

CHAPTER 804

H.B. No. 2008

AN ACT

relating to powers of certain rapid transit authorities with respect to parking facilities, stations, and terminal complexes, and the imposition and use of increased sales and use taxes.

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

SECTION 1. Section 1, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. FINDINGS. The legislature finds that:

(a) A dominant part of the state's population is located in its rapidly expanding metropolitan areas which generally cross the boundary lines of local jurisdictions and often extend into two or more counties;

(b) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles which are generally powered by internal combustion engines that emit pollutants into the air, which emissions result in increasing dangers to the public health and welfare, including damage to and deterioration of property as well as harm to persons, and hazards to air and ground transportation;

(c) Such concentration of motor vehicles places an undue burden on existing streets, freeways and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizens and the economic life of the areas;

(d) The proliferation of the use of motor vehicles for passenger transportation in such areas is caused in substantial part by the absence or inefficiency and high cost of mass transit services available to the citizens of such areas, and it is in the public interest to

encourage and provide for efficient and economical local mass rapid transit systems in such areas for the benefit and convenience of the people and for the purpose of improving the quality of the ambient air therein and reducing vehicular traffic congestion; [and]

(e) The inalienable right of all natural persons to use the air for natural purposes does not vest in any person the right to pollute the air by artificial means, but such artificial use is subject to regulation and control by the state;

(f) *Texas has continuing needs for regional public transportation combined with regional terminal complexes and other facilities which enhance area economic development by creating new jobs, maintaining existing jobs, and generally improving conditions under which a regional economy may prosper; and a necessary relationship exists between the need for regional economic development facilities and coordinated mass public transportation;*

(g) *Rapid transit authorities, in conjunction with their principal cities and other affected municipalities, should have necessary powers to obtain, construct, and own stations and terminal complexes which include regional economic development facilities within currently authorized tax levels subject to approval at an election within the authority; and successful development of such complexes will enhance economic development of the area within the boundaries of the authority and will be a beneficial and integral part of the comprehensive regional transit plan for such area; and*

(h) *It is also a vital part of comprehensive coordinated mass public transportation that certain rapid transit authorities be made secure in their authority to include as part of their comprehensive transit plan parking facilities and the regulation of parking.*

SECTION 2. Subsections (e) and (f), Section 2, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of said passengers by means of motorbus, trolley coach, street railway, rail, suspended overhead rail, elevated railways, subways, or any other surface, overhead or underground transportation (except taxicabs), or by any combination of the foregoing and, for an authority created before January 1, 1980, in which the principal city has a population of less than 1,200,000 as determined by the most recent federal decennial census, includes the establishment and operation of public parking facilities.

(f) "System" means all real and personal property of every kind and nature whatsoever, owned or held at any time by an authority for mass transit purposes, including (without limiting the generality of the foregoing), land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, 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 stations, terminals, yards, cars, and buses), control houses, signals and land, facilities and equipment for the protection and environmental enhancement of all such facilities, and, for an authority created before January 1, 1980, in which the principal city has a population less than 1,200,000 as determined by the most recent federal decennial census, public parking areas, garages, facilities, and lots.

SECTION 3. Section 6, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsections (r) and (s) to read as follows:

(r) *An authority created before January 1, 1980, in which the principal city has a population less than 1,200,000 as determined by the most recent federal decennial census shall have the power to construct, improve, maintain, repair, and operate public parking areas, garages, facilities, or lots located within its boundaries. The authority shall have the power to establish, maintain, and collect reasonable rates for the use of the public parking areas and garages. However, all actions must be approved by the governing body of the principal city.*

(s) *In addition to the power granted in Subsection (r) of this section, such an authority shall have the power to regulate public parking in public parking areas, garages, facilities, and lots in the principal city to the extent that the principal city delegates such powers to the authority under an interlocal agreement between the principal city and the authority.*

SECTION 4. Section 6C, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (e) and relettering the remaining subsections accordingly:

