

By: Madla

S.B. No. 1205

Substitute the following for S.B. No. 1205:

By: Puente

C.S.S.B. No. 1205

A BILL TO BE ENTITLED

AN ACT

relating to allowing the creation of multi-jurisdictional library districts; authorizing taxes and bonds.

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

SECTION 1. FINDINGS. The legislature finds that:

(1) the quality of life and general literacy of children and other residents of this state are enhanced by convenient access to a public library and the valuable resources a public library provides; and

(2) the creation of library districts in this state would allow for the efficient operation and most equitable use of available public money and therefore make valuable educational, information, and literacy resources more readily available to the entire region of the district.

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) "Executive director" means an executive director

1 employed under Section 336.103.

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

4 Sec. 336.002. NATURE OF DISTRICT. A district created under
5 this chapter is a special district and a political subdivision of
6 this state.

7 Sec. 336.003. MULTI-JURISDICTIONAL PUBLIC LIBRARY. (a) A
8 district created under this chapter shall establish, equip,
9 support, operate, and maintain one or more public libraries for the
10 dissemination of educational programs and general information
11 relating to the arts, sciences, literature, and other subject areas
12 of interest to the public.

13 (b) Each public library created under this chapter must be
14 accredited by and meet the standards for basic public library
15 services established by the Texas State Library and Archives
16 Commission.

17 (c) A library created under this chapter must be open to all
18 members of the public under identical conditions.

19 [Sections 336.004-336.020 reserved for expansion]

20 SUBCHAPTER B. CREATION OF DISTRICT

21 Sec. 336.021. ROLE OF LEAD GOVERNMENTAL ENTITY. (a) A
22 district may be created by a county or municipality that, by
23 resolution, assumes the role of a lead governmental entity under
24 this chapter and proposes the creation of a district for specific
25 contiguous counties and municipalities that by resolution agree to
26 have their territory in the district.

27 (b) The governing body of a county or municipality may adopt

1 a resolution under Subsection (a) on its own motion or after a
2 hearing held on a petition requesting the creation of a district.

3 (c) The lead governmental entity shall provide over 50
4 percent of the initial assets to the district.

5 Sec. 336.022. TERRITORY INCLUDED IN DISTRICT. (a) The lead
6 governmental entity shall describe the initial district territory,
7 which must include all territory of each municipality or county
8 that agrees to have its territory in the district under Section
9 336.021.

10 (b) The district may include incorporated or unincorporated
11 territory and may include any contiguous territory in one or more
12 counties that agree to have the counties' territory in the district
13 under Section 336.021.

14 (c) If the boundaries of the proposed district include any
15 territory that, on the date on which an election is ordered on the
16 question of creating the district, is part of a municipality that
17 operates a municipal public library, the governing body of that
18 municipality must consent by resolution to allow the inclusion of
19 that municipal territory in the proposed district.

20 Sec. 336.023. CONFIRMATION ELECTION. A district created
21 under this chapter may call an election for the purpose of approving
22 a sales tax or an ad valorem tax, or both, on property in the
23 district.

24 Sec. 336.024. PAYMENT OF CONFIRMATION ELECTION COSTS. The
25 lead governmental entity may not order the confirmation election
26 until the entity deposits with the county clerk an amount of money
27 equal to the cost of conducting the confirmation election, as

1 computed by the county clerk.

2 Sec. 336.025. ORDERING CONFIRMATION ELECTION. (a) At a
3 regular or special meeting of the governing body of the lead
4 governmental entity held to discuss the creation of a district, the
5 governing body shall determine whether the district will be
6 supported by a sales tax or by an ad valorem tax, or both, on
7 property located in the proposed district.

8 (b) The governing body may order a confirmation election to
9 confirm the imposition of a sales tax or of an ad valorem tax on
10 property located in the proposed district.

11 (c) The election ordered shall be held on an authorized
12 uniform election date under Chapter 41, Election Code, that occurs
13 on or after the 45th day after the date the election is ordered.

