

By: Menendez, Straus

H.B. No. 3187

A BILL TO BE ENTITLED

AN ACT

relating to allowing the creation of multi-jurisdictional library districts; imposing a tax.

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

SECTION 1. FINDINGS. The legislature finds that:

(1) children and other residents of many rural and suburban areas of this state do not have convenient access to a public library; and

(2) the creation of library districts in underserved areas would make valuable information resources more readily available to public school students and other residents of this state.

SECTION 2. MULTI-JURISDICTIONAL LIBRARY DISTRICTS.

Subtitle C, Title 10, Local Government Code, is amended by adding Chapter 336 to read as follows:

CHAPTER 336. MULTI-JURISDICTIONAL LIBRARY DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 336.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of trustees.

(2) "District" means a multi-jurisdictional library district created under this chapter.

(3) "Lead governmental entity" means the county or municipality that proposes to create a district under this chapter.

Sec. 336.002. NATURE OF DISTRICT. A district created under

1 this chapter is a political subdivision of this state.

2 Sec. 336.003. MULTI-JURISDICTIONAL PUBLIC LIBRARY. (a) A
3 district created under this chapter shall establish, equip, and
4 maintain one or more public libraries for the dissemination of
5 general information relating to the arts, sciences, and literature.

6 (b) A library created under this chapter must be open free
7 of charge to all members of the public under identical conditions.

8 [Sections 336.004-336.020 reserved for expansion]

9 SUBCHAPTER B. CREATION OF DISTRICT

10 Sec. 336.021. ROLE OF LEAD GOVERNMENTAL ENTITY. (a) A
11 district may be created by a county or municipality that, by
12 resolution, assumes the role of a lead governmental entity under
13 this chapter and proposes the creation of a district in a specific
14 described territory.

15 (b) The governing body of a county or municipality may adopt
16 a resolution under Subsection (a) on its own motion or after a
17 hearing held on a petition requesting the creation of a district.

18 Sec. 336.022. TERRITORY INCLUDED IN A DISTRICT. (a) The
19 lead governmental entity shall describe the district territory,
20 which must include only contiguous territory in a single county.

21 (b) The district may include incorporated or unincorporated
22 territory.

23 (c) If the boundaries of the proposed district include any
24 territory that, on the date on which an election is ordered on the
25 question of creating the district, is part of a municipality that
26 operates a municipal public library, then the governing body of
27 that municipality must consent by resolution to allow the inclusion

1 of that municipal territory in the proposed district.

2 Sec. 336.023. CONFIRMATION ELECTION. A district proposed
3 under this chapter may be created only if confirmed at an election
4 held for the purpose of confirming the creation of the district and
5 approving an ad valorem tax on property in the district.

6 Sec. 336.024. PAYMENT OF CONFIRMATION ELECTION COSTS. The
7 lead governmental entity may not order the confirmation election
8 until the entity deposits with the county clerk an amount of money
9 equal to the cost of conducting the confirmation election, as
10 computed by the county clerk.

11 Sec. 336.025. ORDERING CONFIRMATION ELECTION. (a) At a
12 regular or special meeting of the governing body of the lead
13 governmental entity held to discuss the creation of a district, the
14 governing body may order a confirmation election to confirm the
15 district's creation and to confirm the imposition of an ad valorem
16 tax on property located in the proposed district.

17 (b) The election ordered shall be held on the first
18 authorized uniform election date under Chapter 41, Election Code,
19 that occurs on or after the 45th day after the date the election is
20 ordered.

21 (c) In addition to the elements required to be included by
22 the Election Code, the election order must state:

23 (1) the ballot proposition stating the measure to be
24 voted on;

25 (2) the hours that the polls will be open; and

26 (3) the location of each polling place.

27 Sec. 336.026. NOTICE OF CONFIRMATION ELECTION. (a) The

1 lead governmental entity shall give notice of the election by
2 publishing a substantial copy of the election order once a week for
3 two consecutive weeks in a newspaper with general circulation in
4 the county in which the proposed district is located.

5 (b) The notice must be published not earlier than the 30th
6 day and not later than the 10th day before election day.

7 Sec. 336.027. BALLOT PROPOSITION. The ballot for the
8 election shall be printed to permit voting for or against the
9 proposition: "The creation of a multi-jurisdictional library
10 district to be known as the _____ (name of district) and
11 adoption of an ad valorem tax in the _____ (name of district)
12 at the rate of _____ (rate of tax) cents per \$100 valuation of
13 property to provide revenue for the district."