(e) *Any station or terminal complex of an authority created before January 1, 1980, in which the principal city had a population of less than 1,200,000 as determined by the most recent federal decennial census may include regional economic development facilities if approved by both the board of the authority and the governing body of the principal city and, if the station or terminal complex is to be built within the city limits or extraterritorial jurisdiction of a city or town other than the principal city, by the governing body of the city or town in whose city limits or extraterritorial jurisdiction the complex is to be located. "Regional economic development facilities" means facilities which will lead to the creation of new jobs, maintain existing jobs or generally improve the conditions under which a local economy may prosper, and which include, but are not limited to, facilities used primarily for conventions, entertainment, special events, professional and amateur sports, or other lawful purposes. A station or terminal complex may include regional economic development facilities in addition to facilities provided in Subsection (d) of this section. In order to provide for the planning, acquisition, establishment, development, and construction of a complex which includes regional economic development facilities, an increase in a tax may be approved in accordance with the provisions of this Act at an election for that purpose called by a majority vote of both the governing body of the principal city and the governing body of the authority for which a notice is given which includes a statement or description of the purpose of the increase and includes a statement that after five years the tax increase may be used only for mass transit purposes other than the regional economic development facilities portions of the station or terminal complex if approved by the voters at an election held at that time. An election to approve a tax increase under this subsection may be called only by resolution adopted by both the governing body of the principal city and the governing body of the authority and only if a petition signed by 10 percent of the qualified voters of the authority requesting the election has been submitted to the board of the authority before the resolution is adopted. To be valid, a petition must state that it is intended to initiate an election to increase the authority's sales and use tax rate for purposes of establishing and operating a regional economic development facility, must include the ballot proposition to be used in the election, and the signatures must be collected during the period beginning on the 180th day before the date the petition is submitted to the board. The ballot proposition must include a specific description of the regional economic development projects to be financed by the increase in the sales and use tax rate, and funds derived from the tax rate increase may be used only to finance projects described in the ballot proposition. If the board of the authority does not act on the petition within 30 days from the date the petition is submitted, the petition is considered valid. The board of the authority and the governing body of the principal city must each hold a separate public hearing on the ballot proposition before calling for the election. An election to approve a tax increase under this subsection may not be held within one year after a previous election to approve a tax increase under this section. The total of all such taxes, including the increase, shall not exceed the limits provided in this Act and shall be subject to all the terms and conditions of this Act. An increase in tax approved for the planning, acquisition, establishment, development, and construction of a station or terminal complex which includes regional economic development facilities shall be dedicated and used for such purposes only for five years from the date such increase takes effect. At the end of the five years, the board of the authority shall decrease the tax rate to its previous level unless it affirmatively determines that the increased tax is necessary for lawful purposes other than the regional economic development facilities portions of the*

station or terminal complex and submits the question of continuing the increased tax rate to an election held in accordance with this Act. The increased tax rate is continued in effect only if a majority of the qualified voters voting at the election vote to continue the increased tax rate. Otherwise, the board shall decrease the tax rate to its previous rate. Any funds not used for the regional economic development facilities portions of the station or terminal complex may be used for other lawful purposes. The actual planning, acquisition, establishment, development, construction, improvement, maintenance, operation, regulation, protection, and policing of the regional economic development facilities portions of the station or terminal complex may be done by the authority or by agreement or agreements between the authority and a city, county, other public or private entity, or a combination thereof, as may be agreed upon and subject to such covenants, conditions, and restrictions as the board and governing bodies deem to be in the public interest and necessary to carry out the purposes of this section. To be effective, an agreement made by the board of the authority under this subsection must be approved by the governing body of the principal city in the authority.

(f) [(e)] The authority may sell, lease, or otherwise transfer lands or interests in land acquired within a station or terminal complex, and may enter into contracts with respect to it, in accordance with the comprehensive transit plan approved by the board, subject to such covenants, conditions, and restrictions, including covenants running with the land and obligations to commence construction within a specified time, as the board may deem to be in the public interest or necessary to carry out the purposes of this section, all of which shall be incorporated into the instrument transferring or conveying title or right of use. Any lease, sale, or transfer shall be at fair value, taking into account the use designated for the land in the comprehensive transit plan for the system and the restrictions on, and the covenants, conditions, and obligations assumed by, the purchaser, lessee, or transferee. However, if the authority offers the property for sale, the original owner from whom the property was acquired by eminent domain proceedings or through threat of eminent domain proceedings has the first right to repurchase at the price at which it is offered to the public.

(g) [(f)] No station or mass transit facility may be considered a "station or terminal complex" governed by this section unless it has been designated as such in the comprehensive transit plan pursuant to the specific authority granted by this section.

