

By: West

S.B. No. 754

A BILL TO BE ENTITLED

AN ACT

relating to the creation of higher education enhancement districts;
authorizing a sales and use tax or a property tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 3, Education Code, is amended by adding
Subtitle I to read as follows:

SUBTITLE I. HIGHER EDUCATION DISTRICTS

CHAPTER 159. HIGHER EDUCATION ENHANCEMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 159.001. DEFINITIONS. In this chapter:

(1) "Coordinating board" means the Texas Higher
Education Coordinating Board.

(2) "District" means a higher education enhancement
district created under this chapter.

(3) "Regional university" means:

(A) a general academic teaching institution as
defined by Section 61.003, other than Texas A&M University and The
University of Texas at Austin; or

(B) a system center of a general academic
teaching institution that by statute is authorized to operate as a
general academic teaching institution after reaching specified
student enrollment goals.

(4) "Service territory" means a geographical area
established by the coordinating board under Section 159.003 in

1 which a district may be created under this chapter.

2 Sec. 159.002. PURPOSE. The purpose of this chapter is to
3 enable a regional university and the community served by the
4 university, through the creation of a higher education enhancement
5 district, to elect to provide local funding to supplement endowment
6 and scholarship funds at the university and to otherwise enhance
7 the quality of education provided by the university.

8 Sec. 159.003. ESTABLISHMENT OF SERVICE TERRITORIES. (a)
9 Except as provided by Subsection (b) or (c), the coordinating board
10 shall establish a service territory for each regional university.

11 (b) The coordinating board shall establish a single service
12 territory for two or more regional universities located in the same
13 county. The service territory established under this subsection
14 must include the entire county in which the universities are
15 located.

16 (c) The coordinating board may establish a single service
17 territory for two or more regional universities located in adjacent
18 counties if the coordinating board determines, based on the
19 criteria described in Subsection (d), that the universities serve
20 primarily the same areas.

21 (d) In establishing a service territory under this section,
22 the coordinating board shall attempt to include areas:

23 (1) that are in closest geographic proximity to the
24 university or universities;

25 (2) that are primarily served by the university or
26 universities; and

27 (3) that will most benefit from the improvements and

1 services that would be provided by a district.

2 (e) A service territory created under this section may not
3 contain territory that is contained within another service
4 territory.

5 (f) Except as provided by Subsection (b), a service
6 territory may consist of whole counties or portions of counties.

7 (g) Before establishing a service territory under this
8 section, the coordinating board shall hold, after notice published
9 in one or more newspapers having general circulation in the
10 counties in which the service territory may be established, at
11 least one public hearing at which any interested person may appear
12 and offer testimony.

13 Sec. 159.004. DISTRICT AUTHORIZATION. A higher education
14 enhancement district may be created, operated, and financed as
15 provided by this chapter.

16 Sec. 159.005. PERFORMANCE REVIEW BY COORDINATING BOARD.
17 The coordinating board shall conduct a performance review of each
18 district created under this chapter every five years.

19 [Sections 159.006-159.050 reserved for expansion]

20 SUBCHAPTER B. CREATION OF DISTRICT

21 Sec. 159.051. CREATION OF DISTRICT. (a) A district may be
22 created under this subchapter to include all of or any portion of a
23 service territory.

24 (b) Only one district may be created in each service
25 territory. The district must include the campus of each regional
26 university located in the service territory.

27 Sec. 159.052. REQUEST FOR HEARING ON CREATION OF DISTRICT.

1 (a) Before a district may be created in a service territory that
2 includes only one regional university, the president of the
3 regional university located in the service territory or a person
4 designated by the president must submit to the coordinating board a
5 written request that the coordinating board hold a public hearing
6 on the creation of the district.

7 (b) Before a district may be created in a service territory
8 that includes more than one regional university, the presidents of
9 the universities or their designees must jointly submit to the
10 coordinating board a written request that the coordinating board
11 hold a public hearing on the creation of the district. A district
12 may not be created in the service territory without the agreement of
13 each regional university in the territory.

