

TRANSPORTATION CODE
TITLE 6. ROADWAYS
SUBTITLE K. MASS TRANSPORTATION
CHAPTER 460. COORDINATED COUNTY TRANSPORTATION AUTHORITIES
[As Effective September 1, 2013, with all amendments through the Second Called Session
of the 83rd Texas Legislature.]

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 460.001. DEFINITIONS. In this chapter:

(1) "Authority" means a coordinated county transportation authority created under this chapter.

(2) "Balance of the county" means that part of the county that is outside the boundaries of a municipality with a population of 12,000 or more.

(3) "Board of directors " means the governing body of the authority.

(4) "Service plan" means an outline of the service that would be provided by an authority.

Sec. 460.002. APPLICABILITY. This chapter applies only to a county that is adjacent to a county with a population of more than one million.

Sec. 460.003. INELIGIBILITY OF CERTAIN MUNICIPALITIES. (a) A municipality that is a member of a subregion of a transportation authority governed by a board described in Subchapter O, Chapter 452, is not eligible to join or become a member of an authority created under this chapter unless:

(1) the municipality holds a withdrawal election in accordance with the requirements of Section 452.655 and a majority of the voters at the election approve the withdrawal;

(2) the municipality has paid in full all amounts that it is required to pay under Sections 452.659 and 452.660; and

(3) the comptroller has ceased under Section 452.658 to collect sales and use taxes within the municipality that were levied and collected in the municipality for purposes of the authority from which the municipality has withdrawn.

(b) A municipality that is not eligible under this section for membership in an authority created under this chapter may not be added to or join an authority under Section 460.302 or 460.303 until the municipality meets the requirements of this section.

Sec. 460.004. REFERENCE. A reference in this chapter to the executive committee means the board of directors.

SUBCHAPTER B. CREATION OF AUTHORITY

Sec. 460.051. CREATION OF AUTHORITY. (a) The commissioners court of a county may initiate the process to create an authority to provide public transportation and transportation-related services:

(1) on adoption of a resolution or order initiating the process to create an authority;
or

(2) on receipt of a petition requesting creation of an authority signed by a number of registered voters of the county equal to or greater than five percent of the votes cast in the county in the most recent gubernatorial election.

(b) If a petition described by Subsection (a)(2) is received by the commissioners court, the petition shall be verified by the county clerk, consistent with Chapter 277, Election Code, and returned to the commissioners court with a finding of verification.

Sec. 460.052. HEARING. (a) The commissioners court shall hold a public hearing on creation of an authority not later than the 60th day after the date the commissioners court:

(1) receives a petition described by Section 460.051(a)(2); or

(2) adopts a resolution or order to initiate the process to create an authority.

(b) Notice of the time and place of the public hearing on the creation of the authority shall be published, beginning at least 30 days before the date of the hearing, once a week for two consecutive weeks in a newspaper of general circulation in the county.

(c) Each municipality in the county with a population of 12,000 or more shall be notified of the public hearing by notice mailed to the governing body of the municipality.

(d) Any person may appear at a hearing and offer evidence on:

(1) the creation of the authority;

(2) operation of the county transportation system;

(3) public interest served in the creation of the authority; or

(4) other facts relating to the creation of the authority.

(e) A hearing may be continued until completed.

Sec. 460.053. RESOLUTION OR ORDER. After the hearing, the commissioners court may adopt a resolution or order:

(1) designating the name of the authority;

(2) stating that all land within the county shall be part of the authority; and

(3) stating that the territory described in Subdivision (2) is subject to the authority based on the results of the confirmation election.

Sec. 460.054. MEMBERSHIP OF INTERIM EXECUTIVE COMMITTEE. (a) After adopting a resolution or order under Section 460.053, the commissioners court and certain municipalities, as provided by this section, shall appoint an interim executive committee for the authority.

(b) The interim executive committee is composed of:

(1) one member appointed by the governing body of each municipality with a population of 12,000 or more that is located in the county;

(2) three members appointed by the commissioners court, two of whom must reside in the unincorporated area of the county;

(3) three members to be designated by the remaining municipalities with a population of more than 500 but less than 12,000 located in the county; and

(4) one member appointed by the governing body of each municipality in the county with a population of more than 500 but less than 12,000 that:

(A) designates a public transportation financing area under Section 460.603;

(B) enters into an agreement with the authority to provide public transportation services in the public transportation financing area under Subchapter I; and

(C) did not approve the designation of any member designated under Subdivision (3).