14 (d) In addition to the elements required to be included by
15 the Election Code, the election order must state:

16 (1) the ballot proposition stating the measure to be
17 voted on;

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

19 (3) the location of each polling place.

20 Sec. 336.026. NOTICE OF CONFIRMATION ELECTION. (a) The
21 lead governmental entity shall give notice of the election by
22 publishing a substantial copy of the election order once a week for
23 two consecutive weeks in a newspaper with general circulation in
24 the county in which the proposed district is located.

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

27 Sec. 336.027. BALLOT PROPOSITION. (a) If the governing

1 body of the lead governmental entity determines under Section
2 336.025 that the district should be supported by a sales tax, the
3 ballot for the election shall be printed to permit voting for or
4 against the proposition: "The creation of a multi-jurisdictional
5 library district to be known as the _____ (name of district)
6 and adoption of a sales tax in the _____ (name of district) at
7 the rate of _____ (rate of tax) percent."

8 (b) If the governing body of the lead governmental entity
9 determines under Section 336.025 that the district should be
10 supported by an ad valorem tax, the ballot for the election shall be
11 printed to permit voting for or against the proposition: "The
12 creation of a multi-jurisdictional library district to be known as
13 the _____ (name of district) and adoption of an ad valorem tax
14 in the _____ (name of district) at a rate up to _____ (rate
15 of tax) cents per \$100 valuation of property to provide revenue for
16 the district."

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

24 (b) If a majority of the voters voting in the election are
25 against the creation of the district, the lead governmental entity
26 shall declare the measure defeated and enter the result in its
27 minutes.

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

2 (1) contain a description of the district's boundaries
3 and a map of the district;

4 (2) state the election date; and

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

7 (d) The lead governmental entity must file in the deed
8 records of the county in which the district is located a resolution
9 or order issued under Subsection (a).

10 Sec. 336.029. INITIAL BOARD AND PRESIDING OFFICER. (a)
11 Appointments to the initial board are made as provided by
12 Subchapter C, except that the initial trustees shall agree to
13 stagger their terms, with four members' terms expiring in two years
14 and three members' terms expiring in one year. If the trustees
15 cannot agree on the initial staggering, the trustees shall draw
16 lots to determine the staggering.

17 (b) The lead governmental entity shall appoint the board's
18 initial presiding officer to serve a two-year term in that
19 capacity. The requirement of Section 336.056 that the board of
20 trustees elect the presiding officer does not apply to the
21 presiding officer appointed under this subsection.

22 Sec. 336.030. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a)
23 The district may:

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

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

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

3 [Sections 336.031-336.050 reserved for expansion]

4 SUBCHAPTER C. BOARD OF TRUSTEES

5 Sec. 336.051. GOVERNING BODY. A district is governed by a
6 seven-member board of trustees. The board has control over and
7 shall manage the affairs of the district.

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

10 (b) The most populous county in which the district is
11 located shall appoint three trustees to the board, unless the
12 county is the lead governmental entity. If the county is the lead
13 governmental entity, the most populous municipality in the county
14 shall appoint three trustees.

15 Sec. 336.053. ELIGIBILITY FOR APPOINTMENT. A person is
16 eligible for appointment to the board if the person:

17 (1) resides in the district;

18 (2) is registered to vote in a county in which the
19 district is located; and

20 (3) has recognized expertise in:

21 (A) library services;

22 (B) education;

23 (C) information technology;

24 (D) local or Texas history; or

25 (E) business management.

26 Sec. 336.054. TERMS. (a) Trustees serve staggered
27 two-year terms.

1 (b) A trustee may not serve more than two consecutive terms
2 or more than four terms.

3 (c) A trustee who has served two consecutive terms but fewer
4 than four terms is eligible for appointment to a new term on the
5 date one year after the date on which the trustee's former term
6 ended.

7 Sec. 336.055. VACANCY. A vacancy on the board shall be
8 filled by appointment for the remainder of the unexpired term by the
9 governmental entity that appointed the vacating member.

