

TRANSPORTATION CODE

TITLE 6. ROADWAYS

SUBTITLE K. MASS TRANSPORTATION

CHAPTER 456. STATE FINANCING OF PUBLIC TRANSPORTATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 456.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means the acquisition, construction, or improvement of a facility, equipment, or real property for use in public transportation service. The term includes designing, engineering, supervising, inspecting, surveying, mapping, relocation, right-of-way acquisition, housing replacement, and other expenses incidental to the acquisition, construction, or improvement.

(2) "Designated recipient" means an entity that receives money from the United States or this state for public transportation through the department or the Federal Transit Administration or the administration's successor and is a transit authority, a municipality not included in a transit authority, a local governmental body, another political subdivision of this state, or a nonprofit entity providing rural public transportation service.

(3) "Federal-Aid Highway Act" means the Federal-Aid Highway Act of 1973 (49 U.S.C. Section 1602a).

(4) "Federal Transit Act" means the Federal Transit Act (49 U.S.C. Section 5301 et seq.) and includes the Urban Mass Transportation Act of 1964.

(5) "Federally financed project" means a public transportation project that is partially financed under a program of the United States for financing public transportation.

(6) "Local share requirement" means the amount of money required of and available to a public transportation provider in this state to match the amount available from the United States for a federally financed project.

(7) "Operating expense" means an expense, including an administrative expense, incurred in the daily operation of a public

transportation system.

(8) "Public transportation" means transportation of passengers and their hand-carried packages or baggage on a regular or continuing basis by means of surface or water, including fixed guideway or underground transportation or transit, other than aircraft, taxicab, ambulance, or emergency vehicle.

(9) "Ride-sharing activity" means transportation provided by a vehicle equipped with rubber tires that carries 10 to 15 passengers.

(10) "State-financed project" means a project for which this state provides partial financing under this chapter.

(11) "Transit authority" means a municipality or a metropolitan or regional authority in an urbanized area of over 200,000 population with a local transit tax.

(12) "Urbanized area" means an area with a population of more than 50,000 so designated by the United States Bureau of the Census.

(13) "Nonurbanized area" means an area outside the boundaries of an urbanized area and so designated by the United States Bureau of the Census.

(14) "Local funds" include:

(A) passenger revenues, notwithstanding any statutory requirement to apply that money to offset operating deficits;

(B) money from the purchase of service agreements, contract income, advertising revenue, local tax receipts, and private donations;

(C) money provided by a political subdivision of this state; and

(D) in-kind contributions.

(15) "Large urbanized area" means an urbanized area with a population of 200,000 or more.

(16) "Small urbanized area" means an urbanized area with a population of less than 200,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.33(b), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 1, eff. June 2, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 36 (H.B. 1140), Sec. 1, eff. September 1, 2017.

Sec. 456.002. ADMINISTRATION AND PURPOSE. (a) The commission shall administer the formula and discretionary programs provided by this chapter.

(b) Each public transportation program provided by this chapter, except the passenger rail service assistance program under Subchapter D, is a grant program for public transportation projects. Approval by the United States of a proposed public transportation project means that the project is consistent with the purposes of this chapter and with the continuing, cooperative, and comprehensive regional transportation planning implemented in accordance with the Federal Transit Act and the Federal-Aid Highway Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 110, Sec. 1, eff. May 16, 1997; Acts 1997, 75th Leg., ch. 165, Sec. 30.34(b), eff. Sept. 1, 1997.

Sec. 456.003. PARTICIPATION INELIGIBILITY. A transit authority is ineligible to participate in the formula or discretionary program provided by this chapter unless the authority was created under Chapter 453 or former Article 1118z, Revised Statutes, by a municipality having a population of less than 200,000.

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

Sec. 456.004. GENERAL FINANCING APPLICATION REQUIREMENTS. An application for project financing under this chapter must be certified and contain a statement by the applicant that the proposed public transportation project is consistent with the continuing, cooperative, and comprehensive regional transportation planning implemented in accordance with the Federal Transit Act and the Federal-Aid Highway Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(c), eff. Sept. 1, 1997.

Sec. 456.005. EVALUATION OF PROJECT. In evaluating a project under the formula or discretionary program, the commission shall consider the need for fast, safe, efficient, and economical public transportation and the approval of the Federal Transit Administration, or its successor.

