

CHAPTER 790

H.B. No. 943

AN ACT

relating to the tax rates and governing bodies of local transportation authorities, providing for audits of those authorities, limiting the use of the revenues of those authorities, and regulating certain purchases by those authorities.

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

SECTION 1. Subsection (e), Section 4, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

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(e)(1) Any member of the board may be removed from office by a majority vote of the remaining members of the board for inefficiency, neglect of duty or malfeasance in office; provided, however, that the board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal, and the member, before the 11th day after receipt of the statement, may request a hearing before the board and opportunity to be heard in person or through counsel. After any such hearing, if the board by a majority vote finds that the charges are true, it shall confirm its decision to remove the member.

(2) In addition to the method of removal of board members provided by Subsection (e)(1) of this section, board members of an authority *in which the rate of the sales and use tax is one percent and* whose principal city has a population of more than 1,200,000, according to the most recent federal census, are subject to removal by the recall procedure provided by *this subdivision* [~~subsection (e)(2)~~].

(i) The qualified voters of the authority by petition may require that *the appointing political subdivision reconsider their appointment of a board member* [~~an election be held~~] to determine whether a member of the board is to be removed from office. A petition is valid if it states that it is intended to require *a reconsideration* [~~an election in the authority~~] on the question of removing an identified board member, if it is signed by qualified voters equal in number to at least 10 percent of the number of [~~registered~~] voters of the authority *voting in the previous governor's election* [~~according to the most recent official list of registered voters~~], if the signatures are collected within a period of 90 days prior to the date on which the petition is presented to the *appointing political subdivision* [~~board~~], and if it is submitted to the *appointing political subdivision* [~~board~~] before the first day of the final six months of the term of the member whose removal is sought.

(ii) After receiving a petition, the *appointing political subdivision* [~~board~~] shall submit it to the secretary of state, who, not later than the 10th day after the day he or she receives the petition, shall determine whether or not the petition is valid and shall notify the *appointing political subdivision* [~~board~~] of the finding. If the secretary of state fails to act within the time allowed, the petition is treated as if it had been found valid.

(iii) If the *appointing political subdivision* [~~board~~] receives notice from the secretary of state that the petition is valid or if the secretary of state has failed to act within the time allowed, the *appointing political subdivision* [~~board~~] shall *reconsider such appointment and take action to either remove or reconfirm such appointee*. [~~order that an election be held in the authority on a date not fewer than 25 nor more than 35 days after the last day on which the petition could have been approved or disapproved. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "The removal of (name of officer) from the rapid transit authority board by recall."~~]

(iv) [~~If a majority of the qualified voters voting on the question in the election favor the proposition, the member is removed, and the office immediately becomes vacant.~~] The appointing authority that appointed the member removed by recall shall fill the vacancy not later than the 30th day after the day of removal.

(v) A member removed by recall is not eligible for reappointment to fill the vacancy and is not eligible for appointment to any other position on the board for a length of time after the day of removal equal to the length of a normal term of a member of the board.

(3) *In an authority in which the principal city has a population of less than 500,000 according to the last preceding federal census and in which the rate of the sales and use tax is one percent, a board member may be removed from office by a majority vote of the body that appointed that member for malfeasance or nonfeasance in office.*

SECTION 2. Subsection (e), Section 11A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The board of an authority by order may decrease the local sales and use tax rate or may call an election to increase or decrease the local sales and use tax rate. In addition, the qualified voters of an authority by petition may require that an election be held on the question of increasing the tax rate. A petition is valid if it is signed by qualified voters of the authority equal in number to at least 10 percent of the number of registered voters of the authority according to the most recent official list of registered voters. *If the board of an authority decreases the tax rate by its own order, it may increase the tax rate by a subsequent order to a rate that does not exceed the rate in effect before the order to decrease the tax rate was approved.*

SECTION 3. Section 11A, Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes), is amended by adding Subsection (e-1) to read as follows:

*(e-1) In addition to the procedures provided by Subsection (e) of this section, in an authority having a principal city with a population of more than 1,200,000 according to the most recent federal census and in which the current tax rate exceeds one-half of one percent, the qualified voters of the authority by petition submitted to the board may require that an election be held on the question of decreasing the tax rate to three-fourths of one percent or to one-half of one percent. A petition is valid if it is signed by qualified voters of the authority equal in number to at least 10 percent of the number of qualified voters who voted in the authority in the most recent gubernatorial election and if the petition states the proposed reduced tax rate to take effect if the decrease is approved at the election. To be valid, a petition authorized by this subsection must be submitted to the board before September 1, 1989. This subsection expires September 1, 1990.*

SECTION 4. Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Civil Texas Statutes), is amended by adding Section 12B to read as follows:

*Sec. 12B. SPECIAL PROVISIONS APPLICABLE TO CERTAIN AUTHORITIES.*  
*(a) This section applies only to an authority created after April 1, 1978, in which the rate of the sales and use tax of the authority is one percent.*