10 Sec. 336.056. OFFICERS. (a) The board shall elect a
11 trustee to serve as the board's presiding officer. The presiding
12 officer presides at all board meetings and is the chief executive
13 officer of the district.

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

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

19 (d) The secretary acts as the presiding officer if both the
20 presiding officer and vice presiding officer are incapacitated or
21 absent from a meeting.

22 Sec. 336.057. MEETINGS AND NOTICE. (a) The board may
23 establish regular meetings to conduct district business and may
24 hold special meetings at other times as the business of the district
25 requires.

26 (b) The board shall hold its meetings at a designated
27 meeting place.

1 Sec. 336.058. CONFLICT OF INTEREST IN CONTRACT. (a) For
2 purposes of this section, a trustee who is an employee of, or a
3 trustee related within the second degree by affinity or
4 consanguinity as determined under Subchapter B, Chapter 573,
5 Government Code, to, a person who is financially interested in a
6 contract is considered to be financially interested in the
7 contract.

8 (b) A trustee who is financially interested in a contract
9 may not vote on the acceptance of the contract or participate in the
10 discussion on the contract.

11 (c) A trustee who is financially interested in a contract
12 with the district shall disclose that fact to the other trustees.
13 The disclosure shall be entered into the minutes of the meeting.

14 (d) 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 may remove any employee.

6 Sec. 336.103. EXECUTIVE DIRECTOR. (a) The board may employ
7 an executive director to administer the affairs of the district
8 under policies and requirements established by the board.

9 (b) The board shall set the compensation of the executive
10 director.

11 (c) The board may delegate to the executive director the
12 board's authority to hire, establish the compensation of, review
13 the performance of, discipline, or remove a district employee.

14 Sec. 336.104. QUALIFICATIONS OF EXECUTIVE DIRECTOR OR
15 LIBRARY DIRECTOR. The board shall ensure that the executive
16 director or a subordinate library director has all necessary
17 qualifications to oversee library services in the district. The
18 board shall require the executive director or a subordinate library
19 director to meet the qualification requirements for a county
20 librarian under Section 441.007, Government Code, and under any
21 rules adopted by the Texas State Library and Archives Commission
22 under that section.

23 Sec. 336.105. BOND. The board may require an officer or
24 employee to execute a bond payable to the district and conditioned
25 on the faithful performance of the person's duties.

26 Sec. 336.106. EMPLOYEE PLANS. (a) The board may provide
27 for and administer a workers' compensation, health benefit,

1 retirement, disability, or death compensation plan for district
2 employees.

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

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

7 Sec. 336.107. RECORDS; SECRETARY. (a) The secretary is
8 responsible for ensuring that all district books and other records
9 are properly maintained.

10 (b) The board may appoint the executive director or an
11 employee as assistant or deputy secretary to assist the secretary
12 in performing the secretary's duties under this section. The
13 assistant or deputy secretary may certify the authenticity of any
14 district record.

15 [Sections 336.108-336.150 reserved for expansion]

16 SUBCHAPTER E. POWERS AND DUTIES

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

19 Sec. 336.152. RULES; VIOLATION OF RULES. (a) The board may
20 adopt reasonable rules to accomplish district purposes.

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

23 (c) The board may exclude from the use of a public library a
24 person who intentionally violates a rule adopted by the board under
25 this section.

26 Sec. 336.153. LOCATION OF PUBLIC LIBRARY FACILITIES. A
27 district may locate a public library facility at any place in the

1 district, including the territory of a political subdivision within
2 the district.

3 Sec. 336.154. CONTRACTS. A district may contract with any
4 person for any district purpose.

5 Sec. 336.155. AGREEMENTS WITH OTHER POLITICAL
6 SUBDIVISIONS. (a) A district may contract with a municipality,
7 county, or other political subdivision for the district to provide
8 public library services outside the district.

9 (b) A district may enter into one or more agreements with
10 any municipality included in the area of the district for the
11 acquisition or operation of the municipality's library facilities.

