

TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE K. MASS TRANSPORTATION

CHAPTER 454. MUNICIPAL MASS TRANSPORTATION SYSTEMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 454.001. AUTHORITY. (a) A municipality may own, purchase, construct, improve, extend, and operate a mass transportation system to carry passengers for hire within the municipality, its suburbs, and adjacent areas.

(b) A municipality, individually or in cooperation with the United States, may:

(1) undertake research, development, and demonstration projects for a mass transportation system in the municipality, its suburbs, and adjacent areas; and

(2) acquire, construct, and improve a facility or equipment for use, by operation, lease, or otherwise, in mass transportation service in those areas on, under, over, along, or across a public street or highway and on real property, an easement, or a right-of-way acquired for that purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.002. ESSENTIAL GOVERNMENTAL FUNCTIONS. (a) Mass transportation service provided by a municipality directly or through another entity by lease, contract, or other manner is an essential governmental function and not a proprietary function for all purposes, including the application of Chapter 101, Civil Practice and Remedies Code, if the service is provided:

(1) on a fixed rail or other designated and dedicated route;

(2) over a distance of less than 20 miles; and

(3) primarily for travel through or to an area of historical, architectural, recreational, or cultural interest.

(b) An independent contractor that on behalf of a municipality provides mass transportation service that is an essential governmental function under Subsection (a) is liable for

damages only to the extent that the municipality would be liable if the municipality were performing the function.

(c) This section does not apply to taxicab transportation service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.003. FEDERAL GRANTS AND LOANS. (a) A municipality may accept a grant or loan from the United States to finance all or part of the cost of acquiring, constructing, or improving a facility or equipment for use, by operation, lease, or otherwise, in mass transportation service in the municipality, its suburbs, and adjacent areas and in coordinating mass transportation service with highway and other transportation in those areas.

(b) Ratification by referendum of a regional authority under Chapter 451 by less than all municipalities in the metropolitan area as defined in that chapter does not affect the eligibility of an excepted municipality to receive federal transit grants under the National Mass Transportation Assistance Act of 1974 or subsequent federal statute.

(c) Ratification by referendum of an authority under Chapter 452 by less than all municipalities in the metropolitan area as defined in that chapter does not affect the eligibility of an excepted municipality to receive federal transit grants under the Surface Transportation Assistance Act of 1978 or subsequent federal statute.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.004. MANAGEMENT. (a) By the terms of an instrument evidencing an encumbrance of a mass transportation system or the terms of an ordinance, a municipality may place the management of a mass transportation system with the governing body of the municipality or a board of trustees named in the instrument or ordinance.

(b) A board of trustees of a mass transportation system must consist of three to nine members, one of whom must be the mayor of the municipality. The instrument or ordinance must set the trustees' compensation, which may not exceed two percent of the

gross annual receipts of the system. The instrument or ordinance may specify:

- (1) the term of office of the board of trustees;
- (2) the board's powers and duties;
- (3) the manner in which the board may exercise its powers and duties;
- (4) the election of the trustees' successors; and
- (5) any matter relating to the board's organization.

(c) On any matter not covered by the instrument or ordinance, the board is governed by the laws and rules controlling the governing body of the municipality to the extent applicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.005. LEASE OF SYSTEM. (a) In lieu of operating a mass transportation system, the governing body of a municipality or a board of trustees managing the system, with the approval of the municipality's governing body by resolution, may enter into a lease or other contractual arrangement for the operation of the system by a privately owned and operated corporation.

(b) The guaranteed or contingent payment of rentals, computed on revenue or gross or net profits or determined by any other method of compensation the governing body or board of trustees determines to be reasonable, may be the consideration for a lease or other contract under this section.

(c) The municipality must give public notice and make a request for the submission of bids in the manner required by law for the taking of bids for a public construction contract before entering into a lease or other contract under this section. The municipality shall accept the best bid submitted, considering the rentals to be paid and the experience and financial responsibility of the corporations submitting the bids.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.006. FARES. (a) Fares charged by a mass transportation system may be set according to a zone system or other classification that the municipality determines to be reasonable.