(c) The members described by Subsection (b)(3) shall be designated as follows:

(1) each municipality with a population of more than 500 but less than 12,000 located in the county shall nominate one person using a nomination form sent to the governing body of the municipality by mail;

(2) the county judge shall add the names on the nomination forms that are received before the 31st day after the date of the mailing of the nomination forms;

(3) each municipality with a population of more than 500 but less than 12,000 located in the county is entitled to cast one vote;

(4) only ballots returned to the county judge on or before a predetermined date shall be counted;

(5) the county judge shall designate the three persons with the highest plurality vote as members of the interim executive committee; and

(6) if three members are not designated by this process, the county judge shall name the balance of the members of the interim executive committee described by Subsection (b)(3).

(d) The county judge may fill a vacancy in a position described by Subsection (b)(3) by naming a person nominated under Subsection (c) for the unexpired term.

Sec. 460.055. DUTIES OF INTERIM EXECUTIVE COMMITTEE. (a) The interim executive committee shall elect three of its members to serve as the chair, vice chair, and secretary.

(b) The interim executive committee shall develop a service plan and determine a proposed tax not later than the 180th day after the date of the interim executive committee's first meeting.

(c) The interim executive committee shall hold at least one regular meeting a month for the purpose of developing a service plan and determining a proposed tax rate.

(d) The interim executive committee shall consider the following in developing the service plan:

(1) the regional transportation plan for the county and major thoroughfare plan;

(2) actual and projected traffic counts of private passenger vehicles and projected destinations of the vehicles;

(3) feasible alternative modes of public transportation, including:

(A) a fixed guideway system;

(B) passenger commercial carriers;

(C) dedicated thoroughfare lanes;

- (D) fixed skyway rail;
 - (E) high occupancy toll lanes;
 - (F) traffic management systems; and
 - (G) bus transit and associated lanes;
- (4) the most efficient location of collection points and transfer points;
 - (5) alternative routes linking access and discharge points;
 - (6) alternative alignments using least populous areas if right-of-way acquisition will be required for a transit route;
 - (7) estimates of capital expenditures for a functional public transportation system;
 - (8) various forms of public transportation consistent with use of transit routes, including for each form a determination of:
 - (A) cost per passenger per mile;
 - (B) the capital expense of acquisition of the public transportation system;
 - (C) costs associated with the acquisition, improvement, or modification of the transit way; and
 - (D) maintenance and operating costs;
 - (9) administrative overhead costs separately from other costs;
 - (10) load factors based on surveys, interviews, and other reasonable quantification for the modes of transportation;
 - (11) a fare structure for the ridership of the public transportation system by mode;
 - (12) a comparison of revenue from all sources, including fares, fees, grants, and debt issuance, with estimated costs and expenses;
 - (13) revenue minus expenses expressed numerically and a per rider factor for each trip or segment of a trip;
 - (14) if the service plan contemplates joint use of other transit systems or transfer to them, estimated dates of access; and

(15) segments of the service plan separately if:

(A) some segments are more profitable than others; or

(B) some segments show a smaller deficit than others.

Sec. 460.056. APPROVAL OF SERVICE PLAN AND TAX RATE. (a) On approval by the interim executive committee of the service plan and tax rate, a copy of the plan and tax rate shall be provided to the commissioners court and the governing body of each municipality with a population of 12,000 or more located in the county.

(b) Notice of the interim executive committee's approval of the service plan and tax rate shall be published in a newspaper of general circulation in the county and mailed to all governing bodies of municipalities with a population of more than 500 located in the county.

(c) Not later than the 60th day after the date the interim executive committee approves the service plan and tax rate, the governing body of a municipality with a population of 12,000 or more may approve by resolution or order the service plan and tax rate.

(d) A municipality with a population of 12,000 or more located in the county that does not give its approval under Subsection (c) may not participate in the service plan or the confirmation election for the authority.

(e) The commissioners court may not order a confirmation election in a municipality with a population of 12,000 or more in which the governing body of the municipality does not approve the service plan and tax rate.

(f) The board of directors of a confirmed authority may by rule create a procedure by which a municipality described by Subsection (d) may become a participating member of an authority.

Sec. 460.057. CONFIRMATION ELECTION. (a) The interim executive committee shall notify the commissioners court of the need to call a confirmation election.

(b) The commissioners court in ordering the confirmation election shall submit to the qualified voters in the county the following proposition:

"Shall the creation of (name of authority) be confirmed?"

