

BILL ANALYSIS

S.B. 434
By: Duncan
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Act creating the Lockney General Hospital District (district) was passed by the 63rd Legislature in 1973 and has not been amended since that time. The district's enabling legislation requires updating to conform with current laws.

As proposed, S.B. 434 revises the statute to prohibit a district employee from serving on the board of directors. The bill allows the board to spend district funds for recruitment of health care practitioners. S.B. 434 also amends the district's enabling legislation to put in place procedures for the dissolution of the district.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 4, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 4. (a) Requires a regular election for directors [of the Lockney General Hospital District] to be held on the May uniform election date under Section 41.001 (Uniform Election Dates), Election Code, each year, and requires directors to be elected at that time in each succeeding year. Requires the election to be ordered in accordance with Section 3.005 (Time for Ordering Election), Election Code, rather than ordered at least 15 days prior to the date on which the election is to be held. Requires any person desiring the person's name to be printed on the ballot as a candidate for director to file an application, rather than a petition, signed by not less than ten qualified voters, asking that such name be printed on the ballot, with the secretary of the board of directors of the district in accordance with Chapter 144 (Candidate for Office of Political Subdivision Other than County or City), Election Code. Makes nonsubstantive and conforming changes. Requires notice of the election to be published one time in a newspaper of general circulation in the area of the district in accordance with Section 4.003, (Method of Giving Notice), Election Code. Deletes existing text regarding the appointment of directors for Floyd County by the county's commissioner's court. Deletes existing text requiring notice of the election to be given at least five days before the election. Deletes existing text providing exceptions to the rule of all vacancies being filled by a majority vote of the remaining directors.

(b) Adds provision stating that a resident voter of the district cannot be an employee of the district and be eligible to serve as a director. Deletes existing text specifying that a resident has to be a property-owning taxpaying voter of the district to be eligible to hold the office of director. Deletes existing text requiring the president to be the chief executive officer of the district and requiring the president to have the same right to vote as any other director. Makes a nonsubstantive change.

(c) Deletes existing text relating to temporary directors, their terms of service, and their transition to positions as permanent directors.

SECTION 2. Amends Section 5, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 5. (a) Creates subsection from existing text. Provides that Subchapter A, Chapter 2256 (Public Funds Investment), Government Code, rather than Article 836 or 837, Revised Civil Statutes of Texas, 1925, as amended, contains the specifications necessary to administer according to this subsection.

(b) Creates subsection from existing text.

(c) Creates subsection from existing text. Makes conforming and nonsubstantive changes. Authorizes the board of directors to pay for the bond with district funds.

(d) Creates subsection from existing text. Requires the board of directors to have the authority to appoint staff physicians, dentists, and podiatrists as the board, rather than doctors, determines are necessary for the efficient operation of the district, and authorizes the board to provide for temporary appointments to the staff if warranted by circumstance.

(e) Authorizes the board to spend district money, enter into agreements, and take other necessary action to recruit physicians and other persons to serve as medical staff members or district employees. Authorizes certain actions to be taken.

SECTION 3. Amends Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, by adding Section 5A, as follows:

Sec. 5A. (a) Authorizes the district to create and sponsor a nonprofit corporation under the Business Organizations Code and contribute money to or solicit money for the corporation.

(a-1) Authorizes the district, on or before December 31, 2009, to create and sponsor a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01, et seq., V.T.C.S.) or the Business Organizations Code, as applicable, and contribute money to or solicit money for the corporation.

(b) Authorizes a corporation created under this section to use money contributed by the district only to provide health care or other services the district is authorized to provide under this Act.

(c) Authorizes the corporation to invest the corporation's money in any manner in which the district may invest the district's money, including investing money as authorized by Chapter 2256, Government Code.

(d) Requires the board to establish controls to ensure that the corporation uses its money as required by this section.

(e) Provides that this subsection and Subsection (a-1) expire December 31, 2009.

SECTION 4. Amends Section 7, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 7. Specifies that the bonds the board of directors are empowered to sell are general obligation bonds. Makes a conforming change. Requires a tax, at the time of the issuance of any general obligation bonds, to be levied by the board sufficient to create an interest and sinking fund to pay the interest on and principal of said bonds, as same mature, providing such tax together with any other taxes levied for said district are prohibited from exceeding the limit approved by the voters at the election authorizing the imposition of taxes, rather than the rate of tax voted under the provisions of Section 3 of this Act. Deletes existing text stating that revenue bonds issued under Section 8(b) are exceptions to the provisions governing the use of the general obligation bonds. Makes conforming changes. Requires the order for the bond election and the publication of

notice for the election to be provided in accordance with Chapter 1251 (Bond Elections), Government Code. Requires the election to be conducted in accordance with the general laws of this state pertaining to general elections, except as modified by the provisions of this Act. Deletes existing text outlining certain specifications relating to the bond elections.

SECTION 5. Amends Section 8, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 8. (a) Provides that payments in regards to refunding bonds are to be made in accordance with Chapter 1207 (Refunding Bonds), Government Code, rather than in the manner specified by Chapter 503, Acts of the 54th Legislature, 1955, as amended (Article 717k, V.T.C.S.). Prohibits refunding bonds from bearing interest in excess of the rate permitted by Chapter 1204 (Interest Rate), Government Code, rather than former sections of V.T.C.S.

