

BILL ANALYSIS

Senate Research Center

S.B. 1754
By: Duncan
Intergovernmental Relations
6/28/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Act creating the Childress County Hospital District (district) was passed by the 59th Legislature in 1965, and has not been amended since that time. The district's enabling legislation requires updating to conform with current laws. The district would like to revise the legislation to prohibit a district employee from serving on the board of directors, make managerial changes, and to put procedures in place for the dissolution of the district. S.B. 1754 updates and conforms enabling legislation for the district.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4, Chapter 647, Acts of the 59th Legislature, Regular Session, as follows:

Sec. 4. (a) Creates this subsection from existing text. Provides that the Childress County Hospital District (district) is governed by a board of directors (board) composed of seven members elected as provided by this Act. Provides that the directors serve staggered terms of two years. Requires three directors to be elected in even-numbered years and four directors to be elected in odd-numbered years. Provides that the directors are elected at large. Deletes existing text pertaining to the election for and creation of the district.

(b) Creates this subsection from existing text. Requires a regular election for directors to be held on the May uniform election date under Section 41.001 (Uniform Elections Dates), Election Code, each year. Deletes existing text pertaining to an April election.

(c) Creates this subsection from existing text. Provides that a director is not entitled to compensation, but is entitled to reimbursement for actual expenses incurred in attending to the district's business, provided that the expense are reported in the district's minute book or other district records and approved by the remainder of the board.

(d) Creates this subsection from existing text. Requires any person who is a resident of the district and a qualified, rather than property owner taxpaying, voter to be eligible to hold office as director of the district. Prohibits an employee of the district from serving as director.

(e) Creates this subsection from existing text. Requires the board to appoint a secretary who is not required to be a director. Deletes existing text pertaining to other officers. Provides that the president of the board has the same right to vote as any other member. Deletes existing text requiring the president to be the chief executive officer of the district.

(f) Makes a nonsubstantive change.

SECTION 2. Amends Section 5, Chapter 647, Acts of the 59th Legislature, Regular Session, 1965, as follows:

Sec. 5. (a) Creates this subsection from existing text.

(b) Creates this subsection from existing text. Requires the board to appoint a qualified person to be known as the chief executive officer (CEO), rather than administrator or manager, of the hospital district, who is authorized in the person's own discretion to appoint an assistant to the CEO. Prohibits the CEO's contract from being longer than three years. Authorizes the contract to be renewed or extended annually. Makes conforming changes.

(c) Creates this subsection from existing text. Authorizes the board to delegate to the CEO the authority to manage, control, and administer the hospital, hospital system, and the business, funds, and resources of the district under the oversight of the board. Deletes existing text referring to a bond. Makes a conforming change.

(d) Creates this subsection from existing text. Requires the board to authorize the CEO to employ for the efficient operation of the district, nurses, technicians, and other employees of the district. Deletes existing text giving the board the authority to employ.

(e) Creates this subsection from existing text. Makes a nonsubstantive change.

(f) Authorizes the board to purchase or lease property, facilities, and equipment, for the district to use in the hospital system and to mortgage or pledge the property, facilities or equipment as security for payment of the purchase price.

(g) Authorizes the board to enter into a contract or contracts to provide administrative and other personnel for the operation of the hospital facilities. Prohibits the term of the contract from exceeding 25 years. Authorizes the board to lease district hospital facilities to individuals, corporations, or other legal entities, and to sell or otherwise dispose of the district's property, facilities, or equipment.

(h) Authorizes the board to spend district money to recruit physicians, nurses, and other trained medical personnel. Authorizes the board to contract with one or more full-time medical students or other students in a health occupation, each of whom is enrolled in and in good standing at an accredited medical school, college, or university, to pay, under the terms of the contract, the student's tuition or other expenses in consideration of the student's agreement to serve as an employee or independent contractor for the district.

(i) Authorizes the board to institute a suit to enforce the payment of taxes and to foreclose liens to secure the payment of taxes to the district.

(j) Authorizes the board to provide or contract for the provision of educational programs or courses for employees and medical staff of the district.

(k) Authorizes the board to institute a suit to collect amounts owed to the district by patients who have not been determined to be unable to pay under Section 18.