14 (c) A request under this section must include a description
15 of the proposed district and state whether the district would
16 impose a sales and use tax or a property tax.

17 Sec. 159.053. HEARING; NOTICE. (a) On receipt of a written
18 request for a hearing under Section 159.052, the coordinating board
19 shall hold a public hearing on the request in each county having
20 territory located in the proposed district.

21 (b) The coordinating board shall give notice of the hearing
22 by publishing notice at least twice in one or more newspapers having
23 general circulation in the county. The notice must be published
24 before the 30th day before the date set for the hearing. The notice
25 may not be smaller than one-quarter page of a standard-size
26 newspaper and the headline on the notice must be in 18-point or
27 larger type.

1 (c) The notice must include:

2 (1) the date, time, and location of the hearing;

3 (2) a statement of the general purpose and effect of
4 creating a district in the service territory;

5 (3) a map of the proposed district or a description of
6 the boundaries or territory of the proposed district sufficient to
7 provide a person with reasonable notice that the person's property
8 may be included in the proposed district; and

9 (4) a statement that all interested persons may appear
10 and offer testimony for or against the creation of a district.

11 Sec. 159.054. COORDINATING BOARD FINDINGS. If, after
12 holding a hearing in each county having territory located in the
13 proposed district, the coordinating board finds that it is in the
14 best interest of the voters of those counties to provide the voters
15 with an opportunity to authorize the creation of a district and the
16 imposition of a sales and use tax or a property tax, as requested
17 under Section 159.052, the coordinating board shall submit its
18 findings to the county judge of each county located in the proposed
19 district in the form of a petition described by Section 159.055.

20 Sec. 159.055. CONTENTS OF PETITION. (a) The petition
21 prescribed by Section 159.054 must:

22 (1) state that the district is to be created and
23 operate under this chapter if approved by the voters;

24 (2) state the name of the proposed district;

25 (3) contain the proposed district's boundaries as
26 designated by metes and bounds or other sufficient legal
27 description;

1 (4) show that none of the territory in the proposed
2 district is included in another higher education enhancement
3 district;

4 (5) state that permanent supervisors will be elected;

5 (6) state the names of five temporary supervisors from
6 different geographic regions of the proposed district that the
7 commissioners court must appoint under Section 159.061; and

8 (7) state whether the district will impose a sales and
9 use tax or a property tax to be voted on at the creation election.

10 (b) To be eligible to be named in the petition as a temporary
11 supervisor, a person must be:

12 (1) a resident of the proposed district; and

13 (2) a qualified voter.

14 Sec. 159.056. FILING OF PETITION; HEARING; ORDERING
15 ELECTION. (a) If the petition is in proper form, the county judge
16 shall:

17 (1) accept the petition; and

18 (2) file the petition with the county clerk.

19 (b) At the next regular or special session of the
20 commissioners court held after the petition is filed with the
21 county clerk, the commissioners court shall set a place, date, and
22 time for the hearing to consider the petition.

23 (c) The county clerk shall issue a notice of the hearing in
24 accordance with Chapter 551, Government Code.

25 (d) At the time and place set for the hearing, the
26 commissioners court shall consider the petition. If the
27 commissioners court finds that the petition is in proper form and

1 contains the information required by Section 159.055, the court
2 shall grant the petition at the conclusion of the hearing.

3 (e) If a petition is granted, subject to Subsection (f) the
4 commissioners court shall order an election in the portion of the
5 proposed district located in that county to confirm the district's
6 creation and to authorize the imposition of a sales and use tax or a
7 property tax at a rate not to exceed the limits provided by law. The
8 election shall be held on the next uniform election date in November
9 that occurs at least 90 days after the date the election is ordered.

10 (f) If the proposed district will contain territory in more
11 than one county, the commissioners courts may not order an election
12 until the commissioners court of each county in which the district
13 will be located has granted the petition.

14 Sec. 159.057. ELECTION ORDER. The order calling the
15 election must state the nature of the election, including the
16 proposition that is to appear on the ballot.