(c) In addition to other information required by law, the notice of the election must include:

(1) a brief description of the service plan; and

(2) a statement that an imposition of a tax to pay for the service plan must be

approved by the voters at a subsequent election.

(d) The election must be held on a uniform election date.

Sec. 460.058. CONDUCT OF ELECTION. (a) A confirmation election shall be conducted so that the votes are separately tabulated and canvassed in order to show the results for:

(1) each municipality located in the county that passed a resolution or order approving the service plan and tax rate; and

(2) the qualified voters in the balance of the county.

(b) The interim executive committee shall canvass the returns and declare the results of the election.

Sec. 460.059. RESULTS OF ELECTION. (a) If a majority of votes received in the county favor the proposition, the authority is confirmed, except that the authority does not include a municipality with a population of 12,000 or more located in the county in which a majority of the votes did not favor the proposition.

(b) The authority ceases unless one or more municipalities with a population of 12,000 or more votes in favor of the proposition.

(c) If the authority is confirmed, the interim executive committee shall record the results in its minutes and adopt an order:

(1) declaring that the creation of the authority is confirmed;

(2) stating the date of the election; and

(3) showing the number of votes cast for or against the proposition in each municipality that passed a resolution or order approving the service plan and tax rate and in the unincorporated area of the county.

(d) On adoption of the order confirming the authority, the interim executive committee becomes the board of directors of the authority.

(e) A certified copy of the order shall be filed with the Texas Department of Transportation and the comptroller of public accounts.

Sec. 460.060. FAILURE TO CONFIRM AUTHORITY. (a) If the authority ceases, the interim executive committee shall record the results of the election in its minutes and adopt an order declaring that the authority is dissolved.

(b) The county and each municipality that passed a resolution or order approving the service plan and tax rate shall share the expenses of the election proportionately based on the population of the areas in which the election was conducted.

(c) An authority that has not been confirmed expires on the third anniversary of the effective date of the resolution or order initiating the process to create the authority.

SUBCHAPTER C. POWERS OF AUTHORITY

Sec. 460.101. POWERS APPLICABLE TO CONFIRMED AUTHORITY. This subchapter applies only to an authority that has been confirmed.

Sec. 460.102. NATURE OF AUTHORITY. (a) An authority:

- (1) is a governmental body and a corporate body;
- (2) has perpetual succession; and
- (3) exercises public and essential governmental functions.

(b) An authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose including the application of Chapter 101, Civil Practice and Remedies Code.

Sec. 460.103. GENERAL POWERS OF AUTHORITY. (a) The authority has any power necessary or convenient to carry out this chapter or effect the purpose of this chapter.

(b) An authority may sue and be sued. An authority may not be required to give security for costs in a suit brought or prosecuted by the authority and may not be required to post a supersedeas or cost bond in an appeal of a judgment.

(c) An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights and other interests necessary, convenient, or useful to the exercise of any power under this chapter.

(d) An authority may sell, lease, or dispose of in another manner:

(1) any right, interest, or property of the authority that is not necessary for the efficient operation and maintenance of public transportation; or

(2) at any time, surplus materials or other property that is not needed by the authority to carry out a power under this chapter.

Sec. 460.104. POWER TO CONTRACT; GRANTS AND LOANS. (a) An authority may contract with any person.

(b) An authority may accept a gift, grant, donation, or loan from any person.

(c) An authority may enter into an agreement, including an interlocal agreement, with a transportation or transit entity, including a municipality, that is consistent with and beneficial to the service plan approved by the authority.

(d) An authority may acquire rolling stock or other real or personal property under a contract or trust agreement, including a conditional sales contract, a lease, a lease-purchase agreement, or an equipment trust.

Sec. 460.105. OPERATION OF PUBLIC TRANSPORTATION SYSTEM. (a) An authority may:

(1) acquire, construct, develop, plan, own, operate, and maintain a public transportation system in the territory of the authority, including the territory of a political subdivision or municipality partially located in the territory of the authority;

(2) contract with a municipality, county, or other political subdivision for the authority to provide public transportation services outside the authority;

(3) lease all or part of the public transportation to, or contract for the operation of all or a part of the public transportation system by, an operator;

(4) contract with a political subdivision or governmental entity to provide public transportation services inside the authority consistent with rules and regulations established by the authority, including capital, maintenance, operation, and other costs specifically approved and audited by the authority; and

(5) acquire, construct, develop, plan, own, operate, maintain, or manage a public transportation system or project not located in the territory of the authority if the system or project provides a service, benefit, or convenience to the people in the territory of the authority.

