

By: Solomons

H.B. No. 2884

Substitute the following for H.B. No. 2884:

By: Phillips

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A BILL TO BE ENTITLED

# 1 AN ACT

2 relating to coordinated county transportation authorities;  
3 creating an offense.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 460.106(d), Transportation Code, is  
6 amended to read as follows:

7                   (d) Except as provided by Subchapter I, a [A] service plan  
8        may be implemented in an area of the county participating in the  
9        authority only if a majority of votes received favor the  
10      authorization of a tax levy by the authority.

11 SECTION 2. Subchapter C, Chapter 460, Transportation Code,  
12 is amended by adding Sections 460.1091 and 460.1092 to read as  
13 follows:

20                   (b) A board of directors by resolution may provide that a  
21 fare for or charge for the use of the public transportation system  
22 that is not paid incurs a reasonable administrative fee.

23                   (c) An authority shall post signs designating each area in  
24 which a person is prohibited from using the transportation system

1 without payment of the appropriate fare.

2       (d) A person commits an offense if the person or another for  
3 whom the person is criminally responsible under Section 7.02, Penal  
4 Code, uses the public transportation system without paying the  
5 appropriate fare.

6       (e) If the person fails to provide proof that the person  
7 paid the appropriate fare for the use of the public transportation  
8 system and fails to pay any administrative fee assessed under  
9 Subsection (b) on or before the 30th day after the date the  
10 authority notifies the person that the person is required to pay the  
11 amount of the fare and the administrative fee, it is prima facie  
12 evidence that the person used the public transportation system  
13 without paying the appropriate fare.

14       (f) The notice required by Subsection (e) may be included in  
15 a citation issued to the person by a peace officer under Article  
16 14.06, Code of Criminal Procedure, or by a fare enforcement officer  
17 under Section 460.1092, in connection with an offense relating to  
18 the nonpayment of the appropriate fare for the use of the public  
19 transportation system.

20       (g) It is an exception to the application of Subsection (d)  
21 that on or before the 30th day after the date the authority notified  
22 the person that the person is required to pay the amount of the fare  
23 and any administrative fee assessed under Subsection (b), the  
24 person:

25        (1) provided proof that the person paid the  
26 appropriate fare at the time the person used the transportation  
27 system or at a later date or that the person was exempt from

1 payment; and

2                   (2) paid the administrative fee assessed under  
3 Subsection (b), if applicable.

4                   (h) An offense under Subsection (d) is:

5                   (1) a misdemeanor punishable by a fine not to exceed  
6 \$100; and

7                   (2) not a crime of moral turpitude.

8                   (i) A justice court located in the service area of the  
9 authority may enter into an agreement with the authority to try all  
10 criminal cases that arise under Subsection (d). Notwithstanding  
11 Articles 4.12 and 4.14, Code of Criminal Procedure, if a justice  
12 court enters into an agreement with the authority:

13                   (1) a criminal case that arises under Subsection (d)  
14 must be tried in the justice court; and

15                   (2) the justice court has exclusive jurisdiction in  
16 all criminal cases that arise under Subsection (d).

17                   Sec. 460.1092. FARE ENFORCEMENT OFFICERS. (a) An  
18 authority may employ persons to serve as fare enforcement officers  
19 to enforce the payment of fares for use of the public transportation  
20 system by:

21                   (1) requesting and inspecting evidence showing  
22 payment of the appropriate fare from a person using the public  
23 transportation system; and

24                   (2) issuing a citation to a person described by  
25 Section 460.1091(d).

26                   (b) Before commencing duties as a fare enforcement officer,  
27 a person must complete at least eight hours of training approved by

1 the authority that is appropriate to the duties required of a fare  
2 enforcement officer.

3 (c) While performing duties, a fare enforcement officer  
4 shall:

5 (1) wear a distinctive uniform, badge, or insignia  
6 that identifies the person as a fare enforcement officer; and  
7 (2) work under the direction of the authority's chief  
8 administrative officer.

9 (d) A fare enforcement officer may:

10 (1) request evidence showing payment of the  
11 appropriate fare from passengers of the public transportation  
12 system or evidence showing exemption from the payment requirement;  
13 (2) request personal identification or other  
14 documentation designated by the authority from a passenger who does  
15 not produce evidence showing payment of the appropriate fare on  
16 request by the officer;

17 (3) instruct a passenger to immediately leave the  
18 public transportation system if the passenger does not possess  
19 evidence showing payment or exemption from payment of the  
20 appropriate fare; or

21 (4) file a complaint in the appropriate court that  
22 charges the person with an offense under Section 460.1091(d).

23 (e) A fare enforcement officer may not carry a weapon while  
24 performing duties under this section unless the officer is a  
25 certified peace officer.

26 (f) A fare enforcement officer who is not a certified peace  
27 officer is not a peace officer and has no authority to enforce a

1 criminal law, except as provided by this section.