17 Sec. 159.058. BALLOT PROPOSITION. The ballot for the
18 election shall be printed to permit voting for or against the
19 proposition: "The creation of the _____ (name of regional
20 university or universities) Higher Education Enhancement District
21 and the adoption of a _____ (local sales and use tax or property
22 tax, as applicable) for the district at a rate not to exceed the
23 limits provided by law."

24 Sec. 159.059. ELECTION RESULTS; CREATION OF DISTRICT. (a)
25 The commissioners court of each county in which the election is held
26 is the canvassing authority for the election in that county. The
27 canvass shall be conducted in the manner provided by law for a local

1 canvass.

2 (b) If the election is held in one county, the commissioners
3 court of that county shall declare the proposition to have been
4 approved and enter an order creating the district if a majority of
5 the votes cast in the election favor creation of the district. If a
6 majority of the votes cast do not favor creation of the district,
7 the commissioners court shall declare the proposition to create the
8 district to have been defeated.

9 (c) If the election is held in more than one county, the
10 commissioners court of each county, on receiving the returns of the
11 election, shall canvass the returns and certify the results of the
12 election in that county to the commissioners court of the county in
13 which the election is held having the greatest population. On
14 receipt of the returns of all the counties, the commissioners court
15 of the county with the greatest population shall conduct a final
16 canvass of the returns and shall certify the final results of the
17 election. The commissioners court of that county shall declare the
18 proposition to have been approved and enter an order creating the
19 district if a majority of the votes cast in the election in the
20 entire area in which the election is held favor the creation of the
21 district. If a majority of the votes cast in the election in the
22 entire area do not favor creation of the district, the
23 commissioners court shall declare the proposition to create the
24 district to have been defeated.

25 (d) As soon as practicable, the commissioners court
26 ordering creation of a district shall notify the comptroller of the
27 results of the election in the manner specified by the comptroller.

1 Sec. 159.060. RESTRICTION ON SUBSEQUENT ELECTION. If the
2 proposition to create the district is defeated, another election on
3 the question of creating a district in the same service territory
4 may not be held before the first anniversary of the election.

5 Sec. 159.061. TEMPORARY SUPERVISORS. (a) The
6 commissioners court that enters an order creating a district shall
7 appoint those persons named as temporary supervisors in the
8 petition as the temporary supervisors of the district on the date
9 the commissioners court enters the order creating the district.

10 (b) The temporary supervisors serve as supervisors of the
11 district until a majority of the initial supervisors take office.

12 (c) A vacancy in the office of temporary supervisor shall be
13 filled by appointment by the remaining temporary supervisors.

14 [Sections 159.062-159.100 reserved for expansion]

15 SUBCHAPTER C. BOARD OF SUPERVISORS

16 Sec. 159.101. BOARD OF SUPERVISORS. (a) The district is
17 governed by a board of five supervisors.

18 (b) The supervisors shall be elected at the uniform election
19 date in May of each year and serve staggered terms of two years.

20 Sec. 159.102. INITIAL SUPERVISORS' ELECTION. (a) The
21 initial supervisors shall be elected at large at an election held on
22 the next uniform election date in May that is at least 60 days after
23 the date the district is created.

24 (b) The initial supervisors shall draw lots to determine
25 which two initial supervisors serve one-year terms and which three
26 initial supervisors serve two-year terms.

27 (c) After the district confirms the initial supervisors,

1 the district may establish single-member election districts within
2 the district from which supervisors may be elected in subsequent
3 elections.

4 Sec. 159.103. QUALIFICATIONS FOR OFFICE. To be eligible to
5 be a candidate for or to serve as a supervisor, a person must be:

6 (1) a resident of the district; and

7 (2) a qualified voter.

8 Sec. 159.104. BOARD VACANCY. A vacancy in the office of a
9 supervisor shall be filled for the unexpired term by appointment by
10 the remaining supervisors.

