

BILL ANALYSIS

S.B. 1846
By: Zaffirini
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Act creating the Karnes County Hospital District (district) was passed by the 61st Legislature, Regular Session, 1969, was amended in 1973 and 1981, and has not been updated since that time. The district's enabling legislation requires updating to conform with current laws.

This legislation clarifies that the district has the authority to issue general obligation or revenue bonds for hospital system purposes and to differentiate between these two types of bonds. This legislation authorizes the creation of a nonprofit corporation, defines what constitutes the hospital system, and clarifies the district's taxing provisions.

Additionally, a few additional substantive provisions include changing the provisions regarding elections to follow the deadlines in the Election Code, removing requirement that administrator post \$5,000 bond, allowing the district's board to set the fiscal year, linking the construction contract bidding to the Local Government Code minimum, and adding a process for the dissolution of the district.

As proposed, S.B. 1846 amends the enabling legislation for Karnes County Hospital District by updating the legislation to conform to current laws and to clarify the district's authority.

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 3, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, to prohibit a municipality or political subdivision of this state other than the Karnes County Hospital District (district) from imposing a tax or issuing bonds or other obligations of indebtedness for [the] purpose of providing hospital service or medical care within the district.

SECTION 2. Amends Section 5, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 5. (a) Sets forth that the district is governed by a board of seven directors (board).

(a-1) Creates this subsection from existing text. Requires directors to be elected at large by place. Requires a person, to be eligible to hold office on the board, to be a resident of the place for which the person is elected, as designated by certain political subdivisions. Deletes existing text relating to the directors terms in office.

(a-2) 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, Election Code, each year. Requires directors from places one, two, three, and four to be elected in odd-numbered years, rather than in 1973 and biennially thereafter. Requires directors from places five, six, and seven, to be elected in even-numbered years, rather than in 1974 and biennially thereafter.

(a-3) Creates this subsection from existing text. Requires notice of each such election to be published in a newspaper or newspapers which individually or collectively provide general circulation in the district in accordance with Section 4.003 (Method of Giving Notice), Election Code, rather than one time at least 30 days prior to the date of the election. Requires any person desiring to have the person's, rather than his, name printed on the ballot as a candidate for director to file an application with the secretary of the board in accordance with Chapter 144 (Candidate For Office of Political Subdivision Other Than Count or City), Election Code. Deletes existing text relating to a petition requirement.

(a-4) Creates this subsection from existing text. Makes no changes to existing text.

(a-5) Creates this subsection from existing text. Requires each member of the board to execute a good and sufficient bond for \$5,000 payable to the district conditioned upon the faithful performance of the director's duties and requires each bond to be purchased at the expense of the district.

(b) Provides that neither the administrator, an employee of the district, nor a member of the medical staff of the hospital is eligible to serve as director. Makes conforming changes.

(c) Makes no changes to existing text.

(d) and (e) Creates these subsections from text of existing Subsection (c).

SECTION 3. Amends Section 6, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 6. (a) Creates this subsection from existing text. Requires the board to manage, control, and administer the hospital system and all funds and resources of the district, but prohibits in any event any operating, depreciation or building fund reserves be invested in any funds or securities other than those specified by Chapter 2256 (Public Funds Investment), Government Code, rather than in Articles 836 or 837, Revised Civil Statutes of Texas, 1925, as amended.

(b)-(c) Creates these subsections from existing text.

(d) Creates this subsection from existing text. Authorizes the board to appoint a qualified person to be known as the administrator, rather than administrator or manager, of the district. Deletes existing text authorizing the administrator to appoint an assistant or assistants to the administrator or manger. Requires such administrator, rather than administrator or manager and assistant administrator or manager, if any, to serve at the will of the board and to receive such compensation as may be fixed by the board. Deletes existing text relating to the duties of the administrator or manager. Makes conforming changes.

(e) Creates this subsection from existing text. Requires the board to have the authority to appoint to or dismiss from the staff physicians, dentists, and podiatrists as the board determines are, rather than such doctors as it may be deemed, necessary for the efficient operation of the district, and authorizes the board to provide for temporary appointments to the staff if warranted by circumstances.