(b) An authority shall determine routes of the public transportation system or approve routes submitted to the authority.

(c) A private operator who contracts with an authority under this chapter is not a public entity for purposes of any law of this state except that an independent contractor of the authority that performs a function of the authority is liable for damages only to the extent that the authority would be liable if the authority or entity itself were performing the function.

Sec. 460.106. AUTHORIZATION OF TAX LEVY. (a) An authority may call an authorization election for a tax levy associated with the service plan developed by the interim executive committee or a tax rate that has been modified by action of the authority at any time after the confirmation election that creates the authority.

(b) The authority in ordering the authorization election shall submit to the qualified voters in the county located in an area participating in the authority the following proposition:

"Shall the (name of authority) levy of a proposed tax, not to exceed (rate), be authorized?"

(c) An election authorizing a tax levy shall be conducted in the same manner as a confirmation election under Subchapter B.

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

(e) An authority that does not authorize an initial tax levy at an authorization election expires on the second anniversary of the date the executive committee adopts an order declaring that the creation of the authority is confirmed.

Sec. 460.107. ACQUISITION OF PROPERTY. (a) As necessary or useful in the construction, repair, maintenance, or operation of a public transportation system, an authority may use a public way, including an alley.

(b) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space, except the right of eminent domain may not be exercised:

(1) in a municipality without the approval of the proposed acquisition by the governing body of the municipality; or

(2) in an unincorporated area without the approval of the proposed acquisition by the commissioners court of the county in which the property to be condemned is located.

(c) If an authority, through the exercise of eminent domain, makes any relocation necessary, the relocation costs shall be paid by the authority.

(d) An eminent domain proceeding by an authority is initiated by the adoption by the executive committee of a resolution authorizing the exercise that:

(1) describes the property to be condemned;

(2) declares the public necessity for the acquisition; and

(3) declares that the acquisition is necessary for the construction, extension, improvement, or development of the public transportation system.

(e) A resolution adopted under this section and approved by the appropriate municipal governing body or commissioners court is conclusive evidence of the public necessity for the acquisition described in the resolution.

(f) Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.

Sec. 460.108. AGREEMENT WITH UTILITIES, CARRIERS. (a) An authority may agree with any other public or private utility, communication system, common carrier, or transportation system for:

(1) the joint use of the property or fixtures of the agreeing entities; and

(2) the establishment of through routes, joint fares, or transfers of passengers between the agreeing entities.

(b) If the exercise of a power granted to an authority under this subchapter requires a public utility facility to be relocated, adjusted, raised, lowered, rerouted, or changed as to grade or construction, the authority shall take the required action at the authority's expense.

(c) An authority may not impose an impact fee or assessment on the property, equipment, or facilities of a utility.

Sec. 460.109. FARES AND USE FEES. (a) An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other forms of compensation for the use of the public transportation system. The fares and other forms of compensation shall be sufficient to produce revenue, together with tax revenue and grants received by the authority, in an amount adequate to:

(1) pay annually the expenses necessary to operate and maintain the public transportation system;

(2) pay as due the principal of and interest on, and sinking fund or reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and

(3) fulfill the terms of any other agreement with the holders of bonds issued by the authority.

(b) Fares for passenger transportation may be set according to a zone system or by any other

classification system that the authority determines to be reasonable.

(c) This section does not limit the state's power to regulate taxes imposed by an authority. The state agrees not to alter the power granted to an authority under this section to impose taxes, fares, tolls, charges, rents, and other compensation sufficient to pay obligations incurred by the authority.

(d) The state agrees not to impair the rights and remedies of an authority bondholder, or a person acting on behalf of a bondholder, until the principal and interest on the bonds, the interest on unpaid installments of interest, costs, and expenses in connection with an action or proceeding by or on behalf of a bondholder are discharged.

Sec. 460.1091. ENFORCEMENT OF FARES AND OTHER CHARGES; PENALTIES.

(a) A board of directors by resolution may prohibit the use of the public transportation system by a person without payment of the appropriate fare for the use of the system and may establish reasonable and appropriate methods to ensure that persons using the public transportation system pay the appropriate fare for that use.

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

(c) An authority shall post signs designating each area in which a person is prohibited from using the transportation system without payment of the appropriate fare.

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

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

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

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

(1) provided proof that the person paid the appropriate fare at the time the person

used the transportation system or at a later date or that the person was exempt from payment; and

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

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

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

(2) not a crime of moral turpitude.

