

BILL ANALYSIS

Senate Research Center
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S.B. 650
By: Hegar
Transportation & Homeland Security
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 650 is the result of the Sunset Advisory Commission's (Sunset) review of the Capital Metropolitan Transportation Authority (Capital Metro). Capital Metro had significant financial problems, prompting a recommendation that the agency undergo Sunset review. Capital Metro has made progress on implementing a number of corrective initiatives, but statutory changes are needed to ensure continued progress.

As proposed, S.B. 650 amends current law relating to management of certain metropolitan rapid transit authorities.

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 C-1, as follows:

SUBCHAPTER C-1. ADDITIONAL MANAGEMENT PROVISIONS FOR CERTAIN AUTHORITIES

Sec. 451.131. **APPLICABILITY.** Provides that this subchapter applies only to a rapid transit authority created under this chapter or under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (authority), confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000.

Sec. 451.132. **BUDGET.** (a) Requires the governing body of the authority (board) to include in the budget adopted under Section 451.102 (Budget) operating expenses and capital expenditures, and amounts budgeted and sources of funding for each major department of the authority.

(b) Requires the board, before adoption of a budget, to consider detailed information from each major department of the authority on capital improvement projects proposed for the applicable fiscal year and budget needs for those projects. Requires that the considered information include project purposes, project benefits, project funding sources, project implementation costs, and any operational costs resulting from a project.

Sec. 451.133. **FIVE-YEAR CAPITAL IMPROVEMENT PLAN.** (a) Requires the board to adopt a five-year plan for capital improvement projects that supports the strategic goals outlined in Section 451.137 and that:

- (1) describes planned projects, including type and scope;
- (2) prioritizes the projects;

(3) addresses proposed project financing, including any effect a project may have on ongoing operational costs;

(4) identifies sources of funding for projects, including local and federal funds; and

(5) establishes policies for projects, including policies on planning, approval, cost estimation, project reports, and expense tracking.

(b) Requires the board to hold a public meeting on a proposed capital improvement plan before adopting the plan and to make the proposed plan available to the public for review and comment.

(c) Requires the board to annually reevaluate and, if necessary, amend the capital improvement plan to ensure compliance with this section.

(d) Provides that the capital improvement plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

Sec. 451.134. OPERATING EXPENSES AND CAPITAL EXPENDITURES. (a) Prohibits an authority from spending for capital improvements money in excess of the total amount allocated for major capital expenditures in the annual budget.

(b) Requires the board to adopt rules requiring each major department of the authority to report quarterly on operating expenses and capital expenditures of the department. Requires that a report include status information on any completions of capital improvement projects, work completed on capital improvement projects in relation to money spent on those projects, and problems or concerns regarding contract management for capital improvement projects.

(c) Requires the board to establish a system for tracking the progress of the authority's capital improvement projects, including baseline budgets, contract awards, contract changes, and expenditures to date.

Sec. 451.135. OPERATING RESERVE ACCOUNT. (a) Requires the board to establish, in an account separate from other funds, a reserve account in an amount that is not less than an amount equal to budgeted operating expenses for two months.

(b) Requires the board, except as provided by Subsection (c), to maintain in the reserve account a balance that is not less than the amount in the account at the beginning of the fiscal year.

(c) Authorizes the board to make an expenditure from the reserve account that causes the balance in the account to be less than the amount required under Subsection (b) only if the board considers the expense necessary to address emergency circumstances that could not have been planned for or anticipated. Requires the board to adopt criteria for emergency expenditures under this subsection.

(d) Requires the board, if reserve funds are spent under Subsection (c), to, as soon as practicable, restore the balance of the reserve account to at least the amount in the account at the beginning of the fiscal year in which the emergency spending occurred.

(e) Requires the board to maintain, update, and post on the authority's Internet website accounting records of the reserve account's balance at the end of the fiscal year, deposits, expenditures, and interest income.

Sec. 451.136. GENERAL MANAGER PERFORMANCE EVALUATION. (a) Requires the board to adopt a policy of regular evaluation of the general manager's performance. Authorizes the board, in accordance with Section 551.074 (Personnel Matters; Closed Meeting), Government Code, to discuss an evaluation of the general manager's performance in a closed meeting.

(b) Requires the board to adopt a policy regarding discussion of general manager compensation at public meetings. Requires the board to vote on proposed changes in the general manager's compensation, including raises and bonuses, in a public meeting.

Sec. 451.137. FIVE-YEAR STRATEGIC PLAN. (a) Requires the board to adopt a strategic five-year plan that establishes the authority's mission and goals and summarizes planned activities to achieve the mission and goals.

(b) Requires that the plan set policies and service priorities to guide the authority in developing a budget and allocating resources.

(c) Provides that the plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

(d) Requires the board to annually reevaluate and, if necessary, amend the plan to ensure compliance with this section.