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

Sec. 456.006. USE OF FINANCING. (a) A designated recipient that is a rural or urban transit district or municipal transit department may use money from the formula or discretionary program and any local funds for any transit-related activity.

(b) A designated recipient not included in a transit authority but located in an urbanized area that includes one or more transit authorities and that received state transit funding during the biennium ending August 31, 1997, may receive money from the formula or discretionary program in an amount that does not exceed the amount of funds expended during that biennium to provide:

(1) 65 percent of the local share requirement for a federally financed capital improvement project;

(2) 50 percent of the local share requirement for a federally financed project for operating expenses;

(3) 65 percent of the local share requirement for federally financed planning activities; and

(4) 50 percent of the total cost of a public transportation capital improvement project, if the designated recipient certifies that money from the United States is unavailable for the project and the commission determines that the project is vitally important to the development of public transportation in this state.

(c) In this section, "rural transit district" and "urban transit district" have the meanings assigned by Section 1, Chapter 645, Acts of the 74th Legislature, Regular Session, 1995 (Article 6663c-1, Vernon's Texas Civil Statutes).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(d), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 2, eff. June 2, 1997.

Sec. 456.007. PUBLIC TRANSPORTATION ACCOUNT FUND; APPROPRIATIONS AND GRANTS. (a) The public transportation account fund is an account in the general revenue fund. A grant of money to the state for public transportation purposes from a public or private source shall be deposited to the credit of the public transportation account fund. Money in the public transportation account fund may be used only by the department to carry out the responsibilities of the commission and the department for public transportation under this chapter.

(b) The legislature may appropriate money for public transportation purposes from the portion of the state highway fund that is not dedicated by the constitution.

(c) A federal grant of transit money to the state for public transportation purposes shall be deposited in the treasury to the credit of the state highway fund. Federal transit grants for public transportation purposes may be used only by the department to carry out the responsibilities of the commission and the department for public transportation under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(e), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 3, eff. June 2, 1997.

Sec. 456.008. COMMISSION REPORT ON PUBLIC TRANSPORTATION PROVIDERS. (a) Not later than January 1 of each year, the commission by rule shall prepare and issue to the legislature a report on public transportation providers in this state that received state or federal funding during the previous 12-month period. A report under this section must:

(1) detail the performance of the transportation providers during the preceding state fiscal year; and

(2) include, as to each transportation provider, monthly data on industry utilized standards that best reflect ridership, mileage, revenue by source, and service effectiveness.

(b) The commission shall establish a performance-based reporting system for all public transportation providers. The commission may establish different performance measures for

different sectors of the transit industry. The performance measures shall assess the efficiency, effectiveness, and safety of the public transportation providers.

(c) The commission shall submit copies of each report issued under this section to the budget and planning division of the governor's office and the Legislative Budget Board not later than November 1 of the year following the period covered in the report.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 93, eff. September 1, 2013.

#### SUBCHAPTER B. FORMULA PROGRAM

Sec. 456.021. BIENNIAL ALLOCATION. (a) The commission shall allocate to large urbanized, small urbanized, and nonurbanized areas under the formula program provided by this subchapter the amount appropriated from all sources to the commission each state fiscal biennium for public transportation, other than money from the United States and amounts specifically appropriated for coordination, technical support, or other administrative costs.

(b) The commission shall make the allocation at the beginning of each state fiscal biennium.

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

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 36 (H.B. 1140), Sec. 2, eff. September 1, 2017.

Sec. 456.022. FORMULA ALLOCATION. The commission shall adopt rules establishing a formula allocating funds among individual eligible public transportation providers. The formula may take into account a transportation provider's performance, the number of its riders, the need of residents in its service area for public transportation, population, population density, land area, and other factors established by the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(f), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 4, eff. June 2, 1997; Acts 2003, 78th Leg., ch. 312, Sec. 79(a), eff. Sept. 1, 2004.

Sec. 456.023. APPLICATION; USE OF MONEY NOT APPLIED FOR.

(a) A designated recipient may submit an application to the commission for financing of a project under the formula program.

(b) The commission shall administer under the discretionary program provided by Subchapter C any money that a designated recipient under the formula program has not applied for before the November commission meeting in the second year of a biennium.

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

Sec. 456.026. REPORTING BY DESIGNATED RECIPIENTS. The commission by rule shall establish a performance-based reporting system for all designated recipients eligible for financing under the formula program.