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

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

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

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

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

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

(b) Before commencing duties as a fare enforcement officer, a person must complete at least eight hours of training approved by the authority that is appropriate to the duties required of a fare enforcement officer.

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

(1) wear a distinctive uniform, badge, or insignia that identifies the person as a fare enforcement officer; and

(2) work under the direction of the authority's chief administrative officer.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the

public transportation system or evidence showing exemption from the payment requirement;

(2) request personal identification or other documentation designated by the authority from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

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

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

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

(f) A fare enforcement officer who is not a certified peace officer is not a peace officer and has no authority to enforce a criminal law, except as provided by this section.

Sec. 460.110. INSURANCE. (a) An authority may insure, through purchased insurance policies, self-insurance programs, or both, the legal liability of the authority and of its contractors and subcontractors arising from the acquisition, construction, or operation of the programs and facilities of the authority for:

(1) personal or property damage; and

(2) officers' and employees' liability.

(b) An authority may use contracts, rating plans, and risk management programs designed to encourage accident prevention.

(c) In developing an insurance or self-insurance program, an authority may consider the peculiar hazards, indemnity standards, and past and prospective loss and expense experience of the authority and similar authorities and of its contractors and subcontractors.

Sec. 460.111. TAX EXEMPTION. The property, revenue, and income of an authority are exempt from state and local taxes.

Sec. 460.112. MASS TRANSIT RAIL SYSTEM; EXEMPTION. (a) An authority that constructs or operates or contracts with another entity to construct or operate a mass transit rail system is not subject to any state law regulating or governing the design, construction, or operation of a railroad, railway, street railway, streetcar, or interurban railway.

(b) For purposes of ownership or transfer of ownership of an interest in real property, a light

rail mass transit system line operating on property previously used by a railroad, railway, street railway, or interurban railway is a continuation of existing rail use.

SUBCHAPTER D. PROVISIONS APPLICABLE TO BOARD OF DIRECTORS

Sec. 460.201. TERMS; VACANCY. (a) Each member of the board of directors serves a term of two years.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 326, Sec. 22, eff. September 1, 2007.

(c) Except as provided by Section 460.2015, a vacancy on the board of directors is filled in the same manner as the original appointment to the interim executive committee.

Sec. 460.2015. MEMBERSHIP OF BOARD OF DIRECTORS. (a) The board of directors of an authority confirmed under Subchapter B may increase the population amount stated by Section 460.054(b)(1) in increments of up to 5,000. If the board increases that population amount, the board shall also increase each population amount stated by Sections 460.054(b)(3), (b)(4), and (c) by the same amount.

(b) The board of directors may act under Subsection (a) only once a year.

(c) A municipality that has appointed a member to the board of directors under Section 460.054(b)(1) before the effective date of an increase under Subsection (a) may continue to appoint a member to the board of directors.

Sec. 460.202. ELIGIBILITY. To be eligible for appointment to the board of directors, a person must:

(1) have professional experience in the field of transportation, business, government, engineering, or law; and

(2) reside:

(A) in the territory of the authority; or

(B) outside the territory of the authority in a municipality that is located partly in the territory of the authority.

Sec. 460.203. CONFLICTS OF INTEREST. Members of the board of directors and officers and employees of the authority are subject to Chapter 171, Local Government Code.

Sec. 460.204. MEETINGS. (a) The board of directors shall meet at least monthly to transact the business of an authority.

- (b) The chair may call special meetings as necessary.
- (c) The board of directors by resolution shall:
 - (1) set the time, place, and date of regular meetings; and
 - (2) adopt rules and bylaws as necessary to conduct meetings.

Sec. 460.205. QUORUM; VOTING REQUIREMENTS. (a) Five members constitute a quorum of the board of directors.

(b) An action of the board of directors requires a vote of a majority of the members present unless the bylaws require a larger number for a specific action.

Sec. 460.206. RULES. The board of directors may adopt rules relating to the creation of a vacancy on the board by the absence of a board member at the board meetings, staggering the terms of up to one-half of the board of directors, and providing for alternates.

SUBCHAPTER E. ADDITION OF TERRITORY

Sec. 460.301. ADDITION OF TERRITORY BY MUNICIPAL ANNEXATION. When a municipality that is part of an authority annexes territory that before the annexation is not part of the authority, the annexed territory becomes part of the authority.