(l) Creates this subsection from existing text. Authorizes the board to provide retirement benefits for district employees by certain means. Deletes text authorizing the board to contract with the state or federal government for an employee retirement system.

SECTION 3. Amends Section 6, Chapter 647, Acts of the 59th Legislature, Regular Session 1965, as follows:

Sec. 6. Requires the district to operate on a fiscal year to be established by the board. Prohibits the fiscal year from being changed when revenue bonds are outstanding or more than one time in a 24-month period. Requires a public hearing on the annual budget to be held by the board after notice of the hearing has been published in accordance with Chapter 551 (Open Meetings), Government Code. Deletes existing notice requirements. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 7, Chapter 647, Acts of the 59th Legislature, Regular Session, 1965, as follows:

Sec. 7. (a) Creates this subsection from existing text. Authorizes, rather than requires, the board to issue and sell general obligation bonds authorized by an election in the name and upon the faith and credit of such hospital district, for certain hospital or hospital system purposes.

(b) Creates this subsection from existing text. Requires a tax to be levied by the board sufficient to create an interest and sinking fund and 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 to not exceed the limit approved by the voters at the election authorizing the levy of taxes at the time of the issuance of any general obligation bonds. Authorizes the district to issue general obligation bonds only if the bonds are authorized by a majority of the voters of the District voting in an election held for that purpose. Provides that Section 41.001(a) (pertaining to certain uniform election dates), Election Code, does not apply to a bond election ordered by the board. Requires a bond election to be conducted in accordance with Chapter 1251 (Bond Elections), Government Code, except as otherwise provided in this Act. Deletes existing text referring to a tax rate of seventy-five cents on each one hundred dollar valuation of taxable property.

(c) Creates this subsection from existing text. Requires such bonds to be executed in the name of the hospital district and on its behalf by the president of the board and attested by the secretary, as provided by Chapter 618 (Uniform Facsimile Signature of Public Officials Act), Government Code, rather than Article 717j-1, V.T.C.S.

(d) 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 (Interest Rate), Government Code.

(e) Creates this subsection from existing text. Requires refunding bonds to be issued in accordance with Chapter 1207 (Refunding Bonds), Government Code. Deletes existing text referring to an election authorizing a bond issued by a hospital district.

(f) Authorizes the board to issue and sell revenue bonds in the name and on the faith and credit of the district to purchase, construct, acquire, repair, renovate, or equip buildings or improvements for hospitals and the hospital system and to acquire sites to be used for hospital purposes. Requires the bonds to be payable from and secured by a pledge of all or part of the revenues derived from the operation of the district's hospital system. Authorizes the bonds to be additionally secured by a mortgage or deed of trust on all or part of the District's property. Requires the revenue bonds to be issued in a certain manner. Deletes existing text pertaining to refunding bonds being sold or exchanged.

SECTION 5. Amends Section 11, Chapter 647, Acts of the 59th Legislature, Regular Session, 1965, to authorize a contract for construction that requires expenditures in excess of the amount prescribed by Section 271.024 (Competitive Bidding Procedure Applicable to Contract), Local Government Code, to be made only after competitive bidding as provided by Subchapter B, Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code. Deletes existing text pertaining to expenditures of more than two thousand dollars.

SECTION 6. Amends Section 12, Chapter 647, Act of the 59th Legislature, Regular Session, 1965, to delete existing text pertaining to a depository bank being within the district's boundaries. Provides that membership on the board of an officer or director of a bank disqualifies, rather than does not disqualify, a bank from being designated as depository for the district's funds.

SECTION 7. Section 16, Chapter 647, Acts of the 59th Legislature, Regular Session, 1965, as follows:

Sec. 16. (a) Authorizes the board to annually impose property taxes in an amount not to exceed the limit approved by the voters at the election authorizing the imposition of taxes. Prohibits the tax rate for all purposes from exceeding 75 cents on each \$100 valuation of all taxable property in the district. Authorizes the taxes to be used to pay for indebtedness issued or assumed by the district and for the maintenance and operating expenses of the district. Prohibits the district from imposing taxes to pay the principal of or interest on revenue bonds.

(b) Provides that the Tax Code governs the appraisal, assessment, and collection of district taxes. 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 pertaining to county tax values.