12 Sec. 336.156. PROPERTY AND EQUIPMENT. (a) A district may
13 construct, acquire, own, lease, operate, maintain, repair, or
14 improve any land, works, materials, supplies, improvements,
15 facilities, equipment, vehicles, machinery, appliances, or other
16 property as necessary.

17 (b) If a district acquires property of any kind related to
18 the operation of a public library, the district may assume the
19 contracts and obligations of the previous owner.

20 (c) A district may hold, use, sell, lease, dispose of, and
21 acquire, by any means, property and licenses, patents, rights, and
22 other interests necessary, convenient, or useful to the exercise of
23 any district power.

24 Sec. 336.157. SURPLUS PROPERTY. A district may sell,
25 lease, or dispose of in any other manner and at any time:

26 (1) any right, interest, or property of the district
27 that is not needed for, or, if a lease, is inconsistent with, the

1 efficient operation and maintenance of a public library; or

2 (2) surplus materials or other property that is not
3 needed for a district purpose.

4 Sec. 336.158. SUITS. (a) A district may sue and be sued in
5 any court of this state in the name of the district.

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

8 (c) A district is not required to give security for costs in
9 a suit or to give a supersedeas or cost bond in an appeal of a
10 judgment.

11 Sec. 336.159. EXPANSION OF DISTRICT. (a) The district may
12 expand to include additional territory if the commissioners court
13 of the county in which the district is located holds an election for
14 that purpose in the territory to be added to the district.

15 (b) If a majority of the voters voting at the expansion
16 election approve the expansion of the district, the territory of
17 the district is expanded.

18 [Sections 336.160-336.200 reserved for expansion]

19 SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

20 Sec. 336.201. BORROWING. A district may borrow money.

21 Sec. 336.202. FEES; GENERAL. (a) A district may impose any
22 necessary charges or fee for providing a district service.

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

25 Sec. 336.203. LIBRARY FEES. A library created under this
26 chapter may charge reasonable fees to remove certain materials from
27 the library or for other services provided by the library.

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

4 (b) The district shall deposit district tax revenue in a
5 depository bank.

6 Sec. 336.205. EXPENDITURES. A district may disburse
7 district money only by check, draft, money order, or another
8 instrument that must be signed by one or more officers or employees
9 of the district as designated by the board.

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

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

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

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

20 Sec. 336.207. FISCAL YEAR. The fiscal year of the district
21 is from October 1 to September 30, unless the board adopts another
22 fiscal year.

23 Sec. 336.208. GRANTS AND DONATIONS. A district may accept
24 and administer a grant or donation from any source for any district
25 purpose.

26 [Sections 336.209-336.250 reserved for expansion]

SUBCHAPTER G. TAXES

Sec. 336.251. AD VALOREM TAX ASSESSMENT AND COLLECTION.

(a) A district may impose an ad valorem tax.

(b) If the district imposes an ad valorem tax, the board shall have the taxable property in its district assessed for ad valorem taxation and the ad valorem taxes in the district collected, in accordance with any one of the methods set forth in this section, and any method adopted remains in effect until changed by the board.

(c) The board may have the taxable property in its district assessed or its taxes collected, wholly or partly, by the tax assessors or tax collectors of any county, municipality, taxing district, or other governmental entity in which all or any part of the district is located. The tax assessors or tax collectors of a governmental entity, on the request of the board, shall assess and collect the taxes of the district in the manner prescribed in the Property Tax Code. Tax assessors and tax collectors shall receive compensation in an amount agreed on between the appropriate parties, but not to exceed two percent of the ad valorem taxes assessed.

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

(b) Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the sales and use tax under this subchapter, except that Sections 323.101, 323.105, 323.404, and

1 323.406-323.408, Tax Code, do not apply.

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

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

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

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

13 (a) The board by order may decrease or abolish the ad valorem tax
14 rate or may call an election to increase, decrease, or abolish the
15 ad valorem tax rate.