Sec. 460.302. ADDITION OF MUNICIPALITY BY ELECTION. (a) The territory of a municipality that is not initially part of an authority may be added to an authority if:

- (1) any part of the municipality is located in the territory of the authority;
- (2) the governing body of the municipality requests in writing that the authority call an election under this section on whether the territory of the municipality should be added to the authority, the authority calls the election, and submits to the qualified voters of the municipality the following proposition: "Shall the (name of authority) levy of a proposed tax, not to exceed (rate), be authorized?"; and
- (3) a majority of the votes received in the election favor the measure.

(b) The governing body of the authority shall canvass the returns, declare the result, and notify the comptroller and the department.

(c) If approval by a municipality would cause the tax in a municipality that has imposed a dedicated or special-purpose sales and use tax to exceed the limit imposed under Section 460.552(a), the governing body of the municipality may request in writing that an authority call an election under this section on whether the territory of the municipality should be added with a combined

ballot proposition to lower or repeal any dedicated or special-purpose sales and use tax. A combined ballot proposition under this subsection:

(1) shall contain substantially the same language, if any, required by law for the lowering, repealing, raising, or adopting of each tax as appropriate; and

(2) that receives a negative vote shall have no effect on either the sales tax to be lowered or repealed by the proposition or the sales tax to be raised or adopted by the proposition.

(c-1) This section shall not be construed to change the substantive law of any sales tax, including the allowed maximum rate or combined rate of local sales taxes.

(d) At any time after the date of an election approving the addition of a municipality under this section, the authority and the governing body of the municipality may enter into an interlocal agreement that provides for the eventual admission of the municipality to the territory of the authority and for the payment of proportional capital recovery fees as determined by the authority. The authority is not required to provide transportation services to the municipality until any capital recovery fees provided for in the agreement are paid to the authority.

(e) A sales and use tax imposed by an authority takes effect in a municipality added to the authority under this section on the first day after the expiration of the first complete calendar quarter that begins after the date the comptroller receives a certified copy of an order adopted by the authority relating to the addition of the municipality or other notice of the addition of the municipality, accompanied by a map of the authority clearly showing the territory added.

(f) In this section, "dedicated or special-purpose sales and use tax" means a tax referred to or described by:

- (1) Chapter 504 or 505, Local Government Code;
- (2) Section 379A.081, Local Government Code;
- (3) Section 363.055, Local Government Code; or
- (4) Section 327.003, Tax Code.

Sec. 460.303. JOINING AUTHORITY; CERTAIN AUTHORITIES. (a) A municipality that has a population of more than 500,000 and that is located in a county with a population of more than one million may join a separate authority.

(b) If a municipality described by Subsection (a) joins an authority created under this chapter and another separate authority is subsequently established in the county in which the municipality is located, the municipality may:

- (1) remain in the authority that was created first;
- (2) join the new authority in the county in which the municipality is located; or
- (3) participate with both authorities.

(c) A municipality that has requested, participated in, or received a benefit of capital improvements made by an authority shall on its transfer to a different authority or participation with more than one authority continue to honor reimbursement obligations resulting from the improvements.

Sec. 460.304. TAX IMPOSED IN ADDED TERRITORY. (a) Except as provided by Section 460.302(e), a sales and use tax imposed by an authority takes effect in territory added to the authority under this subchapter on the first day of the first calendar quarter that begins after the addition of the territory.

(b) An authority shall send to the comptroller of public accounts:

(1) a certified copy of an order adding the territory or of an order canvassing the returns and declaring the results of the election; and

(2) a map showing the territory added to the authority.

(c) The order must include the effective date of the tax.

SUBCHAPTER F. MANAGEMENT OF AUTHORITY

Sec. 460.401. MANAGEMENT OF AUTHORITY. The board of directors is responsible for the management, operation, and control of the authority and its properties.

Sec. 460.402. FINANCIAL AUDIT. (a) The authority shall have an annual audit of the affairs of the authority prepared by an independent certified public accountant.

(b) The audit is a public record as defined by Chapter 552, Government Code.

(c) On receipt of the audit prescribed by Subsection (a), the board of directors shall address on the record any deficiencies noted in the report at a regular meeting of the board of directors.

Sec. 460.403. BUDGET. The board of directors shall prepare an annual budget.

Sec. 460.404. FUNDING. (a) An authority may request funds for its operation from a municipality, the commissioners court, or both a municipality and the commissioners court. The request shall be accompanied by a budget.

(b) Funds appropriated to an authority are subject to audit.

(c) Federal funds or grants may be used to offset the authority's annual cost of debt service.