SECTION 8. Amends Section 18, Chapter 647, Acts of the 59th Legislature, Regular Session, 1965, as follows:

Sec. 18. (a) Creates this subsection from existing text. Makes conforming and nonsubstantive changes.

(b) Creates this subsection from existing text. Prohibits a patient or a patient's relatives from being required to pay an amount greater than the actual per capita cost of maintenance. Makes conforming and nonsubstantive changes.

(c) Creates this subsection from existing text. Makes conforming and nonsubstantive changes.

(d) Creates this subsection from existing text. Makes conforming and nonsubstantive changes.

(e) Creates this subsection from existing text. Makes conforming and nonsubstantive changes.

SECTION 9. Amends Chapter 647, Acts of the 59th Legislature, Regular Session, 1965, by adding Sections 20A, 20B, and 21A, as follows:

Sec. 20A. (a) Authorizes the board to borrow money at a rate not to exceed the maximum annual percentage rate allow by law for district obligations at the time the loan is made if the board makes certain declarations.

(b) Authorizes the board to pledge certain revenues, taxes, or bonds to secure a loan.

(c) Requires a loan for which district taxes or bonds are pledged to mature not later than the first anniversary of the date the loan is made. Requires a loan for which district revenues are pledged to mature not later than the fifth anniversary of the date of the loan is made.

(d) Prohibits the board from spending money obtained from a loan under this section except for certain purposes.

Sec. 20B. (a) Authorizes the board to borrow money at a rate not to exceed the maximum annual percentage rate allowed by law for district obligations at the time the loan is made.

(b) Authorizes the board to make certain pledges to secure the loan.

(c) Requires a loan for which district taxes or bonds are pledged to mature not later than the first anniversary of the date the loan is made. Requires a loan for which district revenues are pledged to mature not later than the fifth anniversary of the date that the loan is made.

Sec. 21A. (a) Provides that the district may be dissolved only if the dissolution is approved by a majority of the qualified voters of the district voting in an election called and 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 a number of residents of the district equal to at least 15 percent of the registered voters in the district.

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

(d) 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 less than 35 days before the date set for the election. Requires the ballot for the election to be printed to permit voting for or against the proposition: "The dissolution of the Childress County Hospital District."

(e) Requires the board to find that the district is dissolved, if a majority of the votes in the election favor dissolution. Requires the board to continue to administer the district, if a majority of the votes in the election do not favor dissolution, 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.

(f) Requires the board to take certain steps if a majority of the votes in the election favor dissolution.

(g) Provides that if the district transfers the land, buildings, improvements, equipment, and other assets to a county or other governmental entity, the county or entity assumes all debts and obligations of the district at the time of the transfer, at which time the district is dissolved. Requires the board 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, if the district does not transfer the land, buildings, improvements, equipment, and other assets to a county or other governmental entity, or sell those assets and the liabilities to another person, at which time the district is dissolved.

(h) Requires the board to take certain steps after finding that the district is dissolved.

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

(j) 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 to direct the secretary to transmit the funds to the county tax assessor-collector if a taxpayer requests the credit.

(k) Requires the board to file a written report with the Commissioners Court of Childress County setting forth a summary of the board's actions in dissolving the district after the district has paid all its debts and has disposed of all its assets and funds as prescribed by this section.

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

(m) Authorizes the district to provide for the sale or transfer of the district's assets and liabilities to another person or entity and the district's subsequent dissolution. Prohibits the dissolution of the district and the sale or transfer of the district's assets and liabilities to another person or entity from contravening a trust indenture or bond resolution relating to the outstanding bonds of the district. Provides that the dissolution and sale or transfer does not diminish or impair the rights of a holder of an outstanding bond, warrant, or other obligation of the district.

(n) Requires the sale or transfer of the district's assets and liabilities to satisfy the debt and bond obligations of the district in a manner that protects the interests of the residents of the district, including the residents' collective property rights in the district's assets. Provides that a grant from federal funds is an obligation to be repaid in satisfaction. Prohibits the district from transferring or disposing of the district's assets except for due compensation unless the transfer is made to another governmental entity that serves the district and the transferred assets are to be used for the benefit of the residents of the district.

SECTION 10. Effective date: upon passage or September 1, 2005.