2 SECTION 3. Section 460.406(c), Transportation Code, is  
3 amended to read as follows:

4 (c) The board of directors may authorize the negotiation of  
5 a contract without competitive sealed bids or proposals if:

6 (1) the aggregate amount involved in the contract is  
7 \$50,000 [~~\$25,000~~] or less;

8 (2) the contract is for construction for which not  
9 more than one bid or proposal is received;

10 (3) the contract is for services or property for which  
11 there is only one source or for which it is otherwise impracticable  
12 to obtain competition;

13 (4) the contract is to respond to an emergency for  
14 which the public exigency does not permit the delay incident to the  
15 competitive process;

16 (5) the contract is for personal or professional  
17 services or services for which competitive bidding is precluded by  
18 law;

19 (6) the contract, without regard to form and which may  
20 include bonds, notes, loan agreements, or other obligations, is for  
21 the purpose of borrowing money or is a part of a transaction  
22 relating to the borrowing of money, including:

23 (A) a credit support agreement, such as a line or  
24 letter of credit or other debt guaranty;

25 (B) a bond, note, debt sale or purchase, trustee,  
26 paying agent, remarketing agent, indexing agent, or similar  
27 agreement;

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1 (C) an agreement with a securities dealer,  
2 broker, or underwriter; and

3 (D) any other contract or agreement considered by  
4 the board of directors to be appropriate or necessary in support of  
5 the authority's financing activities;

10 (9) the contract is for the purchase of personal  
11 property sold:

12 (A) at an auction by a state licensed auctioneer;  
13 (B) at a going out of business sale held in  
14 compliance with Subchapter F, Chapter 17, Business & Commerce Code;  
15 or

16 (C) by a political subdivision of this state, a  
17 state agency, or an entity of the federal government;

18 (10) the contract is for services performed by blind  
19 or severely disabled persons;

20 (11) the contract is for the purchase of electricity;  
21 or

22 (12) the contract is one awarded for alternate project  
23 delivery under Sections 271.117-271.119, Local Government Code.

24 SECTION 4. Chapter 460, Transportation Code, is amended by  
25 adding Subchapter I to read as follows:

1        SUBCHAPTER I. PARTICIPATION IN AUTHORITY THROUGH TAX INCREMENT

2                    PAYMENTS

3        Sec. 460.601. DEFINITION.    In this subchapter, "tax

4        increment" means the amount of revenue generated from ad valorem

5        taxes, sales and use taxes imposed by a municipality under Section

6        321.101(a), Tax Code, or both ad valorem and sales and use taxes

7        that are attributable to a public transportation financing area

8        designated under this subchapter that exceeds the amount

9        attributable to the area for the year in which the area was

10      designated.

11        Sec. 460.602. PARTICIPATION IN SERVICE PLAN; AGREEMENT WITH

12        MUNICIPALITY.    A service plan may be implemented in an area of a

13        municipality that has not authorized the authority's sales and use

14      tax levy if:

15                (1) the authorization by the municipality of the

16        authority's sales and use tax levy, when combined with the rates of

17        all sales and use taxes imposed by other political subdivisions in

18        the municipality, would exceed two percent in any location in the

19      municipality; and

20                (2) the municipality has entered into an agreement

21        with the authority to provide public transportation services in a

22        public transportation financing area designated under this

23        subchapter in exchange for all or a portion of the tax increment in

24      the area.

25        Sec. 460.603. DESIGNATION OF PUBLIC TRANSPORTATION

26        FINANCING AREA.    The governing body of a municipality by ordinance

27      may designate a contiguous geographic area in the jurisdiction of

1 the municipality to be a public transportation financing area. The  
2 geographic area:

3           (1) must have one or more transit facilities that  
4 include a structure provided for or on behalf of the authority for  
5 embarkation on and disembarkation from public transportation  
6 services provided by the authority, which may include a transit  
7 stop, transit shelter, transit garage, or transit terminal;

8           (2) may include any territory located in the  
9 municipality's jurisdiction; and

10           (3) must include an area one-half mile on either side  
11 of the proposed service route served by a structure under  
12 Subdivision (1), to the extent that that area is included in the  
13 municipality's boundaries.

14           Sec. 460.604. HEARING. (a) Before adopting an ordinance  
15 designating a public transportation financing area, the  
16 municipality must hold a public hearing on the creation of the  
17 public transportation financing area and its benefits to the  
18 municipality and to property in the proposed public transportation  
19 financing area. At the hearing, an interested person may speak for  
20 or against the designation of the public transportation financing  
21 area.

22           (b) Not later than the 30th day before the date of the  
23 hearing, notice of the hearing must be published in a newspaper  
24 having general circulation in the municipality.

25           Sec. 460.605. DESIGNATION OF TAX INCREMENT. (a) In the  
26 ordinance designating an area as a public transportation financing  
27 area, the municipality must:

1                   (1) designate a portion or amount of the tax increment  
2                   to be paid to the authority and deposited in the tax increment  
3                   account under Section 460.606; and

4                   (2) state whether the tax increment will be generated  
5                   from ad valorem tax revenue, sales and use tax revenue, or both.