(d) An authority may accept gifts, grants, donations, receipts, or funds from any source to carry out its powers and duties under this chapter.

Sec. 460.405. PROHIBITIONS. (a) Federal funds and appropriated state funds may not be spent by or on behalf of an authority to influence or affect the award or outcome of a state or federal contract, loan, or cooperative agreement.

(b) This section does not apply to:

(1) a contested administrative matter; or

(2) pending or reasonably anticipated litigation.

Sec. 460.406. PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by Subsection (c), an authority may not award a contract for construction, services, or property, other than real property, except through the solicitation of competitive sealed bids or proposals ensuring full and open competition.

(b) The authority shall describe in a solicitation each factor to be used to evaluate a bid or proposal and give the factor's relative importance.

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

(1) the aggregate amount involved in the contract is \$50,000 or less;

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

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

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

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

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

relating to the borrowing of money, including:

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

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

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

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

(7) the contract is for work that is performed and paid for by the day as the work progresses;

(8) the contract is for the lease or purchase of an interest in land;

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

(A) at an auction by a state licensed auctioneer;

(B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or

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

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

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

[Sec. 460.406(c)(12) effective September 1, 2013 as set forth in S.B. 948.]

(12) the contract is one for an authority project and awarded for alternate project delivery using the procedures under Subchapters E, F, G, and I, Chapter 2267, Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011; or

[Sec. 460.406(c)(12) effective September 1, 2013, as set forth in S.B. 1093.]

(12) the contract is one awarded for alternate project delivery under Subchapters E, F, and G, Chapter 2269 Government Code.

(13) the contract is for fare enforcement officer services under Section 460.1092.

(d) For the purposes of entering into a contract authorized by Subsection (c)(12), an authority is considered a "governmental entity" as described by Section 2269.002, Government Code.

SUBCHAPTER G. BONDS AND NOTES

Sec. 460.501. DEFINITION. In this subchapter, "bond" includes a note.

Sec. 460.502. POWER TO ISSUE BONDS. (a) An authority may issue bonds at any time and for amounts the executive committee determines are appropriate.

(b) The bonds may be issued as necessary for:

(1) the acquisition, construction, repair, improvement, or extension of an authority's public transportation system; or

(2) the creation or funding of self-insurance or retirement or pension fund reserves.

(c) A bond issued by the authority may have a maturity of up to 30 years from the date of issuance.

(d) A bond any portion of which is secured by a pledge of sales and use tax revenues and that has a maturity of five years or longer from the date of issuance may not be issued by an authority until an election has been held in the municipalities in which the authority has been authorized to impose a sales and use tax and the proposition proposing the issue has been approved by a majority of the votes received on the issue.

(e) Subsection (d) does not apply to the issuance of refunding bonds or bonds described by Subsection (b)(2).

Sec. 460.503. BOND TERMS. The bonds of an authority are fully negotiable. An authority may make the bonds redeemable before maturity. The terms and conditions of authority bonds are subject to rules adopted by the board of directors.

Sec. 460.504. SALE. An authority's bonds may be sold at a public or private sale as determined by the board of directors to be the more financially beneficial.

Sec. 460.505. INCONTESTABILITY. An authority's bonds are incontestable after the bonds are:

(1) approved by the attorney general;

(2) registered by the comptroller of public accounts; and

- (3) sold to the purchaser.

Sec. 460.506. SECURITY PLEDGED. To secure the payment of an authority's bonds, the authority may:

- (1) pledge all or part of revenue realized from any tax that is approved and levied;
- (2) pledge any part of the revenue of the public transportation system;
- (3) mortgage any part of the public transportation system regardless of when acquired; or
- (4) pledge government grants, contractual revenue, or lease revenue.

Sec. 460.507. REFUNDING BONDS. An authority may issue refunding bonds at any time.

Sec. 460.508. NOTES. (a) An authority may issue negotiable notes payable from any of the authority's sources of revenue to pay for any lawful expenditure, other than principal and interest on the authority's debt.

(b) Notes issued by an authority shall be payable over a period not to exceed five years from the date of issuance.

(c) The Texas Commission on Environmental Quality is not required to approve notes issued under this section.

(d) An authority may not have outstanding notes in excess of \$10 million at any one time.

Sec. 460.509. OBLIGATIONS AND CREDIT AGREEMENTS. An authority may issue obligations and enter into credit agreements under Chapter 1371, Government Code.