16 (b) At the election, the ballot shall be printed to permit
17 voting for or against the proposition: "The increase (decrease) in
18 the ad valorem tax rate of _____ (name of district) to a rate up
19 to _____ (rate of tax) cents per \$100 valuation of taxable
20 property to be used for district purposes" or "The abolition of the
21 district ad valorem tax." The increase or decrease in the tax rate,
22 or the abolition of the tax, is effective if it is approved by a
23 majority of the votes cast.

24 (c) In calling and holding the election, the board shall use
25 the procedure for the confirmation and tax election in Subchapter
26 B.

27 Sec. 336.255. USE OF TAX. A tax collected under this

1 subchapter may be used only for a district purpose and may be
2 pledged as collateral for borrowing money to further those
3 purposes.

4 [Sections 336.256-336.300 reserved for expansion]

5 SUBCHAPTER H. BONDS

6 Sec. 336.301. DEFINITION. In this subchapter, "bond"
7 includes a note.

8 Sec. 336.302. GENERAL POWER TO ISSUE BONDS. (a) A district
9 may issue bonds at any time and for any amount it considers
10 necessary or appropriate to acquire, construct, equip, or improve
11 district facilities.

12 (b) The board by resolution may authorize the issuance of
13 bonds payable solely from revenue.

14 Sec. 336.303. LEAD GOVERNMENTAL ENTITY'S CONSENT REQUIRED.
15 The district may not issue bonds under this subchapter unless the
16 lead governmental entity's governing body by resolution consents to
17 the issuance.

18 Sec. 336.304. SHORT-TERM BONDS. (a) The board by
19 resolution may issue bonds that are secured by revenue or taxes of
20 the district if the bonds:

21 (1) have a term of not more than 12 months; and

22 (2) are payable only from revenue or taxes received on
23 or after the date of their issuance and before the end of the fiscal
24 year following the fiscal year in which the bonds are issued.

25 (b) Approval by the attorney general or registration with
26 the comptroller is not required for a bond issued under this
27 section.

1 (c) An election is not required to issue bonds under this
2 section.

3 Sec. 336.305. ELECTION REQUIRED FOR CERTAIN BONDS SECURED
4 BY TAXES. Except for short-term bonds issued under Section
5 336.304, bonds payable wholly or partly from taxes may not be issued
6 unless authorized by a majority of the votes received in an election
7 held for that purpose.

8 Sec. 336.306. SECURITY PLEDGED. (a) To secure the payment
9 of a district's bonds, the district may:

10 (1) pledge all or part of revenue realized from any tax
11 that the district may impose;

12 (2) pledge all or part of revenue from library
13 facilities; or

14 (3) mortgage all or part of the district's facilities,
15 including any part of the facilities subsequently acquired.

16 (b) A district may, subject to the terms of the bond
17 indenture or the resolution authorizing the issuance of the bonds,
18 secure payment of district bonds by encumbering a separate item of
19 the district facilities and may acquire, use, hold, or contract for
20 the property by lease, chattel mortgage, or other conditional sale.

21 (c) This subchapter does not prohibit a district from
22 encumbering one or more library facilities to purchase, construct,
23 or improve one or more other district facilities.

24 Sec. 336.307. LIEN ON REVENUE. The expense of operation and
25 maintenance of library facilities, including salaries, labor,
26 materials, and repairs necessary to provide efficient service, and
27 every other proper item of expense are a first lien and charge

1 against the revenue of a district encumbered under this chapter.

2 Sec. 336.308. EXCHANGE OF BONDS FOR EXISTING LIBRARY
3 FACILITIES. A district's revenue bonds may be exchanged, in lieu of
4 cash, for the property of all or part of existing library facilities
5 to be acquired by the district.

6 Sec. 336.309. GOVERNMENTAL ENTITIES NOT RESPONSIBLE FOR
7 DISTRICT OBLIGATIONS. A governmental entity, other than the
8 district, is not required to pay a bond or other district
9 obligation.

10 [Sections 336.310-336.350 reserved for expansion]

11 SUBCHAPTER I. DISSOLUTION

12 Sec. 336.351. NO DISSOLUTION. A district created under
13 this chapter may not be dissolved.

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