

Legislative Update

House Bill 300 – sunset bill

On Thursday and Friday May 7 and 8, the House of Representatives considered House Bill 300 and more than 200 amendments. HB 300 is the state sunset bill that authorizes TxDOT's continuation. On Wednesday, May 20, the Senate Transportation and Homeland Security Committee passed its version of the Sunset bill, which is significantly different from the House passed version.

TxDOT and Texas Transportation Commission Changes

As passed by the House, CSHB 300 changes the appointment process for members of the Texas Transportation Commission. The bill was amended to create an elected commission rather than the Governor appointing members. The commission will be made up of 14 geographically elected members and one chairman of the Commission elected statewide. The total membership will be 15. The Senate version of the Sunset bill will retain a 5 member Commission

Both the House and Senate version of HB 300 create a Transportation Legislative Oversight Committee that will conduct an in-depth analysis of the state transportation system. Additionally, the House bill creates an Inspector General position to audit the Department and ensure compliance with applicable laws.

TPC Membership and Voting

In general, the House passed HB 300 requires that 75 percent of the policy board members of an MPO must be elected officials. In the case of the H-GAC, the TPC is the policy board and approximately 58 percent of the members are elected officials. The bill was amended to allow the MPO which contains Harris County to meet a 50 percent elected official membership threshold on the policy board.

The House passed HB 300 requires that only elected officials may be voting members of the MPO policy board. However, the same amendment which lowered the threshold for elected membership participation for the MPO that contains Harris County allows the TPC to designate non-elected officials to serve on the TPC with voting rights if the entities are created by law to perform a transportation function. The House bill was subsequently amended to require that policy boards of MPOs have no fewer than 5 and no more than 19 members.

Technical Advisory Committee Membership

The House passed HB 300 directs the MPO to include "the superintendent of each school district in the jurisdiction of the MPO or a person designated by the superintendent."

- The implications of this could mean a significant increase in the size of the TAC.
- It is unclear at this time if this provision was amended when CSHB 300 was considered on the House floor.

Funding Allocations, Planning and Operating Expenses

The House passed HB 300 directs TxDOT and planning organizations to develop several financial instruments and processes. Among them are the following:

- TxDOT must produce a cash flow forecast for a period of 10 years.
 - The first two years of the forecast are required to be based on the appropriation of funds from the General Appropriations Act.
- Metropolitan Planning Organizations are required to develop a 10 year plan for the use of the funding projected from the forecast.
- TxDOT is required to develop a formula and allocate funds directly to planning organizations
- TxDOT is required to allocate 90 percent of the funds they receive.
- Metropolitan Planning Organizations are limited from using more than \$10 million to fund the operations of the MPO. Notably, "operations" is not defined in CSHB 300

Border Region Higher Speed Rail Authorities

The House passed HB 300 creates Border Region Higher-Speed Rail Authorities on the Texas – Louisiana and the Texas – Mexico border. The authorities are granted limited powers of eminent domain but encouraged to utilize existing rail or intermodal facilities.

Path Forward

The Senate Transportation and Homeland Security Committee considered its version of the Sunset bill, which is substantially different from the House version. Generally speaking, the House version empowers the MPO to drive the transportation improvement process, while the Senate version does not.

Eminent Domain legislation

The 81st Session of the Texas Legislature has seen 66 bills filed regarding the State's use of eminent domain powers. Of the 66 bills, 25 create specific utility districts and grant limited powers of eminent domain, and 5 are resolutions calling for constitutional amendments to limit public taking of property, or define terms under which property can be taken.

Only three bills have passed their chamber of origin. One of the three that has passed its chamber of origin grants the General Land Office the authority to study public taking of land for construction of projects to prevent coastal erosion. The other two bills to pass their chamber of origin restrict the rights of water supply corporations to exercise eminent domain.

Transportation Specific Eminent Domain legislation

Two of the 66 bills filed regarding eminent domain specifically address transportation matters.