SUBCHAPTER H. TAXATION

Sec. 460.551. SALES AND USE TAX. (a) The board of directors may impose for an authority a sales and use tax at the rate of:

- (1) one-quarter of one percent;
- (2) three-eighths of one percent;
- (3) one-half of one percent;

- (4) five-eighths of one percent;
- (5) three-quarters of one percent;
- (6) seven-eighths of one percent; or
- (7) one percent.

(b) The imposition of an authority's sales and use tax must be approved at an election conducted in the manner provided by this chapter and may not be imposed in an area that has not confirmed the authority.

(c) A sales and use tax may be imposed, as prescribed by this section, by a municipality that participates in a transportation or transit authority other than an authority created under this chapter if:

(1) the combined rates of all sales and use taxes imposed in the municipality does not exceed two percent; and

(2) the ballot of the authorization vote for the sales and use tax reads:

"(Name of city) already imposes a sales and use tax for participation in the (name of transportation or transit authority). The proposed sales and use tax is solely for the benefit of, and will be dedicated to, the (name of authority created under this chapter)."

(d) The authority shall impose a sales and use tax at a minimum uniform rate as determined by the board of directors if the tax is approved at an election in an area that has confirmed the authority.

(e) A municipality with a population of 12,000 or more that has confirmed the authority may impose a sales and use tax at a rate higher than the minimum uniform rate established under Subsection (d) on approval at an election if the authority will provide the municipality a higher level of service.

Sec. 460.552. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions having territory in the authority exceeds two percent in any location in the authority.

(b) An increase in the tax rate to a higher rate must be approved by a majority of the voters at a confirmation election.

Sec. 460.553. INITIAL SALES TAX: EFFECTIVE DATE. The adoption of a sales and use tax takes effect on the first day of the first calendar quarter after the confirmation election.

Sec. 460.554. RATE DECREASE. The board of directors by order may direct the comptroller of public accounts to collect the authority's sales and use tax at a rate that is lower than the rate approved by the voters at the confirmation hearing if the board of directors determines that it is in the best interest of the authority.

SUBCHAPTER I. PARTICIPATION IN AUTHORITY THROUGH TAX INCREMENT PAYMENTS

Sec. 460.601. DEFINITION. In this subchapter, "tax increment" means the amount of revenue generated from ad valorem taxes, sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or both ad valorem and sales and use taxes that are attributable to a public transportation financing area designated under this subchapter that exceeds the amount attributable to the area for the year in which the area was designated.

Sec. 460.602. PARTICIPATION IN SERVICE PLAN; AGREEMENT WITH MUNICIPALITY. A service plan may be implemented in an area of a municipality that has not authorized the authority's sales and use tax levy if:

(1) the authorization by the municipality of the authority's sales and use tax levy, when combined with the rates of all sales and use taxes imposed by other political subdivisions in the municipality, would exceed two percent in any location in the municipality; and

(2) the municipality has entered into an agreement with the authority to provide public transportation services in a public transportation financing area designated under this subchapter in exchange for all or a portion of the tax increment in the area.

Sec. 460.603. DESIGNATION OF PUBLIC TRANSPORTATION FINANCING AREA. The governing body of a municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a public transportation financing area. The geographic area:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) withhold from any payment to which the municipality may be entitled the amount of the payment due to the tax increment account;

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

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

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

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

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

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

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

(A) the annual maintenance and operating expenses of providing service to the public transportation financing area, including amounts for expansion, improvement, rehabilitation, or enhancement that may be owed for previous years' maintenance and operating

expenses; and

(B) any capital cost incurred for the benefit of the public transportation financing area; and

(2) notify the municipality when the amount owed for the capital recovery fee has been fully paid.

Sec. 460.610. USE OF SURPLUS TAX INCREMENT PAYMENT AMOUNTS. After any applicable capital recovery fee has been paid, the authority and the municipality shall negotiate to determine use of the amount of tax increment payments that exceeds the amount necessary to compensate the authority for the annual maintenance and operating expenses of providing service to the public transportation financing area. The excess amounts may be used to develop infrastructure enhancement, replacement, or improvement projects in the public transportation financing area that benefit both the municipality and the authority.

Sec. 460.611. TERMINATION OF PUBLIC TRANSPORTATION FINANCING AREA. If the tax increment is pledged to the payment of bonds and interest on the bonds or to the payment of any other obligations, the public transportation financing area or an agreement for services under Section 460.602 may not be terminated by agreement of the parties unless the municipality that created the public transportation financing area deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay:

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

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