11 [Sections 159.105-159.150 reserved for expansion]

12 SUBCHAPTER D. CHANGE IN BOUNDARIES

13 Sec. 159.151. EXPANSION OF DISTRICT TERRITORY. Any portion
14 of the service territory not already included in the district may be
15 added to the district in any manner in which territory may be added
16 to a junior college district under Subchapter D, Chapter 130.

17 [Sections 159.152-159.200 reserved for expansion]

18 SUBCHAPTER E. SALES AND USE TAX

19 Sec. 159.201. COUNTY SALES AND USE TAX ACT APPLICABLE. (a)
20 Except as provided by Subsection (b) or as inconsistent with this
21 chapter, Chapter 323, Tax Code, applies to a sales and use tax
22 authorized by this chapter in the same manner as that chapter
23 applies to the tax authorized by that chapter.

24 (b) Sections 323.101(b), (c), (d), and (e), Tax Code, do not
25 apply to a sales and use tax authorized by this chapter.

26 Sec. 159.202. IMPOSITION OF SALES AND USE TAX. If the tax
27 is approved by the voters at the election authorizing the creation

1 of the district, the district may impose a sales and use tax as
2 provided by this subchapter.

3 Sec. 159.203. SALES AND USE TAX RATE; LIMITATIONS ON RATE.

4 (a) For the first four quarters for which the tax is to be imposed,
5 and for each subsequent year, the board of supervisors shall set the
6 rate of the district's sales and use tax at a rate the board
7 considers appropriate for the purposes of the district, not to
8 exceed any of the following:

9 (1) one-half of one percent of taxable receipts;

10 (2) the rate that, if applied to the total taxable
11 receipts in the territory constituting the district for the most
12 recent four calendar quarters for which information is available,
13 would generate \$30 million in taxes for each regional university in
14 the district; or

15 (3) the rate that, if applied to the total taxable
16 receipts for the most recent four calendar quarters for which
17 information is available, would generate \$60 in taxes for each
18 semester credit hour used by the Legislative Budget Board under
19 Section 61.059 for the most recent biennium to establish the base
20 level of appropriations funding for the regional university or
21 universities for which the district is created.

22 (b) If in any year for which the board of supervisors sets a
23 tax rate the tax imposed by the district generates a total amount of
24 tax revenue in excess of the amount of taxes specified in Subsection
25 (a)(2) or (3) for that year, in setting the rate of the district's
26 sales and use tax for the second year following that year, the tax
27 rate limitations computed under Subsections (a)(2) and (3) are

1 reduced by the rate that, when added to the total taxable receipts
2 used in the computations under Subsections (a)(2) and (3), would
3 generate an amount of total taxes equal to the excess amount of tax
4 revenue generated.

5 (c) The tax rate set by the board must be in increments of
6 not less than one-eighth of one percent.

7 (d) On request, the comptroller shall provide the board of
8 supervisors with the information the board requires to comply with
9 this section.

10 Sec. 159.204. EFFECTIVE DATE OF SALES AND USE TAX. (a) The
11 tax takes effect on the first day of the first calendar quarter
12 occurring after the expiration of the first complete calendar
13 quarter occurring after the date on which the comptroller receives
14 a notice of the results of the election creating the district.

15 (b) If the comptroller determines that an effective date
16 provided by Subsection (a) will occur before the comptroller can
17 reasonably take the action required to begin collecting the tax,
18 the comptroller may postpone the effective date until the first day
19 of the next calendar quarter.

20 Sec. 159.205. EFFECT OF ADOPTION OF TAX ON OTHER LAW. If
21 another law imposes a limit on the combined rate of sales tax
22 imposed by political subdivisions of the state having territory at
23 any location in the district, the total limit provided by that law
24 is increased by one-half of one percent in the territory of the
25 district.

26 [Sections 159.206-159.250 reserved for expansion]

27 SUBCHAPTER F. PROPERTY TAXES

1 Sec. 159.251. IMPOSITION OF PROPERTY TAX. If the tax is
2 approved by the voters at the election authorizing the creation of
3 the district, the district may impose and collect a property tax as
4 provided by this subchapter.