14 Sec. 336.028. RESULTS OF CONFIRMATION ELECTION. (a) If a
15 majority of the voters voting in the election favor the creation of
16 the district and the adoption of the ad valorem tax, the lead
17 governmental entity shall by resolution or order declare that the
18 district is created and shall declare the amount of the ad valorem
19 tax adopted and enter the result in its minutes.

20 (b) If a majority of the voters voting in the election are
21 against the creation of the district, the lead governmental entity
22 shall declare the measure defeated and enter the result in its
23 minutes.

24 (c) An order under Subsection (a) must:

25 (1) contain a description of the district's boundaries
26 and a map of the district;

27 (2) state the election date; and

1 (3) state the total number of votes cast for and
2 against the ballot proposition.

3 (d) The lead governmental entity must file in the deed
4 records of the county in which the district is located an order
5 issued under Subsection (a).

6 Sec. 336.029. INITIAL BOARD. Appointments to the initial
7 board are made as provided by Subchapter C except that the initial
8 trustees shall agree to stagger their terms, with four members'
9 terms expiring in two years and three members' terms expiring in one
10 year. If the trustees cannot agree on the initial staggering, the
11 trustees shall draw lots to determine the staggering.

12 Sec. 336.030. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a)
13 The district may:

14 (1) pay all costs and expenses necessarily incurred in
15 the creation and organization of the district; and

16 (2) reimburse any person for money advanced for the
17 costs and expenses described by Subdivision (1).

18 (b) Payments under this section may be made from money
19 obtained from taxes or other district revenue.

20 [Sections 336.031-336.050 reserved for expansion]

21 SUBCHAPTER C. BOARD OF TRUSTEES

22 Sec. 336.051. GOVERNING BODY. A district is governed by a
23 seven-member board. The board has control over and shall manage the
24 affairs of the district.

25 Sec. 336.052. APPOINTMENT. (a) The lead governmental
26 entity shall appoint four trustees to the board.

27 (b) A county in which the district is located shall appoint

1 three trustees to the board, unless the county is the lead
2 governmental entity. If the county is the lead governmental
3 entity, the largest municipality in the county shall appoint two
4 trustees.

5 Sec. 336.053. ELIGIBILITY FOR APPOINTMENT. A person is
6 eligible for appointment to the board if the person resides in the
7 district and is registered to vote in the county in which the
8 district is located.

9 Sec. 336.054. TERMS. Trustees serve staggered two-year
10 terms.

11 Sec. 336.055. VACANCY. A vacancy on the board shall be
12 filled by appointment by the governmental entity that appointed the
13 vacating member.

14 Sec. 336.056. OFFICERS. (a) The lead governmental entity
15 shall appoint a trustee to serve as the board's presiding officer.
16 The presiding officer presides at all board meetings and is the
17 chief executive officer of the district.

18 (b) The board shall elect from among its members a vice
19 presiding officer, secretary, and any other officers the board
20 considers necessary.

21 (c) The vice presiding officer acts as the presiding officer
22 if the presiding officer is incapacitated or absent from a meeting.

23 (d) The secretary acts as the presiding officer if both the
24 presiding officer and vice presiding officer are incapacitated or
25 absent from a meeting.

26 Sec. 336.057. MEETINGS AND NOTICE. (a) The board may
27 establish regular meetings to conduct district business and may

1 hold special meetings at other times as the business of the district
2 requires.

3 (b) The board shall hold its meetings at a designated
4 meeting place.

5 Sec. 336.058. CONFLICT OF INTEREST IN CONTRACT. (a) A
6 trustee who is financially interested in a contract may not vote on
7 the acceptance of the contract or participate in the discussion on
8 the contract.

9 (b) A trustee who is financially interested in a contract
10 with the district, or a trustee who is an employee of a person that
11 is financially interested in a contract with the district, shall
12 disclose that fact to the other trustees. The disclosure shall be
13 entered into the minutes of the meeting.

14 (c) The failure of a trustee to disclose the trustee's
15 financial interest in a contract and to have the disclosure entered
16 in the minutes invalidates the contract.