*(b) In lieu of the audit required by Section 12(f) of this Act, at least once each year, the board of an authority to which this section applies shall have prepared a financial audit of the affairs of the authority by an independent certified public accountant or a firm of independent certified public accountants. The selection by the board of an accountant or firm to perform the audit must be submitted to and approved by the state auditor. The state auditor may not approve an accountant or firm to perform the audit unless he determines that the accountant or firm is qualified to perform the audit and does not have a substantial direct or indirect interest in the results of the audit. If the state auditor does not approve a selection of an accountant or firm submitted for approval, the state auditor must provide the board with a written statement of his reasons for the disapproval. Failure by the state auditor to take action on such selection within 30 days of receipt of the submission shall be deemed an approval.*

*(c) The report of an audit conducted under Subsection (b) of this section is a public record. The board of the authority shall deliver a copy of the report of an audit performed under this section to the presiding officer of the governing body of each county or municipality having territory in the authority, to the governor, to the lieutenant governor, and the speaker of the house of representatives.*

*(d) The board of an authority to which this section applies shall establish a program to promote the availability and use of the transportation services of the authority by physically handicapped individuals. Before establishing the program, the board shall hold public hearings relating to the establishment and operation of the program. The program must address the specific transportation problems of physically handicapped individuals and establish mechanisms by which transportation services are to be provided to those individuals.*

*the requirements of this section, the governing body shall reject the petition and may not call an election. A petition rejected under this subsection is void and may not be used in connection with any subsequent petitioning process.*

*(f) An election for withdrawal in a unit of election under this section, whether by governing body initiative or by petition, may not be called more frequently than once during:*

- (1) the 12-month period beginning September 1, 1987, and ending August 31, 1988;*
  - (2) the 12-month period beginning September 1, 1993, and ending August 31, 1994;*
- or*
- (3) any 12-month period beginning five years after the expiration of a 12-month period during which an election may be called under this subsection.*

*(g) 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.*

*(h) 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.*

*(i) A person who is a qualified voter of a unit of election may apply to and obtain from the city or town secretary or other clerk or administrator of the unit of election officially numbered and properly authenticated petitions for withdrawal prepared by the city or town official in accordance with this subsection, in an amount requested by the person. Not more than one petition may be outstanding at any one time. The secretary, clerk, or administrator shall authenticate and deliver additional sheets to the person as requested during the period for obtaining signatures. To be valid, a petition must contain the personal and actual signatures of not less than 20 percent of the registered voters of the unit of election, as listed on the official voter registration lists of the county or counties in which the unit of election is located, and be filed with the secretary, clerk, or administrator of the unit of election not later than the 60th day after the date the person received the first sheets of the petition. The secretary, clerk, or administrator shall examine the petition and file a report with the governing body of the unit of election stating whether, in the opinion of the secretary, clerk, or administrator, the petition conforms to the requirements of this section. On receipt of the report, the governing body shall conduct its examination as required by Subsection (e) of this section. If the governing body determines that a petition does not conform to the requirements of this section, a sheet of signatures that is a part of the petition containing valid signatures may not be used in connection with any subsequent petitioning process.*

*(j) A petition may consist of multiple sheets, each of which must be authenticated by the secretary, clerk, or administrator. Each sheet shall be headed with a statement in all capital letters regarding the nature of the petition as follows:*

**"THIS PETITION IS TO REQUIRE AN ELECTION TO BE HELD IN (name of the unit of election) TO DISSOLVE (name of authority) IN (name of the unit of election) SUBJECT TO THE CONTINUED COLLECTION OF SALES TAXES FOR THE PERIOD REQUIRED BY LAW."**

*An affidavit of the person who circulated each sheet shall be affixed or printed on each sheet in the following form and substance, and the affidavit shall be executed before a notary public:*

*“STATE OF TEXAS*

*“COUNTY OF \_\_\_\_\_*

*“I, \_\_\_\_\_, affirm that I personally witnessed each signer affix his or her signature, the date of signing, his or her voter registration number, and his or her residence address and zip code to this page of this petition for the dissolution of (name of authority) in the (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the signature was affixed to this page.*

*Sworn to and subscribed before me this the \_\_\_\_ day of \_\_\_\_\_, 19\_\_*

*(SEAL)*

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*Notary Public, State of Texas”*

*Each sheet of a petition shall be submitted at the same time and within the period prescribed by Subsection (i) of this section. Each person signing a petition must sign the petition in person in ink or indelible pencil and must personally enter beside his signature his current residence address and zip code, his correct voter registration number, and the date of signing. Any signature not accompanied correctly by all of the information required by this subsection is void and may not be counted in determining the validity of the petition.*

*(k) 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.*

*(l) 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.

(m) The unit of election's share of the financial obligations of the authority under the first five computations required by Subsection (l) 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 the sum of the first five computations required by Subsection (l) of this section plus the amount allocated directly to the unit of election under the last computation required by Subsection (l) of this section. 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 8. This Act takes effect September 1, 1987.

SECTION 9. 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.

Passed by the House on April 29, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 943 on May 26, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 22, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.