

By: West, Royce

S.B. No. 1270

A BILL TO BE ENTITLED

AN ACT

relating to county development districts.

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

SECTION 1. Section 383.003(a), Local Government Code, is amended to read as follows:

(a) Counties [~~Small and medium-sized counties~~] in this state need incentives for the development of public improvements to attract visitors and tourists [~~to those counties~~], and [~~those counties~~] are at a disadvantage in competing with counties in other states for the location and development of projects that attract visitors by virtue of the availability and prevalent use of financial incentives in other states.

SECTION 2. Section 383.021(a), Local Government Code, is amended to read as follows:

(a) The commissioners court of a county by issuing a proposal approved by a majority of the court or [~~with a population of 400,000 or less,~~] on petition of the owners of land in a proposed district, may commence the creation of a county development district.

SECTION 3. Section 383.022, Local Government Code, is amended to read as follows:

Sec. 383.022. PETITION OF LANDOWNERS. To commence the creation of a district by petition [~~create a district~~], a petition requesting creation must be filed with the commissioners court of

1 the county in which all of the land in the proposed district is  
2 located. The petition must be accompanied by a sworn statement  
3 indicating consent to creation signed by the holders of fee simple  
4 title of all of the land in the proposed district.

5 SECTION 4. Section 383.023, Local Government Code, is  
6 amended to read as follows:

7 Sec. 383.023. CONTENTS OF PROPOSAL OR PETITION. The  
8 commissioners court's proposal or the petition to create a district  
9 must:

10 (1) describe the boundaries of the proposed district  
11 by metes and bounds or by lot and block number, if there is a  
12 recorded map or plat and survey of the area;

13 (2) include a name for the proposed district, which  
14 must include the name of the county followed by the words  
15 "Development District No. \_\_\_\_\_";

16 (3) include the names of five persons who are willing  
17 and qualified to serve as initial [~~temporary~~] directors of the  
18 proposed district;

19 (4) state the general nature of the work proposed to be  
20 done and the cost of the project as then estimated by the  
21 petitioners; and

22 (5) state the necessity and feasibility of the  
23 proposed district and whether the district will serve the public  
24 purpose of attracting visitors and tourists to the county.

25 SECTION 5. Section 383.024, Local Government Code, is  
26 amended to read as follows:

27 Sec. 383.024. SETTING OF [~~COMMISSION~~] HEARING; CONTENTS OF

1 NOTICE. Before the 61st day after the date a proposal is issued or a  
2 petition is received, the commissioners court shall set a date,  
3 time, and place for a hearing on the creation of the district [~~at~~  
4 ~~which the petition shall be heard~~] and shall issue notice of the  
5 date, time, place, and subject matter of the hearing. The notice  
6 shall inform all persons of their right to appear and present  
7 evidence and testify for or against the creation of the district.

8 SECTION 6. Section 383.025, Local Government Code, is  
9 amended to read as follows:

10 Sec. 383.025. PROVIDING NOTICE OF HEARING. Before the 30th  
11 day before the date set for the hearing, the commissioners court  
12 shall provide notice of the hearing by:

13 (1) mailing the notice [~~shall be mailed~~] to the  
14 [~~developer who signed the petition and the~~] landowners of all the  
15 land in the district; or

16 (2) publishing the notice [~~and shall be published~~] in  
17 a newspaper with general circulation in the county in which the  
18 proposed district is located.

19 SECTION 7. Section 383.026, Local Government Code, is  
20 amended to read as follows:

21 Sec. 383.026. HEARING. At the hearing:

22 (1) [~~7~~] the commissioners court shall examine the  
23 proposal or petition to ascertain its sufficiency; [~~7~~] and

24 (2) any interested person may appear before the  
25 commissioners court to offer testimony on the sufficiency of the  
26 proposal or petition and whether the district should be created.

27 SECTION 8. Section 383.027, Local Government Code, is

1 amended to read as follows:

2           Sec. 383.027. GRANTING OR REFUSING PREVIOUS PROPOSAL OR  
3 PETITION; CREATION OF DISTRICT. (a) After the hearing, if the  
4 commissioners court finds that the petition, if a petition was  
5 filed, conforms to the requirements of Section 383.022 and that the  
6 creation of the district and the proposed project is feasible and  
7 necessary and would serve the public purpose of attracting visitors  
8 or tourists to the county, the commissioners court by order may make  
9 that finding and create [~~enter an order creating~~] the district.

10           (b) The order creating the district may specify the cost to  
11 the county of publishing notice and conducting hearings for the  
12 creation of the district together with the cost of conducting the  
13 confirmation and sales and use tax election. The county may require  
14 the petitioner, if a petition was filed, to pay to the county the  
15 amounts specified in the order creating the district at the time the  
16 order becomes final.