17 [Sections 336.059-336.100 reserved for expansion]

18 SUBCHAPTER D. OTHER ADMINISTRATIVE PROVISIONS

19 Sec. 336.101. BYLAWS. The board may adopt bylaws to govern:

20 (1) the time, place, and manner of conducting board
21 meetings;

22 (2) the powers, duties, and responsibilities of the
23 board's officers and employees;

24 (3) the disbursement of money by a check, draft, or
25 warrant;

26 (4) the appointment and authority of board committees;

27 (5) the keeping of accounts and other records; and

1 (6) any other matter the board considers appropriate.

2 Sec. 336.102. EMPLOYEES. (a) The board may employ any
3 person the board considers necessary for conducting the district's
4 affairs.

5 (b) The board shall determine the term of office and
6 compensation of any employee and consultant by contract or by board
7 resolution.

8 (c) The board may remove any employee.

9 Sec. 336.103. DISTRICT DIRECTOR. The board may employ a
10 district director to administer the affairs of the district under
11 policies established by the board. The board shall set the
12 compensation of the district director.

13 Sec. 336.104. BOND. The board may require an officer or
14 employee to execute a bond payable to the district and conditioned
15 on the faithful performance of the person's duties.

16 Sec. 336.105. EMPLOYEE PLANS. (a) The board may provide
17 for and administer a workers' compensation, health benefit,
18 retirement, disability, or death compensation plan for district
19 employees.

20 (b) The board may adopt a plan to accomplish the purpose of
21 this section.

22 (c) The board, after notice and a hearing, may change any
23 plan or rule adopted under this section.

24 [Sections 336.106-336.150 reserved for expansion]

25 SUBCHAPTER E. POWERS AND DUTIES

26 Sec. 336.151. GENERAL POWERS OF DISTRICT. A district has
27 all authority necessary to accomplish district purposes.

1 Sec. 336.152. RULES. (a) The board may adopt reasonable
2 rules to accomplish district purposes.

3 (b) The board may set monetary charges in reasonable amounts
4 for the violation of a district rule.

5 (c) The board may exclude from the use of a library a person
6 who intentionally violates a rule adopted by the board under this
7 section.

8 Sec. 336.153. PROPERTY AND EQUIPMENT. (a) A district may
9 construct, acquire, own, operate, maintain, repair, or improve any
10 land, works, materials, supplies, improvements, facilities,
11 equipment, vehicles, machinery, appliances, or other property as
12 necessary.

13 (b) If a district acquires existing improvements,
14 facilities, plants, equipment, or appliances, the district may
15 assume the contracts and obligations of the previous owner.

16 Sec. 336.154. SUITS. (a) A district may sue and be sued in
17 any court of this state in the name of the district.

18 (b) A court of this state shall take judicial notice of the
19 establishment of a district.

20 Sec. 336.155. RECORDS; SECRETARY. (a) The secretary is
21 responsible for ensuring that all district books and other records
22 are properly maintained.

23 (b) The board may appoint the district director or an
24 employee as assistant or deputy secretary to assist the secretary
25 in performing the secretary's duties under this section. The
26 assistant or deputy secretary may certify the authenticity of any
27 district record.

1 Sec. 336.156. EXPANSION OF DISTRICT. (a) The district may
2 expand to include additional territory if the commissioners court
3 of the county in which the district is located calls and holds an
4 election for that purpose in the territory to be added to the
5 district.

6 (b) If a majority of the voters voting at the expansion
7 election approve the expansion of the district, the territory of
8 the district is expanded.

9 [Sections 336.157-336.200 reserved for expansion]

10 SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

11 Sec. 336.201. LEAD GOVERNMENTAL ENTITY. The lead
12 governmental entity shall provide over 50 percent of the assets to
13 the district.

14 Sec. 336.202. BORROWING. A district may borrow money.

15 Sec. 336.203. FEES. (a) A district may impose any
16 necessary charges or fee for providing a district service.

17 (b) A district may discontinue a service to enforce payment
18 of an unpaid charge or fee that is owed to the district.

19 Sec. 336.204. DEPOSITORY. (a) The board shall designate
20 one or more banks inside or outside of the district to serve as the
21 depository for district money.

22 (b) The district shall deposit district tax revenue in a
23 depository bank.