SECTION 5. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Section 6G to read as follows:

*Sec. 6G. WITHDRAWAL FROM CERTAIN AUTHORITIES. (a) This section applies only to an authority created before January 1, 1980, with a principal city having a population of less than 1,200,000 according to the most recent federal census.*

*(b) In this section, "unit of election" means an incorporated municipality or an unincorporated area of a county designated by a commissioners court under Section 5 of this Act as a discrete unit for purposes of a confirmation election.*

*(c) In addition to any other manner provided by law, a unit of election other than a principal city may withdraw from an authority as provided by this section. The governing body of the unit of election shall call an election in the unit of election on the question of withdrawing from the authority if a petition is submitted to the governing body signed by not less than 10 percent of the qualified voters of the unit of election on the date the petition is submitted requesting that an election to withdraw from the authority be held. The governing body must determine whether the petition is valid not later than the 30th day after the date the petition is submitted. If the governing body does not act within that period, the petition is considered valid. A signature on the petition may not be counted for purposes of validating the petition if it is signed earlier than the 120th day before the date the petition is submitted to the governing body. An election may not be held under this section on a date earlier than one year from the date of the most recent election held under this section.*

*(d) An election called under this section shall be held on the first uniform election date for that type of election under the Election Code following the expiration of 90*

days after the date the election is called. Immediately on calling an election, the governing body of the unit of election shall give notice of the election to the board, the State Department of Highways and Public Transportation, and the comptroller of public accounts.

(e) In an election called under this section, the ballot shall be printed to permit voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?" The election shall be held in the regular precincts and at the regular voting places of the unit of election in accordance with the Election Code. The governing body of the unit of election shall canvass the returns of the election at the earliest practicable date after the election. If a majority of the qualified voters voting at the election vote in favor of the proposition, the authority shall continue in the unit of election. If a majority of the qualified voters voting at the election vote against the proposition, the authority ceases to exist in the unit of election at midnight on the date the election returns are canvassed, and the financial obligations of the authority attributable to the unit of election cease to accrue at that time.

(f) On the effective date of the withdrawal of a unit of election from an authority created under this Act, all public transportation services provided by the authority to the unit of election shall cease. The withdrawal, however, does not affect any existing or future rights of the authority to proceed through the corporate limits of the unit of election to continue uninterrupted service to other units of election that have not withdrawn or that become a part of the authority in the future.

(g) The withdrawal of a unit of election under this section is subject to the requirements of the federal and state constitutions prohibiting the impairment of contracts. Taxes shall continue to be collected in the unit of election until an amount of taxes equal to the total financial obligations of the unit of election to the authority has been collected. To determine the amount of the total financial obligations of the unit of election, the board shall compute, as of the date of withdrawal, the total of:

(1) the current obligations of the authority authorized in the current budget and contracted for by the authority;

(2) the amount of contractual obligations outstanding at that time for capital or other expenditures in the current or subsequent years, the payment of which has not been made or provided for from the proceeds of notes, bonds, or other obligations;

(3) all amounts due and to become due in the current and subsequent years on all notes, bonds, or other securities or obligations for debt issued by the authority and outstanding;

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, bond or note holders, or other creditors or contractors;

(5) any additional amount, which may include an amount for contingent liabilities, determined by the board to be the amount necessary for the full and timely payment of the current and continuing obligations of the authority, to avoid a default or impairment of those obligations; and

(6) any additional amount determined by the board to be necessary and appropriate to allocate to the unit of election because of current and continuing financial obligations of the authority that relate specifically to the unit of election.

(h) The unit of election's share of the financial obligations of the authority under the first five computations required by Subsection (g) of this section shall be in the same ratio that the population of the unit of election has to the total population of the authority, according to the most recent and available population data of an agency of the federal government, as determined by the board. The unit of election's total financial obligation is its share of the first five computations required by Subsection (g) of this section plus the amount allocated directly to the unit of election under the last computation required by Subsection (g) of this section and less the unit of election's share of the total amount of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities. The unit of election's share of those assets is determined

*according to population in the same manner as provided for determining the unit of election's share of the first five computations required by Subsection (g). The board shall certify to the governing body of the unit of election and to the comptroller of public accounts the amount of the total financial obligation of the unit of election. The comptroller of public accounts shall continue to collect taxes in the unit of election until an aggregate amount equal to the total financial obligation of the unit of election has been collected and actually paid to the authority. After that amount has been collected, the comptroller of public accounts shall discontinue collecting in the unit of election the taxes imposed under this Act.*

SECTION 6. 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 6, 1987, by the following vote: Yeas 136, Nays 0, 3 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2008 on June 1, 1987; and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2008 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on June 1, 1987, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2008 on June 1, 1987, by the following vote: Yeas 31, Nays 0.

Approved June 19, 1987.

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