(b) Unless otherwise considered necessary by the governing

body of the municipality to maintain the level and quality of service desired, a mass transportation system shall charge and collect fares that are sufficient to:

(1) pay all operating, maintenance, depreciation, and replacement charges;

(2) provide for extensions to the extent permitted by this chapter; and

(3) provide and maintain in the time and manner prescribed by the applicable ordinances, deeds of trust, and indentures money sufficient to pay for debt service and reserves for the security and orderly payment of bonds or notes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.007. USE OF REVENUE TO PAY OTHER MUNICIPAL DEBTS PROHIBITED. (a) Except as permitted by the ordinance authorizing the bonds or notes or the deed of trust or indenture securing the bonds or notes or as provided by Subsection (b), the revenue of a mass transportation system may not be used to pay any other debt, expense, or obligation of the municipality.

(b) An acquired mass transportation system may pay the municipality that acquired the system for the loss of ad valorem taxes previously paid by the owners of the system until the indebtedness secured by the taxes is paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.008. RECORDS AND ACCOUNTS. (a) The mayor of a municipality shall install and maintain a complete system of records and accounts showing the revenue collected and showing separately the amount spent or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, and debt service on bonds or notes issued under this chapter.

(b) A mayor commits an offense if the mayor fails to install and maintain a system of records and accounts as required by Subsection (a) on or before the 90th day after the date the mass transportation system is completed. An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more

than \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.009. ANNUAL REPORT. (a) Not later than February 1 of each year, the superintendent or manager of a mass transportation system shall file with the mayor of the municipality a detailed report of the operations for the year ending the preceding January 1, showing the total sums collected, the balance due, the total disbursements made, and amounts remaining unpaid as a result of the operation of the system during the year.

(b) A superintendent or manager commits an offense if the superintendent or manager fails to file as required by Subsection (a). An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.010. ENFORCEMENT. A taxpayer or holder of indebtedness of a mass transportation system residing within the municipality may enforce this chapter by appropriate civil action in a district court of the county in which the municipality is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. REVENUE BONDS AND NOTES

Sec. 454.021. AUTHORITY TO ISSUE. (a) A municipality may issue bonds and notes from time to time and in the amounts it considers necessary or appropriate for acquiring, constructing, improving, or extending a mass transportation system.

(b) Bonds or notes issued under this chapter are fully negotiable and may be made redeemable before maturity, at the option of the issuing municipality, at the price and under the terms fixed by the issuing municipality in the ordinance authorizing the bonds or notes.

(c) Bonds or notes issued under this chapter shall be sold for the price the governing body of the municipality determines to be in the best interest of the municipality.

(d) Subject to the restrictions in this chapter, the governing body of a municipality may fix the form, conditions, and details of bonds and notes issued under this chapter.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.022. NOTICE OF ORDINANCE AUTHORIZING ISSUANCE. Before adopting an ordinance authorizing the issuance of bonds or notes under this chapter, the governing body of a municipality shall give notice of the time when the ordinance is to be adopted. The notice shall be published in a newspaper of general circulation in the municipality, in at least two issues, with the first publication occurring at least 14 days before the date on which the ordinance is to be adopted.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.023. PETITION FOR ELECTION. (a) The governing body of a municipality may issue bonds or notes under this chapter without an election unless a petition requesting an election on the question is filed with the municipal secretary before the scheduled time for adopting the ordinance authorizing the issuance of the bonds or notes.

(b) A petition under this section must be signed by at least 10 percent of the registered voters of the municipality who have rendered their property for taxation.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.024. ELECTION. (a) If a petition meeting the requirements of Section [454.023](#) is filed:

(1) the governing body of the municipality shall hold an election on the question as provided by Chapter [1251](#), Government Code; and

(2) the bonds or notes may not be issued unless a majority of the votes received at the election favor the question.

(b) The governing body of a municipality may call an election for the issuance of bonds or notes under this chapter without a petition under Section [454.023](#).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2001, 77th Leg., ch. 1420, Sec. 8.398, eff. Sept. 1, 2001.

Sec. 454.025. ENCUMBRANCE OF TRANSPORTATION SYSTEM. (a) To secure the payment of bonds or notes issued under this chapter, a municipality may encumber:

- (1) all or any part of the mass transportation system;
- (2) the property of the system, including a bus or other vehicle, machinery, and equipment of any kind used in the operation of the system;
- (3) the revenue of the system;
- (4) the franchise of the system; or
- (5) any other thing relating to the system that is acquired or is to be acquired.