24 Sec. 336.205. EXPENDITURES. A district may disburse
25 district money only by check, draft, money order, or another
26 instrument that must be signed by one or more officers or employees
27 of the district as designated by the board.

1 Sec. 336.206. ACCOUNTS AND RECORDS; AUDITS. (a) A district
2 shall keep a complete system of accounts.

3 (b) The district shall have an annual audit of the district
4 affairs performed by an independent certified public accountant.

5 (c) A signed copy of the audit report shall be delivered to
6 each trustee not later than the 120th day after the closing date of
7 each fiscal year.

8 (d) A copy of the audit report shall be kept on file at the
9 district office and shall be made available for inspection by any
10 interested person during regular business hours.

11 Sec. 336.207. FISCAL YEAR. The fiscal year of the district
12 is from January 1 to December 31, unless the board adopts another
13 fiscal year.

14 Sec. 336.208. GRANTS AND DONATIONS. A district may accept
15 and administer a grant or donation from any source to carry out a
16 district purpose.

17 [Sections 336.209-336.250 reserved for expansion]

18 SUBCHAPTER G. TAXES

19 Sec. 336.251. TAX ASSESSMENT AND COLLECTION. (a) The board
20 shall cause the taxable property in its district to be assessed for
21 ad valorem taxation and the ad valorem taxes in the district to be
22 collected, in accordance with any one of the methods set forth in
23 this section, and any method adopted remains in effect until
24 changed by the board.

25 (b) The board may have the taxable property in its district
26 assessed or its taxes collected, in whole or in part, by the tax
27 assessors or tax collectors of any county, municipality, taxing

1 district, or other governmental entity in which all or any part of
2 the district is located. The tax assessors or tax collectors of a
3 governmental subdivision, on the request of the board, shall assess
4 and collect the taxes of the district in the manner prescribed in
5 the Property Tax Code. Tax assessors and tax collectors shall
6 receive compensation in an amount agreed on between the appropriate
7 parties, but not to exceed two percent of the ad valorem taxes
8 assessed.

9 Sec. 336.252. IMPOSITION, COMPUTATION, ADMINISTRATION, AND
10 GOVERNANCE OF SALES TAX. (a) A district may impose a sales and use
11 tax.

12 (b) Chapter 323, Tax Code, to the extent not inconsistent
13 with this chapter, governs the imposition, computation,
14 administration, and governance of the sales and use tax under this
15 subchapter, except that Sections 323.101, 323.105, 323.404, and
16 323.406-323.408, Tax Code, do not apply.

17 (c) Chapter 323, Tax Code, does not apply to the use and
18 allocation of revenue under this chapter.

19 (d) In applying the procedures under Chapter 323, Tax Code,
20 to the district, the district's name shall be substituted for "the
21 county," and "board of trustees" is substituted for "commissioners
22 court."

23 Sec. 336.253. SALES AND USE TAX RATES. The permissible
24 rates for a sales and use tax imposed under this chapter are
25 one-eighth of one percent, one-fourth of one percent, three-eighths
26 of one percent, and one-half of one percent.

27 Sec. 336.254. ABOLITION OF OR CHANGE IN AD VALOREM TAX RATE.

1 (a) The board by order may decrease or abolish the ad valorem tax
2 rate or may call an election to increase, decrease, or abolish the
3 ad valorem tax rate.

4 (b) At the election, the ballots shall be printed to permit
5 voting for or against the proposition: "The increase (decrease) in
6 the ad valorem tax rate of _____ (name of district) to
7 _____ (rate of tax) cents per \$100 valuation of taxable
8 property to be used for district purposes" or "The abolition of the
9 district ad valorem tax." The increase or decrease in the tax rate,
10 or the abolition of the tax, is effective if it is approved by a
11 majority of the votes cast.

12 (c) In calling and holding the election, the board shall use
13 the procedure for the confirmation and tax election in Subchapter
14 B.

15 Sec. 336.255. USE OF TAX. A tax collected under this
16 subchapter may be used only for a district purpose and may be
17 pledged as collateral for borrowing money to further those
18 purposes.

19 SECTION 3. EFFECTIVE DATE. This Act takes effect
20 immediately if it receives a vote of two-thirds of all the members
21 elected to each house, as provided by Section 39, Article III, Texas
22 Constitution. If this Act does not receive the vote necessary for
23 immediate effect, this Act takes effect September 1, 2005.