

CHAPTER 538

H.B. No. 1453

AN ACT

relating to the liability in tort of certain subregional transportation authorities.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2(12), Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(12) "Public transportation system" means all real and personal property owned or otherwise held, including property held in accordance with a contract with the owner making the property subject to the control of or regulation by the authority, by an authority for public transportation or general transportation service purposes, including but not limited to land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, mass transportation facilities, rapid transit facilities, stations, platforms, terminals, rolling stock, garages, shops, equipment and facilities (including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to public transportation), control houses, signals and land, facilities and equipment for the protection and environmental enhancement of all the facilities. A private operator who contracts with an authority under this Act is not a public entity for purposes of any law of this state *except as provided by Section 23B of this Act.*

SECTION 2. Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended by adding Section 23B to read as follows:

Sec. 23B. TORT CLAIMS. Any authority established under this Act or a public transportation entity created after January 1, 1980, and before January 1, 1987, under Title 112, Vernon's Texas Civil Statutes, for the purposes of public transportation as defined in this Act, is a "unit of government," as that term is defined by the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), and all operations of an authority are essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act. If an independent contractor of the authority is performing a function of the authority, the contractor is liable for damages to the extent that the authority would be liable if the authority itself were performing the function.

SECTION 3. Section 24(j), Chapter 683, Acts of the 66th Legislature, 1979 (Article 1118y, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) Except as otherwise provided by this section, Sections 10, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, [and] 23, and 23B shall be applicable to the subregional transportation authorities. Whenever the term "authority" is used, it shall mean "subregional transportation authority." A bond, note, or other document of indebtedness issued by the subregional transportation authority under Section 15 of this Act or another law of this state shall be issued in the name of the subregional transportation authority and is solely the obligation of the subregional transportation authority. The subregional transportation authority may not issue a bond, note, or other document of indebtedness unless the bond, note, or document has been approved by the governing body of the contiguous city.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 27, 1987, by the following vote: Yeas 147, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1453 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 17, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.