17           (c) If the commissioners court finds that the petition does  
18 not conform to the requirements of Section 383.022 or that the  
19 creation of the district and the proposed project is not feasible  
20 and necessary and would not serve the purpose of attracting  
21 visitors and tourists to the county, the commissioners court by  
22 order shall make that finding [~~in an order~~] and deny the creation of  
23 the district [~~petition~~].

24           SECTION 9. Section 383.028, Local Government Code, is  
25 amended to read as follows:

26           Sec. 383.028. INITIAL [~~TEMPORARY~~] DIRECTORS; VACANCY IN  
27 OFFICE. (a) If the commissioners court orders the creation of the

1 district under Section 383.027 [~~grants the petition~~], it shall  
2 appoint to serve as initial [~~temporary~~] directors of the district  
3 five persons who are qualified under this chapter to serve as  
4 directors.

5 (b) A vacancy in the office of initial [~~temporary~~] director  
6 shall be filled by appointment by the commissioners court.

7 SECTION 10. Section 383.029, Local Government Code, is  
8 amended to read as follows:

9 Sec. 383.029. QUALIFICATION OF INITIAL [~~TEMPORARY~~]  
10 DIRECTORS; ORGANIZATION. (a) Each initial [~~temporary~~] director  
11 shall execute a bond in accordance with Section 383.046 and shall  
12 take an oath of office.

13 (b) The board shall meet and organize.

14 SECTION 11. Section 383.030, Local Government Code, is  
15 amended to read as follows:

16 Sec. 383.030. CONFIRMATION AND SALES AND USE TAX ELECTION.  
17 The initial [~~temporary~~] board of directors shall conduct an  
18 election in the district to confirm the creation of the district and  
19 authorize a sales and use tax in conformity with this chapter.

20 SECTION 12. Section 383.032, Local Government Code, is  
21 amended to read as follows:

22 Sec. 383.032. NOTICE. The initial [~~temporary~~] directors  
23 shall give notice of the election by publishing a substantial copy  
24 of the election order once a week for two consecutive weeks in a  
25 newspaper with general circulation in the county in which the  
26 proposed district is located. The first publication must appear  
27 before the 14th day before the date set for the election.

1 SECTION 13. Sections 383.034(a) and (b), Local Government  
2 Code, are amended to read as follows:

3 (a) After the election, the presiding judge shall make  
4 returns of the result to the initial [~~temporary~~] board of  
5 directors. The initial [~~temporary~~] board of directors shall  
6 canvass the returns and declare the results.

7 (b) If a majority of the votes cast in the election favor the  
8 creation of the district and the adoption of the sales and use tax,  
9 the initial [~~temporary~~] board shall declare that the district is  
10 created and shall declare the amount of the local sales and use tax  
11 adopted and enter the result in its minutes. If a majority of the  
12 votes cast in the election are against the creation of the district  
13 and the adoption of the sales and use tax, the initial [~~temporary~~]  
14 board shall declare that the proposition to create the district was  
15 defeated and enter the result in its minutes.

16 SECTION 14. Section 383.041, Local Government Code, is  
17 amended to read as follows:

18 Sec. 383.041. BOARD OF DIRECTORS; TERMS. (a) A district is  
19 governed by a board of five directors appointed by the  
20 commissioners court of the county in which the district is located.  
21 The initial [~~temporary~~] directors appointed under Section 383.028  
22 remain [~~shall become permanent~~] directors of the district, if the  
23 creation of the district is confirmed at the confirmation election.

24 (b) Directors serve staggered terms of two [~~four~~] years,  
25 with two or three members' terms expiring September 1 of each [~~every~~  
26 ~~other~~] year. Following confirmation of the district at the  
27 election, the initial [~~temporary~~] directors shall draw lots to

1 determine:

2 (1) the two directors to serve terms that expire on  
3 September 1 of the first [~~second~~] year following creation of the  
4 district; and

5 (2) the three directors to serve terms that expire on  
6 September 1 of the second [~~fourth~~] year following creation of the  
7 district.

8 SECTION 15. Subchapter D, Chapter 383, Local Government  
9 Code, is amended by adding Sections 383.067 and 383.068 to read as  
10 follows:

11 Sec. 383.067. CONTRACTS WITH COUNTY. A district and a  
12 county may enter into an interlocal contract under Chapter 791,  
13 Government Code, for the county to provide services to the  
14 district, including county auditor services.

15 Sec. 383.068. FINANCING OF INFRASTRUCTURE AND SERVICES. A  
16 district may finance government infrastructure and services in the  
17 district.

18 SECTION 16. Section 383.084, Local Government Code, is  
19 amended by amending Subsection (b) and adding Subsections (c) and  
20 (d) to read as follows:

21 (b) If the commissioners court unanimously determines from  
22 the evidence that the best interests of the persons and property in  
23 the district will be served by [~~adding or~~] excluding land, the  
24 commissioners court shall enter in its records the appropriate  
25 findings and order [~~adding or~~] excluding land.

