the property of the urban transportation authority.

(d) Provides that a provision of this chapter that is applicable to the governing body of an authority and relates to vacancies, term limitations, residency requirements, compensation, surety bonds, nepotism, financial disclosure, indemnification, insurance, or removal, applies to the board.

(e) Provides that board meetings and actions are governed by the provisions of this chapter that are applicable to the governing body of the authority. Provides that those meetings and actions are not governed by Chapter 370.

(f) Provides that to be eligible to serve as a director, an individual is authorized to be a representative of an entity that is also represented on a metropolitan planning organization in the region where the principal municipality is located and prohibits being an elected official, an officer or employee of the Texas Department of Transportation (TxDOT), an employee of a county or a municipality, including the principal municipality, that contributes sales and use tax revenue to the urban transportation authority; or a person who owns an interest in real property that will be acquired for a transportation project, if it is known at the time of the person's proposed appointment that the property will be acquired for the transportation project.

Sec. 451.908. PUBLIC ACCESS. Requires an urban transportation authority to:

- (1) make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the urban transportation authority; and
- (2) prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability is authorized to be provided reasonable access to the urban transportation authority programs.

Sec. 451.909. STRATEGIC PLANS AND ANNUAL REPORTS. (a) Requires an urban transportation authority to develop a strategic plan for its operations. Requires the urban transportation authority, before December 31 of each even-numbered year, to issue a plan that covers the succeeding five fiscal years of the urban transportation authority, beginning with the next odd-numbered fiscal year.

(b) Requires an urban transportation authority, not later than March 31 of each year, to file with each county in which the urban transportation authority is located, the principal municipality, and the panel composed of the mayors of the municipalities in the urban transportation authority that contribute sales and use tax revenue to the authority, a written report on the urban transportation authority activities that includes a description of anticipated issuances of debt during the next fiscal year, a description of the financial condition of the urban transportation authority, schedules for the development of approved projects, and the status of the urban transportation authority's performance under the most recent strategic plan.

(c) Provides that, notwithstanding Subsection (b), a failure to identify a debt issuance or a change in a project development schedule in a written report does not prevent the issuance of the debt or the change in the project development schedule, including the commencement of the operation of a project.

Sec. 451.910. ESTABLISHMENT OF COMPREHENSIVE TRANSPORTATION SYSTEM. (a) Authorizes the board, if the board determines that the mobility needs of the county or counties in which the urban transportation authority operates and of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise, to create one or more comprehensive transportation systems composed of those transportation projects.

(b) Authorizes the board to create more than one comprehensive transportation system and combine two or more comprehensive transportation systems into a single comprehensive transportation system.

(c) Authorizes an urban transportation authority to finance, acquire, construct, cross-collateralize, and operate a comprehensive transportation system if the board determines that the transportation projects could most efficiently and economically be acquired or constructed as part of the comprehensive transportation system and the transportation projects will benefit the comprehensive transportation system.

Sec. 451.911. ISSUANCE OF DEBT. (a) Authorizes an urban transportation authority, or an entity created by the urban transportation authority for the purposes of issuing debt, by resolution of the board or the governing body of the entity, as applicable, to authorize the issuance of debt payable solely from revenue.

(b) Prohibits debt, any portion of which is payable from taxes, from being issued by an urban transportation authority unless the issuance is authorized by a majority of the votes cast at an election ordered and held for that purpose.

(c) Provides that debt issued by an urban transportation authority is fully negotiable. Authorizes an urban transportation authority to make the debt redeemable before maturity at the price and subject to the terms and conditions provided in the proceedings that authorized the issuance or in a related legal document.

(d) Authorizes debt issued by an urban transportation authority under this subchapter to be sold at a public or private sale as determined by the board to be most advantageous and is authorized to have a maturity of not longer than 50 years.

(e) Authorizes costs attributable to a transportation project that were incurred before the issuance of debt to finance the transportation project to be reimbursed from the proceeds of debt that is subsequently issued.

Sec. 451.912. TRANSPORTATION PROJECT FINANCING. (a) Authorizes an urban transportation authority to exercise the powers of a regional mobility authority, an authority, and an advanced transportation district and is authorized to issue debt or enter into other agreements or financial arrangements to pay all or part of the costs of a transportation project or to refund any debt previously issued for a transportation project.

(b) Provides that the powers described in Subsection (a) are cumulative and are authorized to be exercised by an urban transportation authority independently or in combination to develop, finance, operate, and pay the costs of a transportation project. Authorizes the urban transportation authority, subject to other provisions of this subchapter, to pledge any revenue available to the urban transportation authority under this subchapter, separately or in combination, for the payment of a debt, agreement, or financial arrangement described by Subsection (a).

(c) Authorizes TxDOT, as authorized by Chapter 370 in connection with a regional mobility authority, to provide for or contribute to the payment of the costs of a financial or engineering and traffic feasibility study for a transportation project.