- HB 4680 creates urban transportation authorities and designates the process of eminent domain proceedings. **This bill has been filed in the House and referred to the Transportation Committee. No further action has taken place on the bill.**
- SB 622 addresses property valuation and access after a public land taking. **This bill has been filed in the Senate and referred to the Transportation and Homeland Security Committee. No further action has taken place on the bill.**

H-GAC Region Specific Eminent Domain legislation

16 of the 66 eminent domain bills address municipal utility districts in the H-GAC region, affecting three counties: Fort Bend, Waller and Montgomery. The bills create districts with limited eminent domain authority. The districts created are: the Fort Bend County Municipal Utility Districts No. 201, 202, 203, and 204, the Waller County Municipal Utility District No. 15 and 13, the Montgomery County Municipal Utility District No. 118 and the Montgomery County Water Control District No. 3. **All of the House versions of these bills have passed their chamber and are awaiting a hearing in the Senate Intergovernmental Relations Committee.**

Key Pieces of Eminent Domain Legislation

1. SB 18 modifies the relevant sections of the Government and Property Codes and establishes a number of new standards and procedures for the acquisition of private property.

Important components of the bill include: (1) repeal of the definition of "slum area" and redefine "blight area"; (2) the Truth in Condemnation Procedures Act, which requires public meetings before initiation of a condemnation procedure; (3) bona fide offer requirements in suits; and (4) compensation for relocation and consistent quality of life from before condemnation.

Companion Bills are HB 402 and HB 1483. **SB 18 has passed the Senate and has been favorably considered by the House Land & Resource Management Committee and placed on the Major State Calendar. HB 1483 has been left pending in its committee after a hearing. HB 402 has not had a hearing in its Land & Resource Management Committee.**

2. HB 4 proposes both procedural and substantive changes to Texas condemnation law, limiting the state's ability to take private land for public use. It requires each entity authorized to exercise the power of eminent domain to notify the comptroller of public accounts of this power and the granting authority. The 83rd Session of the Legislature will then determine the state of the law and consider potential statutory revisions.

Other important components of the bill include: (1) increased public vote requirements; (2) good-faith negotiation requirements; (3) payment of attorneys' fees; and (4) long-term information requests by property owners.

The identical bill has also been proposed as S.B. No. 533 in the Senate. **Both bills have been left pending in their respective committees.**

SB 855 – Local Option Gas Tax

On Tuesday, May 12, the House Transportation Committee favorably voted out the Committee Substitute for Senate Bill 855 (hereafter CSSB 855) regarding local option motor fuels taxation. The bill contains several provisions that could impact transportation financing in the H-GAC region and this memo discusses the highlights.

CSSB 855 would allow counties located within the boundaries of an MPO to call an election to increase the motor fuels tax in the county by 10 cents, with any revenue generated being used to improve transportation within the County.

- **Tax Elections.** An election can be called if:
 - at least 240 days before the November uniform election date, a resolution or resolutions requesting that an election be called is adopted by the commissioners courts of one or more of those counties within the boundaries of the same MPO containing at least 66 percent of the total population of the counties within the MPO
 - at least 210 days before the November uniform election date, a petition requesting an election be called, signed by a number of registered voters at least equal to 10 percent of the total number of votes cast in the previous gubernatorial election, is submitted to the commissioners courts of the counties within an MPO
 - a commissioners court may adopt a resolution only after holding 3 public hearings on the matter

- **Project Selection.**
 - CSSB 855 requires that any revenue collected as a result of an election authorized by this bill would only fund projects that are consistent with the transportation plans and programs of the MPO.
 - The MPO is required to submit a list of eligible projects to the commissioners court of a county holding an election.
 - CSSB 855 requires that the commissioners court of a county holding an election, at least 180 days before an election is held, in consultation with municipalities and transit agencies and in a public hearing, determine which projects from the list are proposed for funding and listed on the ballot

- **Path Forward**
 - CSSB 855 is scheduled to be considered by the full House on May 21, after this document is published
 - Should the bill pass the House it would require a Conference Committee to work through differences with the Senate passed version, which is considerably different and applies only to certain regions.

House Bill 4180 – formula funding for small urban and rural transit providers

Effect of HB 4180

HB 4180 returns small urban and rural transit funding to the 90/10 split that was in place before 2003 with 90 percent being funded by formula and 10 percent by discretionary. Currently, 20 to 25 percent of the federal funds available to rural transit agencies are not allocated through a formula, but rather through TxDOT's discretionary grants, which critics say fail to meet the greatest needs of local transit agencies.

Path forward

The House has passed this bill and it has been referred to the Senate Transportation and Homeland Security Committee.

House Bill 2219 – public transportation advisory committee membership

Effect of HB 2219

HB 2219 changes the membership requirements for the state transit advisory committee from 11 to nine members. The Governor, Lt. Governor, and the Speaker of the House each make three appointments to the committee.

Path forward

The bill has been passed by both chambers and has been sent to the Governor.

HGAC staff will continue to monitor these important bills and all other legislation.