(b) A municipality may:

- (1) encumber separately any property, including a bus or other vehicle, machinery, or equipment of any kind; or
- (2) acquire, hold, use, or contract for any property, including a bus or other vehicle, machinery, or equipment of any kind, under a lease arrangement, chattel mortgage, or conditional sale, including an equipment trust transaction.

(c) This chapter does not prohibit a municipality from encumbering a transportation system for the purposes of purchasing, building, mortgaging, extending, or repairing, or reconstructing another system and purchasing necessary property in connection with the system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.026. TRANSPORTATION SYSTEM FRANCHISE. In addition to encumbering the property of a mass transportation system under Section 454.025, a municipality, by the terms of an instrument evidencing that encumbrance, may grant to the purchaser under the power of sale in the instrument a franchise to operate the system and the system's property. A franchise under this section may not exceed 25 years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.027. OPERATING EXPENSES AS LIEN ON REVENUE. If the

revenue of a mass transportation system is encumbered under this chapter, the expenses of operation and maintenance, including all salaries, labor, materials, interest, repairs, and extensions necessary to render efficient service and each proper item of expense, are a first lien against the revenues. The expense of an extension may be a lien prior to an existing lien only if:

(1) the governing body of the municipality considers the extension necessary to keep the system in operation and render adequate service to the municipality and its inhabitants; or

(2) the extension is necessary to meet a condition that would otherwise impair the original securities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.028. OBLIGATION OF TRANSPORTATION SYSTEM NOT MUNICIPAL DEBT. (a) An obligation of a mass transportation system:

(1) is not a debt of the municipality;

(2) is solely a charge on the property, including the pledged revenue, of the encumbered system; and

(3) may not be included in determining the power of the municipality to issue any bonds or notes for any purpose authorized by law.

(b) A municipality may make payments on bonds or notes issued under this chapter out of any other funds that lawfully may be used for that purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.029. ADDITIONAL BONDS OR NOTES. (a) While bonds or notes that are payable from and secured by a pledge of the revenue of a mass transportation system are outstanding, the municipality that issued the bonds or notes may from time to time issue other bonds or notes for the purpose of:

(1) extending, improving, or both extending and improving the system; or

(2) acquiring another mass transportation system.

(b) Bonds or notes issued under Subsection (a) constitute a lien on the revenue, in the order of their issuance, inferior to the liens securing all issues and series of bonds or notes previously

issued.

(c) Notwithstanding Subsection (b), a municipality may:

(1) adopt an ordinance or execute and issue a deed of trust, trust indenture, or similar instrument that provides for the subsequent issuance of additional bonds or notes on a parity with the previously issued bonds or notes; and

(2) authorize, issue, and sell additional bonds or notes, from time to time and in different series, payable from the revenue of the mass transportation system and the revenue of any additional sources, on a parity with the bonds or notes previously issued and secured by liens on the transportation system that are on a parity with the lien securing the previously issued bonds or notes, subject to the conditions of the ordinance or instrument described by Subdivision (1).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.030. REFUNDING BONDS OR NOTES. (a) A municipality may issue refunding bonds or notes to refund one or more series or issues of bonds or notes.

(b) Refunding bonds or notes have the same priority of lien on the revenue pledged to their payment that the bonds or notes being refunded have, except that if all the outstanding bonds or notes of two or more series or issues of bonds or notes are refunded in a single issue of refunding bonds or notes, the lien of all refunding bonds or notes is equal. A refunding bond or note may not have a priority of lien greater than the highest priority of lien of the bonds or notes being refunded.

(c) Refunding bonds or notes must bear interest at the same or lower rate than that borne by the bonds or notes being refunded unless it is shown mathematically that:

(1) a saving will result in the total amount of interest to be paid; and

(2) the annual principal and interest burden will not be increased so as to impair the rights of the holders of any bonds or notes, if any, having a prior or inferior lien.

(d) Bonds or notes may be refunded by issuing refunding bonds or notes to be:

(1) exchanged for the bonds or notes being refunded or cancelled; or

(2) sold, with the proceeds of the sale being used to redeem and cancel the bonds or notes being refunded.

(e) A municipality may provide in a refunding bond or note issue money necessary for paying:

(1) any call premium; and

(2) interest to the date set for calling for redemption the outstanding bonds or notes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.