26 (c) The commissioners court shall enter in its records the  
27 appropriate findings and order adding the land only if:

1           (1) all landowners of the land to be added consent to  
2 the addition of the land; or

3           (2) a majority of the voters voting in an election  
4 approve the addition of the land.

5           (d) Only voters who reside on the land proposed to be added  
6 may vote in an election held under Subsection (c).

7           SECTION 17. The heading to Subchapter E, Chapter 383, Local  
8 Government Code, is amended to read as follows:

9           SUBCHAPTER E. BONDS; ADDING OR REMOVING LAND

10           SECTION 18. Subchapter E, Chapter 383, Local Government  
11 Code, is amended by adding Section 383.085 to read as follows:

12           Sec. 383.085. REMOVAL OF TERRITORY BY MUNICIPALITY. (a) If  
13 a municipality completes all other procedures necessary to annex  
14 territory in a district, the municipality shall send written notice  
15 of that fact to the board. The municipality must send the notice to  
16 the board secretary by certified mail, return receipt requested.  
17 The territory remains part of the district and does not become part  
18 of the municipality until the board secretary receives the notice.  
19 On receipt of the notice, the board shall immediately change its  
20 records to show that the territory has been disannexed from the  
21 district.

22           (b) The disannexation of territory under this section does  
23 not diminish or impair the rights of the holders of any outstanding  
24 and unpaid bonds, warrants, or other obligations of the district  
25 including loans and lease-purchase agreements.

26           (c) If a municipality annexes territory in a district, the  
27 municipality shall compensate the district immediately after



1 disannexation of the territory under Subsection (a) in an amount  
2 equal to the annexed territory's pro rata share of the district's  
3 bonded and other indebtedness as computed according to the formula  
4 in Subsection (d). The district shall apply compensation received  
5 from a municipality under this subsection exclusively to the  
6 payment of the annexed territory's pro rata share of the district's  
7 bonded and other indebtedness.

8 (d) The amount of compensation under Subsection (c) is  
9 determined by multiplying the district's total indebtedness at the  
10 time of the annexation by a fraction the numerator of which is the  
11 assessed value of the property to be annexed based on the most  
12 recent certified county property tax rolls at the time of  
13 annexation and the denominator of which is the total assessed value  
14 of the property of the district based on the most recent certified  
15 county property tax rolls at the time of annexation.

16 (e) For purposes of this section, total indebtedness  
17 includes loans and lease-purchase agreements but does not include a  
18 loan or lease-purchase agreement the district enters into after the  
19 district receives notice of the municipality's intent to annex  
20 district territory.

21 SECTION 19. Section 383.101(b), Local Government Code, is  
22 amended to read as follows:

23 (b) If a district adopts the tax, there is imposed a tax on  
24 the receipts from the sale at retail of taxable items in the  
25 district at a rate of up to [~~one-half of~~] one percent. There is also  
26 imposed an excise tax on the use, storage, or other consumption in  
27 the district of taxable items purchased, leased, or rented from a

1 retailer during the period that the tax is effective in the  
2 district. The rate of the excise tax is the same as the rate of the  
3 sales tax portion of the tax applied to the sales price of the  
4 taxable items and is included in the sales tax.

5 SECTION 20. Section 383.103, Local Government Code, is  
6 amended to read as follows:

7 Sec. 383.103. TAX RATES. The permissible rates for a local  
8 sales and use tax levied under this chapter are one-fourth of one  
9 percent, three-eighths of one percent, ~~and~~ one-half of one  
10 percent, five-eighths of one percent, three-fourths of one percent,  
11 seven-eighths of one percent, and one percent.

12 SECTION 21. The heading to Subchapter B, Chapter 383, Local  
13 Government Code, is amended to read as follows:

14 SUBCHAPTER B. CREATION OF DISTRICT; INITIAL ~~[TEMPORARY]~~ BOARD

15 SECTION 22. (a) Section 383.041, Local Government Code, as  
16 amended by this Act, does not terminate the office of a director  
17 serving on a county development district as of the effective date of  
18 this Act. The directors shall transition to two-year terms as  
19 provided by Subsection (b) of this section.

20 (b) To comply with Section 383.041, Local Government Code,  
21 as amended by this Act, the directors of a county development  
22 district shall draw lots to determine which two or three terms  
23 expire September 1, 2008. The remaining directors' terms expire  
24 September 1, 2009.

25 SECTION 23. Section 383.085, Local Government Code, as  
26 added by this Act, applies only to the annexation of an area for  
27 which all parts of the statutory annexation process are begun on or

1 after the effective date of this Act. The annexation of an area for  
2 which any part of the statutory annexation process was begun before  
3 the effective date of this Act is governed by the law in effect  
4 immediately before the effective date of this Act, and the former  
5 law is continued in effect for that purpose.

6 SECTION 24. This Act takes effect September 1, 2007.