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

#### SUBCHAPTER C. DISCRETIONARY PROGRAM

Sec. 456.041. PROJECT FINANCING APPLICATION BY DESIGNATED RECIPIENT. (a) To participate in the discretionary program provided by this subchapter, a designated recipient must submit to the commission an application for project financing. The application must contain:

(1) a description of the project, including an estimate of the population that the project would benefit and the anticipated completion date of the project;

(2) a statement of the estimated cost of the project, including an estimate of the portion of the cost of the project financed by the United States; and

(3) the certification required by Section [456.006\(b\)\(4\)](#).

(b) After the commission receives an application under this section, the commission shall approve or deny the application and

notify the applicant in writing of its decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(g), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 6, eff. June 2, 1997.

Sec. 456.042. RIDE-SHARING ACTIVITIES. (a) A designated recipient or a local government that has the power to operate a public transportation system, directly or by contract, in an urbanized or rural area may apply to the commission and receive money from the discretionary program for a capital expenditure to operate a ride-sharing activity.

(b) The commission shall provide 80 percent of the cost of capital expenditures for a ride-sharing activity of a project it approves under this section.

(c) An applicant for financing of a ride-sharing activity must certify that:

(1) money is available to provide 20 percent of the cost of the capital expenditure;

(2) the equipment the applicant provides for the ride-sharing activity will be used primarily for commuting purposes;

(3) the ride-sharing activity will be operated without state operating subsidies and under procedures required by Subsection (d); and

(4) any financing available from the United States Department of Transportation to supplement state and locally financed capital expenditures for ride-sharing activities will be applied for and used for the replacement of van pool equipment in the manner required by Subsections (e) and (f).

(d) A recipient of money under this section must establish procedures to purchase van pool equipment that are satisfactory to the state and ensure that the equipment is operated for commuter purposes as a nonprofit activity in the manner required by Subsection (e).

(e) A recipient of money under this section must deposit all revenue in excess of operating expenses that is derived from the use of state-financed van pool equipment in a contingency reserve

account designated for use in the replacement of state-financed van pool equipment at the end of the useful life of the equipment.

(f) The state financial interest in the purchase of replacement van pool equipment is based:

(1) on the ratio that money from the contingency reserve account that is used in the purchase of replacement equipment bears to the total price of the equipment; and

(2) on the ratio that state money bears to the total price of the equipment being replaced.

(g) A recipient of money under this section shall return to the state the portion of any remaining money in the contingency reserve account when ride-sharing activities using state-financed van pool equipment cease that represents the ratio of state-to-local financing under the activities.

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

#### SUBCHAPTER D. PASSENGER RAIL SERVICE ASSISTANCE PROGRAM

Sec. 456.061. DEFINITION. In this subchapter, "eligible corporation" means a corporation created under former Subchapter III, Chapter 14, Title 45, United States Code (now 49 U.S.C. Sections 24101 et seq. and 24301 et seq.).

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.062. LOANS TO CORPORATION. (a) Under the authority of Section [52-a](#), Article III, Texas Constitution, and from funds appropriated from the general revenue fund for this purpose, the commission may loan money to an eligible corporation that provides rail passenger service in the state.

(b) Notwithstanding any other statutory restriction, the portion of the state highway fund not dedicated by the constitution is collateral for repayment of a loan made under this section. The comptroller may transfer from that portion of the state highway fund to the general revenue fund the amount needed to repay any unpaid balance on the loan, including applicable interest, in accordance with the loan agreement.

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.063. AGREEMENT. The department, on behalf of the commission and with the approval of the comptroller, shall enter into an agreement, under terms and conditions the department considers appropriate, with an eligible corporation for the purposes of making a secured loan under this subchapter. The agreement must provide for collateralization and guaranties in a form and amount determined by the comptroller and the commission to be sufficient to repay to the state highway fund any money transferred to the general revenue fund under Section 456.062(b). Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.064. LIMITATION OF FUNDING. The commission may only expend funds specifically appropriated by the legislature for the purposes of this subchapter. Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.065. GUARANTEE FROM MUNICIPALITIES. The department, on behalf of the commission and with the approval of the comptroller, shall secure an agreement or agreements with the municipalities served by an eligible corporation that receives assistance under this subchapter to further guarantee the repayment of half of any unpaid balance on a loan, including interest, made under this subchapter. Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.