6                   (b) The amount designated for payment and deposit may not  
7                   exceed the equivalent of the amount that would be collected by the  
8                   authority if the municipality had authorized the authority's sales  
9                   and use tax levy.

10                   (c) Notwithstanding Subsection (b), if the amount  
11                   designated under Subsection (b) is not sufficient to compensate the  
12                   authority for the maintenance and operating expenses of providing  
13                   service to the public transportation financing area and for any  
14                   capital cost incurred for the benefit of the public transportation  
15                   financing area, the authority may request and the municipality  
16                   shall designate that the entire portion or amount of the tax  
17                   increment be deposited in the tax increment account, regardless of  
18                   whether that amount exceeds the authority's sales and use tax levy  
19                   equivalent, until any amounts owed for all previous years'  
20                   maintenance and operating expenses and for any capital cost  
21                   incurred for the benefit of the public transportation financing  
22                   area have been paid.

23                   Sec. 460.606. TAX INCREMENT ACCOUNT; USE OF TAXES. (a) An  
24                   authority that enters into an agreement with a municipality to  
25                   provide services to a public transportation financing area must  
26                   establish a tax increment account and maintain the account as a  
27                   fiduciary of the municipality.

1                 (b) The taxes to be deposited into the tax increment account  
2 may be disbursed from the account only to:

3                 (1) compensate the authority for maintenance and  
4 operating expenses of providing services to the public  
5 transportation financing area, including compensation for  
6 expansion, improvement, rehabilitation, or enhancement amounts  
7 owed for previous years' maintenance and operating expenses for the  
8 public transportation financing area;

9                 (2) compensate the authority for any capital cost  
10 incurred for the benefit of the public transportation financing  
11 area;

12                 (3) notwithstanding Section 321.506, Tax Code,  
13 satisfy claims of holders of tax increment bonds, notes, or other  
14 obligations issued or incurred for projects or services that  
15 directly or indirectly benefit the public transportation financing  
16 area through the expansion, improvement, rehabilitation, or  
17 enhancement of transportation service by the authority under the  
18 service plan; and

19                 (4) pay any capital recovery fee required by the  
20 authority.

21                 Sec. 460.607. AGREEMENT WITH COMPTROLLER. Before pledging  
22 or otherwise committing money in the tax increment account under  
23 Section 460.606, the governing body of a municipality must enter  
24 into an agreement under Subchapter E, Chapter 271, Local Government  
25 Code, to authorize and direct the comptroller to:

26                 (1) withhold from any payment to which the  
27 municipality may be entitled the amount of the payment due to the

1 tax increment account;

2                   (2) deposit that amount into the tax increment  
3 account; and

4                   (3) continue withholding and making additional  
5 payments into the tax increment account until an amount sufficient  
6 to satisfy the amount due to the account has been met.

7                   Sec. 460.608. ACCOUNTING OF MAINTENANCE AND OPERATING  
8 EXPENSES. An authority shall, under an agreement under Section  
9 460.602:

10                   (1) provide to the municipality an annual accounting,  
11 with supporting documentation, of the annual maintenance and  
12 operating expenses of providing service to the public  
13 transportation financing area; and

14                   (2) notify the municipality when amounts owed for all  
15 previous years' maintenance and operating expenses and for any  
16 capital cost incurred for the benefit of the public transportation  
17 financing area have been fully paid.

18                   Sec. 460.609. CAPITAL RECOVERY FEE. An agreement to  
19 provide services to a public transportation financing area may  
20 require the municipality to pay the authority a capital recovery  
21 fee. An authority that requires a capital recovery fee shall:

22                   (1) apply toward the amount owed for the capital  
23 recovery fee any amount in the tax increment account that exceeds  
24 the amount necessary to compensate the authority for:

25                   (A) the annual maintenance and operating  
26 expenses of providing service to the public transportation  
27 financing area, including amounts for expansion, improvement,

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1 rehabilitation, or enhancement that may be owed for previous years'  
2 maintenance and operating expenses: and

7 Sec. 460-610. USE OF SURPLUS TAX INCREMENT PAYMENT AMOUNTS.

8 After any applicable capital recovery fee has been paid, the  
9 authority and the municipality shall negotiate to determine use of  
10 the amount of tax increment payments that exceeds the amount  
11 necessary to compensate the authority for the annual maintenance  
12 and operating expenses of providing service to the public  
13 transportation financing area. The excess amounts may be used to  
14 develop infrastructure enhancement, replacement, or improvement  
15 projects in the public transportation financing area that benefit  
16 both the municipality and the authority.

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1                   (1) the principal of, premium, if any, and interest on  
2 all bonds issued on behalf of the public transportation financing  
3 area at maturity or at the date fixed for redemption of the bonds;  
4 and

5                   (2) any other amounts that may become due, including  
6 compensation due or to become due to the trustee or escrow agent, as  
7 well as to pay the principal of and interest on any other  
8 obligations incurred on behalf of the public transportation  
9 financing area.

10                 SECTION 5. This Act takes effect September 1, 2011.