Sec. 451.913. SALES AND USE TAX. (a) Provides that when an authority that collects a sales and use tax becomes part of an urban transportation authority [*sic*] the sales and use tax remains subject to the provisions of this chapter that relate to the sales and use tax of an authority and any restriction, covenant, obligation, or pledge attributed to that sales and use tax remains in effect.

(b) Provides that when an advanced transportation district that collects a sales and use tax becomes part of an urban transportation authority the sales and use tax remains subject to the provisions of this Subchapter O that relate to the sales and use tax of an advanced transportation district; and any restriction, covenant, obligation, allocation or pledge attributed to that sales and use tax remains in effect until the voters elect to increase, decrease, or otherwise alter the terms of the sales and use tax.

(c) Prohibits the allocation of the proceeds of the sales and use tax adopted at the initial election of an advanced transportation district from being altered unless a proposition for the reallocation is approved by a majority of the votes cast at an election ordered and held for that purpose under this subchapter.

(d) Authorizes an urban transportation authority to order a subsequent advanced transportation district sales and use tax election to relocate the proceeds of the tax or to increase or decrease the rate of the tax collected by the urban transportation authority. Requires that an election ordered under this section be held for one or more transportation projects, the combined rate of all sales and use taxes imposed by the urban transportation authority and all other political subdivisions of this state are prohibited from exceeding the statutory sales and use tax cap in any

location in the urban transportation authority, and the proceeds of the sales and use tax under a subsequent election are authorized to be pledged only for:

(1) transportation project purposes as determined by the board, including debt service requirements, capitalized interest, reserve fund requirements, credit agreements, administrative costs, and other debt-related costs incurred by or relating to the issuance of obligations by the urban transportation authority relating to the purchase, design, construction, extension, expansion, improvement, reconstruction, alteration, financing, and maintenance of an advanced transportation facility, equipment, operations, a comprehensive transportation system, and services, including feasibility studies, operations, and professional or other services in connection with the facility, equipment, operations, system, or services;

(2) transportation project purposes in the territory of the urban transportation authority as determined by the governing bodies of each participating unit in proportion to the amount of sales and use tax proceeds that were collected in that participating unit; or

(3) as a local match for, or the local share of, a state or federal grant for transportation project purposes in the territory of the urban transportation authority or in connection with the transfer of money by TxDOT or another entity of this state or the United States under an agreement with the county or municipality or a local government corporation created by a county or municipality under Chapter 431, for transportation project purposes in the territory of the urban transportation authority.

(e) Requires that the ballot, at an election under this section, be prepared to permit voting for or against the proposition. Sets forth the required language of the ballot.

(f) Provides that after a favorable subsequent election held under this subchapter, an allocation specified by Subchapter O ceases to be binding.

Sec. 451.914. USE OF FARE REVENUE. (a) Requires that all fare revenue generated by the mass transit operations of the urban transportation authority, other than fare revenue generated by a rail operation, be dedicated exclusively to the support of mass transit operations.

(b) Authorizes fare revenue generated by a rail operation of the urban transportation authority to be used for any comprehensive advanced transportation or comprehensive mobility enhancement purpose.

Sec. 451.915. POWERS AND PROCEDURES OF URBAN TRANSPORTATION AUTHORITY IN ACQUIRING PROPERTY. Provides that an urban transportation authority has the same powers and is authorized to use the same procedures as a regional mobility authority operating under Chapter 370 in acquiring property.

Sec. 451.916. PUBLIC UTILITY FACILITIES. Provides that an urban transportation authority has the same powers and is authorized to use the same procedures as a regional mobility authority operating under Chapter 370 with regard to public utility facilities.

Sec. 451.917. TOLL COLLECTION AND VIOLATIONS. Provides that an urban transportation authority has the same powers and is authorized to use the same procedures as a regional mobility authority operating under Chapter 370 with regard to toll collections, transponders, enforcement, violations, and penalties.

Sec. 451.918. PROJECT DELIVERY. Authorizes an urban transportation authority to procure, develop, finance, design, construct, maintain, or operate a transportation project using the rights, powers, duties, and privileges that are granted by Chapter 223 (Bids and Contracts for Highway Projects), by Chapter 370 to a regional mobility authority, or by

Subchapter H (Alternative Project Delivery Methods for Certain Projects), Chapter 271, Local Government Code, including a right, power, duty, or privilege associated with a construction manager agent, a construction manager-at-risk, use of design build, a pass-through agent, or a comprehensive development agreement.

Sec. 451.919. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES. Authorizes a municipality located in the territory served by an urban transportation authority to designate a municipal transportation reinvestment zone under Section 222.106 (Municipal Transportation Reinvestment Zones) to promote a transportation project under this subchapter and use money deposited to the tax increment account for the reinvestment zone to pay the urban transportation authority for a portion of the costs of the transportation project.

SECTION 2. Effective date: upon passage or September 1, 2009.