(f)-(g) Creates these subsections from existing text and makes conforming changes.

SECTION 4. Amends Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, by adding Section 6A, as follows:

Sec. 6A. (a) Authorizes the district to create and sponsor a nonprofit corporation under the Business Organizations Code and to 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 is authorized to 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 is authorized to 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 5. Amends Section 7, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 7. (a) Creates this subsection from existing text. Requires the district to be operated on the basis of a fiscal year established by the board. Prohibits the fiscal year from being changed during certain time periods.

(b) Creates this subsection from existing text. Requires the board to cause an annual independent audit to be made of the financial condition of the district, which, together with other records of the district, are required to be open to inspection at the principal office of the district. Deletes existing text relating to the commencing of the board and filing audits by the board.

(c) Makes conforming and nonsubstantive changes.

(d) Requires the board to hold a public hearing on the annual budget. Requires notice of the budget hearing to be published one time not later than 10 days before the date of the hearing in a newspaper or newspapers which individually or collectively provide general circulation in the hospital district. Requires any resident, rather than property taxpayer, of the district to have the right to be present and participate at the hearing. Requires the board to have authority to make such changes in the proposed budget as in its judgment the law warrants and the interest of the taxpayers demand.

(e)-(f) Creates these subsections from existing text.

(g) Creates this subsection from existing text, and makes a conforming change.

SECTION 6. Amends Section 8, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 8. (a) Requires the board to have the power and authority to issue and sell general obligation bonds, rather than its bonds, in the name and upon the faith and credit of such hospital district for certain purposes. Requires a tax, at the time of the issuance of any general obligation bonds by the district, to be imposed, rather than 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 is 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 4 of this Act. Prohibits general obligation bonds from being issued by the district until authorized by a majority of the qualified voters, rather than property taxpayer electors, of the district voting at an election held, rather than called, for that purpose. 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 relating to bond elections.

(b) Deletes existing subsection relating to a proposition being submitted for bond issuance. Redesignated from existing Subsection (c). Authorizes such refunding bonds to be sold and the proceeds therefrom applied to the payment of outstanding indebtedness, or to be exchanged in whole or in part for not less than a like principal amount of such outstanding indebtedness provided that, if refunding bonds are to be exchanged for a like amount of said outstanding indebtedness, such refunding bonds are required to bear interest at the same or lower rate than borne by the debt refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid on said refunding bonds, and provided further that if such refunding bonds are to be sold and the proceeds thereof applied to the payment of any such outstanding indebtedness, same to be issued and payments made in accordance with Chapter 1207 (Refunding Bonds), Government Code. Deletes existing text relating to the manner specified by Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended.

(c) Redesignated from existing Subsection (d). Requires bonds of the district to mature not later than the 40th anniversary of the date of issuance and bear a rate of interest that does not exceed the amount permitted by Chapter 1204, Government Code. Requires bonds to be executed in the name of the district and on its behalf by the president of the board and countersigned by the secretary in the manner provided by Chapter 618 (Uniform Facsimile Signature of Public Officials Act), Government Code, rather than Chapter 204, Acts of the 57th Legislature, Regular Session, 1961, as amended.

SECTION 7. Amends Section 9, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, to authorize the board to issue, and to refund any previously issued, revenue bonds for purchasing, constructing, acquiring, repairing, equipping, or renovating buildings and improvements for hospital system purposes. Requires such bonds to be issued in the manner and in accordance with the procedures and requirements specified for the issuance of revenue bonds by county hospital authorities in Sections 264.042 (Form and Closure), 264.043 (Terms), and 264.046 (Junior Lien Bond; Parity Bonds), 264.047 (Bond Proceeds; Investment of Funds), 264.048 (Refunding Bonds), 264.049 (Approval and Registration of Bonds), Health and Safety Code, rather than Article 4494r, V.T.C.S.