Sec. 451.138. RAIL DIRECTOR. (a) Requires the board to employ a rail director to oversee and be accountable for all rail system development, operations, maintenance, and safety. Requires the rail director to:

(1) oversee all personnel and contractors responsible for operating and maintaining commuter rail and freight rail systems and equipment;

(2) oversee rail safety activities, including testing to ensure a safe and effective signal system and operations and control center;

(3) develop a plan that specifies a division of rail system responsibilities between rail capital improvement project activities and rail maintenance activities and that ensures the safety of railroad bridges;

(4) ensure compliance with any applicable federal, state, and local rail safety regulations or requirements;

(5) coordinate with the authority's engineering and construction department or equivalent department to design and construct any new rail projects; and

(6) report to the general manager and board on the rail system's safety, performance, and financial status.

(b) Authorizes the rail director to stop rail operations at any time if the rail director believes the stop is necessary to protect public safety.

Sec. 451.139. RAIL SAFETY PLAN AND REPORTS. (a) Requires the board to adopt and implement a rail safety plan in accordance with federal and industry standards for all authority rail activities, including commuter and freight rail activities.

(b) Requires that the plan address and emphasize ongoing maintenance and safety of the authority's railroad bridges.

(c) Requires that the plan, to ensure that contractor services on the authority's rail system meet safety obligations, include specifics regarding monitoring of contractors for safety-related performance, including regular hazard analyses, risk assessments, and safety audits.

(d) Requires the rail director to report quarterly to the board on the safety of the authority's rail system. Requires the authority to report quarterly to the Texas Department of Transportation (TxDOT) on the safety of the authority's rail system and to report on any aspect of the safety of the rail system on request from TxDOT.

Sec. 451.140. COMPETITIVE BIDS FOR AND PURCHASE OF TRANSIT SERVICES. (a) Requires a board, except as provided by Subsection (f), after providing notice of a proposal, to submit to competitive bids a contract for and to purchase transit services that:

(1) include administration of motor bus or sedan transit services, motor bus or sedan driving, maintenance, or repair, transit services for persons who have disabilities, including through a program established under Section 451.254 (Program for Persons with Physical Disabilities: Certain Authorities), or rail transit services; and

(2) are not provided wholly by an employee of the authority who is directly paid by the authority and works under the daily supervision of the authority's general manager.

(b) Provides that, for the purposes of Subsection (a)(2), services are not provided wholly by an employee of the authority if the person is an employee of an entity incorporated as a state nonprofit by the board of the authority and with which the authority contracts for transit or employee services.

(c) Requires that notice under Subsection (a) be published in a newspaper of general circulation in the area in which the authority is located at least once each week for two consecutive weeks before the date set for receiving the bids. Requires that the first notice be published at least 15 days before the date set for receiving bids.

(d) Requires that a contract let under this section include performance control measures, incentives for performance, penalties for noncompliance, and a contract termination date.

(e) Requires the board to adopt rules on the taking of bids; the awarding of contracts; and the waiver of the competitive bidding requirement if there is an emergency, or only one source for the service or purchase.

(f) Provides that Subsection (a) does not apply to a contract or purchase in an amount of \$25,000 or less, for personal or professional services, or for the acquisition of an existing transit system.

Sec. 451.141. PUBLIC INVOLVEMENT POLICY. (a) Requires the board to adopt a policy of involving the public in board decisions regarding authority policies. Requires that the policy:

(1) ensure that the public has an opportunity to comment on board matters before a vote on the matters;

(2) ensure that any consent agenda or expedition of consideration of board matters at board meetings is used only for routine, noncontroversial matters;

(3) establish a time frame and mechanism for the board to obtain public input throughout the year, including input on strategic planning, budgeting, capital improvement project planning, transit initiatives, and service changes; and

(4) plan for dissemination of information on how the public can be involved in board matters.

(b) Requires the board to post the policy adopted under this section on the authority's Internet website.

SECTION 2. Provides that Sections 451.132 and 451.134(a), Transportation Code, as added by this Act, apply only to a budget adopted on or after September 1, 2012.

SECTION 3. Requires an authority required to establish a reserve account under Section 451.135, Transportation Code, as added by this Act, to establish the account not later than September 1, 2014.

SECTION 4. Requires an authority required by Sections 451.133, 451.134(c), 451.136, 451.137, 451.139, and 451.141, Transportation Code, as added by this Act, to establish a five-year capital improvement plan, a capital improvement projects tracking system, general manager policies, a five-year strategic plan, a rail safety plan, and a public involvement policy, respectively, to develop the plans, policies, and system not later than September 30, 2012.

SECTION 5. Requires individuals providing for an authority transit services described by Section 451.140, Transportation Code, as added by this Act, to be providing those services as employees of the authority or under a contract or agreement that complies with the competitive bidding and purchase requirements of that section, not later than September 1, 2012.

SECTION 6. Requires an authority required to hire a rail director under Section 451.138, Transportation Code, as added by this Act, to hire that director not later than September 30, 2012.

SECTION 7. Requires an authority required to adopt rules under Section 451.134(b), Transportation Code, as added by this Act, to adopt those rules not later than September 30, 2012.

SECTION 8. Effective date: September 1, 2011.