5 Sec. 159.252. PROPERTY TAX RATE; LIMITATIONS. (a) The
6 board of supervisors shall annually set the rate of the district's
7 property tax at a rate the board considers appropriate for the
8 purposes of the district, not to exceed the rate that, if applied to
9 the taxable property in the district, would generate the lesser of:

10 (1) \$30 million in taxes for each regional university
11 in the district; or

12 (2) \$60 in taxes for each semester credit hour used by
13 the Legislative Budget Board under Section 61.059 for the most
14 recent biennium to establish the base level of appropriations
15 funding for the regional university or universities for which the
16 district is created.

17 (b) If the total amount of taxes collected in a calendar
18 year exceeds the amount of taxes specified in Subsection (a)(1) or
19 (2) for the preceding year, the amounts used under Subsections
20 (a)(1) and (2) to compute the maximum tax rate for the next tax year
21 shall be reduced by the amount of the excess taxes collected.

22 Sec. 159.253. PROPERTY TAX ASSESSOR-COLLECTOR. The
23 district may employ a person to assess or collect taxes for the
24 district or may contract with another governmental entity as
25 provided by other law for the assessment or collection of the
26 district's taxes.

27 [Sections 159.254-159.300 reserved for expansion]

1 SUBCHAPTER G. GENERAL TAX PROVISIONS

2 Sec. 159.301. USE OF TAX REVENUE. (a) The board of
3 supervisors of the district shall retain the portion of the revenue
4 from a tax imposed by the district under this chapter necessary to
5 cover the district's expenses as provided by the district's budget,
6 and shall deliver the remaining tax revenue to the regional
7 university or universities for which the district is created. If
8 the district includes more than one regional university, the board
9 of supervisors of the district shall apportion that tax revenue
10 among the universities in proportion to the number of semester
11 credit hours used by the Legislative Budget Board under Section
12 61.059 for the most recent biennium to establish the base level of
13 appropriations funding for each university.

14 (b) Each regional university shall use revenue received
15 under Subsection (a) as follows:

16 (1) one-third of the revenue shall be used to provide
17 scholarships to students who reside in the district;

18 (2) one-third of the revenue shall be deposited in one
19 or more of the university's endowment funds to support educational
20 or research activities of the university; and

21 (3) one-third of the revenue shall be used by the
22 university for any purposes approved by the university's governing
23 board, other than funding the university's endowments or providing
24 scholarships.

25 [Sections 159.302-159.350 reserved for expansion]

26 SUBCHAPTER H. HIGHER EDUCATION ENHANCEMENT FUND

27 Sec. 159.351. NATURE AND PURPOSE OF FUND. (a) The higher

1 education enhancement fund is a special fund in the state treasury
2 outside the general revenue fund.

3 (b) The money in the higher education enhancement fund may
4 be used only to provide grants under this subchapter.

5 Sec. 159.352. ADMINISTRATION. The coordinating board
6 administers the higher education enhancement fund and shall adopt
7 rules for the administration of the fund and this subchapter.

8 Sec. 159.353. GRANTS. (a) The coordinating board shall
9 award grants from the higher education enhancement fund to regional
10 universities to cover all or part of the initial costs of creating a
11 higher education enhancement district under this chapter.

12 (b) The amount of a grant may not exceed \$2,500.

13 (c) The coordinating board shall establish criteria for the
14 award of a grant under this section.

15 Sec. 159.354. SOURCE OF FUNDS. (a) The coordinating board
16 may solicit and accept gifts and grants from any public or private
17 source for the purposes of this subchapter.

18 (b) The legislature may appropriate money for the purposes
19 of this subchapter.

20 SECTION 2. The Texas Higher Education Coordinating Board
21 shall establish service territories for regional universities as
22 required by Section 159.003, Education Code, as added by this Act,
23 and shall adopt initial rules for the administration of the higher
24 education enhancement fund as required by Section 159.352,
25 Education Code, as added by this Act, as soon as practicable after
26 the effective date of this Act. The coordinating board may adopt
27 those initial rules in the manner provided by law for emergency

1 rules.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2003.