(b) Deletes text relating to the board's power to issue bonds payable from taxes levied by the district and makes conforming changes. References Sections 264.042 (Forms and Procedure), 264.043 (Terms), and 264.046 (Junior Lien Bonds; Party Bonds) - 264.049 (Approval and Registration of Bonds), Health and Safety Code, rather than former sections of V.T.C.S.

SECTION 6. Amends Section 9, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 9. (a) Requires bonds of the district to mature not later than the 40th anniversary of the date of issuance and to bear a rate of interest that does not exceed the amount provided by Chapter 1204, Government Code. Deletes existing text relating to the maturity of bonds as prescribed by former sections of V.T.C.S.

(b) Requires bonds to be executed in the name of the hospital district and on its behalf by the president of the board and countersigned by the secretary of the board in the manner provided by Chapter 618, Government Code, rather than by former sections of V.T.C.S., and requires bonds to be subject to the same requirements in the matter of approval by the Attorney General (attorney general) of Texas and registration by the Comptroller of Public Accounts of the State of Texas (comptroller) as are by law provided for approval and registration of bonds issued by counties.

SECTION 7. Amends Section 11, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 11. Requires all contracts for construction involving an expenditure in excess of the amount provided by Section 271.024 (Competitive Bidding Procedure Applicable to Contract), Local Government Code, to comply with the competitive bidding requirements as provided by Subchapter B, Chapter 271 (Purchasing and Contract Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, rather than by former sections of V.T.C.S.. Requires the provisions of Chapter 2253 (Public Work Performance and Payment Bonds), Government Code, rather than the provision of a section of the Revised Civil Statutes of Texas, 1925, relating to the performance and payment bonds to apply to construction contracts let by the district.

SECTION 8. Amends Section 15, Chapter 48, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 15. (a) Creates subsection from existing text.

(b) Provides that the district is not required to deposit in the trial court money or bond as provided by Section 21.021 (Possession Pending Litigation), Property Code. Deletes existing text providing an exception to the provision and referencing a section of the Revised Civil Statutes of Texas, 1925.

(c) Creates subsection from existing text.

SECTION 9. Amends Section 16, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, as follows:

Sec. 16. (a) Provides that the Tax Code governs the appraisal, assessment, and collection of district taxes.

(b) Authorizes the board to provide for the appointment of a tax assessor-collector for the district or to contract for the assessment and collection of taxes as provided by the Tax Code. Deletes existing text relating to the ability of the directors to levy taxes, tax collection, and the establishment and maintenance of a board of equalization.

SECTION 10. Amends Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973, by adding Section 27, as follows:

Sec. 27. (a) Authorizes the district to be dissolved only if the dissolution is approved by a majority of the registered voters of the district voting in an election held for that purpose.

(b) Authorizes the board to order an election on the question of dissolving the district and disposing of the district's assets and obligations. Requires the board to order an election if the board receives a petition requesting an election that is signed by at least 15 percent of the registered voters in the district.

(c) Requires an election ordered under this section to be held not later than the 60th day after the date the election is ordered. Provides that Section 41.001, Election Code, does not apply to an election ordered under this section.

(d) Requires an order calling an election under this section to state certain information about the election.

(e) Requires the board to give notice of the election by publishing a substantial copy of the election order in a newspaper with general circulation in the district once a week for two consecutive weeks. Requires the first publication to appear not later than the 35th day before the date set for the election.

(f) Sets forth the specific wording of the proposition to be voted upon.

(g) Requires the board, if a majority of the votes in the election favor dissolution, to find that the district is dissolved. Requires the board, if a majority of the votes in the election do not favor dissolution, to continue to administer the district, and prohibits another election on the question of dissolution from being held before the first anniversary of the most recent election to dissolve the district.

(h) Requires the board, if a majority of the votes in the election favor dissolution, to take certain actions in regards to the management of assets until all district debts have been settled.

(i) Provides that if the district transfers the land, buildings, improvements, equipment, and other assets to Floyd County or another governmental entity, the county or entity assumes all debts and obligations of the district at the time of the transfer, and the district is dissolved.

(j) Requires the board, if the district does not transfer the land, buildings, improvements, equipment, and other assets to a county or other governmental entity, to administer the property, assets, and debts of the district until all funds have been disposed of and all district debts have been paid or settled, at which time the district is dissolved.

(k) Requires the board, after the board finds that the district is dissolved, to take certain actions.

(l) Requires the board, when all outstanding debts and obligations of the district are paid, to order the secretary to return to each district taxpayer the taxpayer's pro rata share of all unused tax money.

(m) Authorizes a taxpayer to request that the taxpayer's share of surplus tax money be credited to the taxpayer's county taxes. Requires the board, if a taxpayer requests the credit, to direct the secretary to transmit the money to the county tax assessor-collector.

(n) Requires the board, after the district has paid all its debts and has disposed of all its assets and money as prescribed by this section, to file a written report with the Commissioners Court of Floyd County summarizing the board's actions in dissolving the district.

(o) Requires the Commissioners Court of Floyd County, not later than the 10th day after the date it receives the report and determines that the requirements of this section have been fulfilled, to enter an order dissolving the district and releasing the board of directors of the district from any further duty or obligation.

SECTION 11. Repealers: Sections 3 and 23, Chapter 58, Acts of the 63rd Legislature, Regular Session, 1973.

SECTION 12. Effective date

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.