SECTION 8. Amends Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, by adding Sections 9A and 9B, as follows:

Sec. 9A. (a) Authorizes the board, in addition to the power to issue bonds payable solely from and secured by taxes imposed by the district as authorized by Section 8 of this Act and the power to issue bonds payable from and secured by revenues and other sources as authorized by Section 9 of this Act, to provide for the security and payment of district bonds from a pledge of a combination of certain taxes and revenues.

(b) Requires bonds, other than refunding bonds, that the board proposes to secure wholly or partly by an ad valorem tax to be approved at an election held in the district in accordance with Section 8 of this Act.

Sec. 9B. (a) Authorizes the district to use the proceeds of bonds described by Section 8, 9, or 9A of this Act to pay certain expenses and costs.

(b) Prohibits a "period of acquisition or construction," as that term is used in Subsection (a), from exceeding five years.

SECTION 9. Amends Section 10, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 10. (a) Creates this subsection from existing text. Authorizes the hospital system to include certain buildings and facilities. Deletes existing text relating to certain hospital system facilities.

(b) Creates this subsection from existing text and makes a conforming change.

(c) Creates this subsection from existing text. Provides that the district is authorized, rather than shall be empowered, to sell or otherwise dispose of any property, real or personal, or equipment of any nature upon terms and conditions found by the board to be in the best interest of its inhabitants.

SECTION 10. Amends Section 11, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 11. Requires all contracts for construction or purchases involving an expenditure in excess of the amount provided by Section 271.024, Local Government Code, to comply with the competitive bidding requirements provided by Subchapter B, Chapter 271, Local Government Code. Requires the provisions of Chapter 2253, Government Code, rather than Article 5160, Revised Civil Statutes of Texas, 1925, as amended, relating to performance and payment of bonds to apply to construction contracts let by the district. Authorizes the district, except as permitted in the preceding sentence and as permitted by Sections 8, 9, and 9A, to incur no obligation payable from any revenues of the district, taxes or otherwise except those on hand or to be on hand within the then current and following fiscal year of the district.

SECTION 11. Amends Section 15, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 15. (a) Creates this subsection from existing text. Requires the district to have the right and power of eminent domain for the purpose of acquiring by condemnation any and all property of any kind and character in fee simple, or any lesser interest therein, within the boundaries of the district necessary to the powers, rights and privileges conferred by this Act, in the manner provided by Chapter 21 (Eminent Domain), Property Code.

(b) Creates this subsection from existing text. Provides that the district is not required to deposit in the trial court money or a bond as provided by Section 21.021, Property Code, rather than the general law with respect to condemnation by counties, provided that the district shall not be required to make deposits in the registry of the trial court of the sum required by paragraph 2 of Article 3268, Revised Civil Statutes of Texas, 1925, as amended, or to make bond as therein provided.

(c) Creates this subsection from existing text.

SECTION 12. Amends Section 16, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 16. (a) Creates this subsection from existing text. Sets forth 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 directors levying and collecting taxes for the district.

SECTION 13. Amends Section 18, Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, to require the district to provide health care and treatment to individuals determined to be indigent in accordance with policies and procedures adopted by the board. Deletes existing text relating to a district collecting fees from patients who are unable to pay.

SECTION 14. Amends Chapter 591, Acts of the 61st Legislature, Regular Session, 1969, by adding Section 24A, as follows:

Sec. 24A. (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 (Uniform Election Dates), Election Code, does not apply to an election ordered under this section.

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

(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) Requires the ballot for the election to be printed to permit voting for or against the proposition. Sets forth the specific language for the proposition.

(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.

(i) Provides that if the district transfers the land, buildings, improvements, equipment, and other assets to Karnes 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 Karnes County or another 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 it finds that the district is dissolved, to determine any remaining debt owed by the district and impose on the property included in the district's tax rolls a tax that is in proportion of the debt to the property value.

(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 Karnes County summarizing the board's actions in dissolving the district.

(o) Requires the Commissioners Court of Karnes 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 15. Repealer: Section 4 (Karnes County Hospital District), Chapter 591, Acts of the 61st Legislature, Regular Session, 1969.

SECTION 16. Effective date

EFFECTIVE DATE

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