

BILL ANALYSIS

C.S.H.B. 3491
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, it is unclear whether a county is authorized to establish more than one county assistance district. The county commissioners court serves as the board of the district.

C.S.H.B. 3491 amends various provisions relating to county assistance districts. The bill authorizes more than one district to be created in a county and sets forth provisions regarding the inclusion of territory in a proposed district after it has been excluded from another district. The bill authorizes a district to impose a sales and use tax in accordance with the limitations of general law. The bill requires the commissioners court of the county in which the district is created to be the governing body of the district or to appoint a governing body consisting five directors who serve staggered two-year terms. The bill repeals a provision relating to ballot language for a tax repeal.

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

C.S.H.B. 3491 amends the Local Government Code to authorize the creation of more than one county assistance district in a county by a county commissioners court. The bill replaces references to the two percent maximum combined local sales and use tax in an area to be included in a district with references to the maximum combined rate of sales and use taxes imposed by political subdivisions of Texas prescribed by Tax Code provisions on municipal and county sales and use taxes. The bill authorizes the territory of a municipality located within a proposed district that the municipality has chosen to exclude from the district to subsequently be included in another district after complying with the applicable notice requirements and after an election. The bill removes a provision prohibiting, if a majority of the votes received at the election are against the creation of the district, another election on the question of creating a county assistance district from being held in the county before the first anniversary of the most recent election concerning the creation of a district. The bill instead establishes that if a majority of the votes received at the election are against the creation of the district, the district is not created and the county at any time is authorized to call one or more elections on the question of creating one or more county assistance districts.

C.S.H.B. 3491 authorizes the governing body of a district, by order, to include an area in the district on receipt of a petition or petitions signed by the owner or owners of the majority of the land in the area to be included in the district. The bill establishes that no election is required if there are no qualified voters residing in the area to be included in the district. The bill authorizes a commissioners court to exclude an area from a district by order if the district has no outstanding bonds payable wholly or partly from sales and use taxes and if the exclusion does not impair any outstanding district debt or contractual obligation.

C.S.H.B. 3491 requires the commissioners court of the county in which a district is created to provide by order that the commissioners court is the governing body of the district or that the

commissioners court shall appoint a governing body of the district, rather than providing that the commissioners court of the county in which the district is created is the governing body of the district. The bill requires a board of directors appointed by the commissioners court to consist of five directors who serve staggered terms of two years. The bill requires a person to be at least 18 years old and a resident of the county in which the district is located to be eligible to serve as a director. The bill requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving one-year terms and two serving two-year terms.

C.S.H.B. 3491 authorizes a district to enter into agreements with municipalities necessary or convenient to achieve the district's purposes, including agreements regarding the duration, rate, and allocation between the district and the municipality of sales and use taxes. The bill authorizes a district to define areas in the district to pay for improvements, facilities, or services that primarily benefit that area and do not generally and directly benefit the district as a whole. The bill also authorizes a district to impose different rates of sales and use tax in each defined area, provided that the sales and use tax does not exceed the rate approved at an election creating or adding territory to the district. The bill requires the rate of a tax adopted by a district to be in increments of one-eighth of one percent, and removes options for increments of one-fourth, three-eighths, or one-half of one percent.

C.S.H.B. 3491 revises the specific requirements for a district that seeks to repeal, reduce, or increase a sales and use tax adopted by the district. The bill authorizes a district, by order and without an election, to reduce the rate of the tax or repeal the tax but prohibits the district from repealing the sales and use tax or reducing the rate of the sales and use tax below the amount pledged to secure payment of any outstanding district debt or contractual obligation; to increase the rate of the sales and use tax, subject to limitations on a district's sales and use tax, if the increased rate will not exceed the rate approved at an election creating the district; or to increase the rate of the sales and use tax to a rate that exceeds the rate approved at an election creating the district if the increase is approved by a majority of the votes received in the district at an election held for that purpose. The bill clarifies provisions relating to the effective date of a district's tax rate to make conforming changes.

C.S.H.B. 3491 repeals Section 387.010(d), Local Government Code, prescribing ballot language for a repeal of the tax.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3491 differs from the original by authorizing the territory of a municipality located within a proposed district that the municipality has chosen to exclude from the district to subsequently be included in another district after complying with the applicable requirements and after an election creating the district, rather than after following the required procedures as in the original. The substitute differs from the original by requiring the directors appointed by the commissioners court to serve staggered terms of two, rather than four, years, and by making conforming changes.

C.S.H.B. 3491 authorizes a district to enter into agreements with municipalities necessary or convenient to achieve the district's purposes, rather than for the full exercise of the district's functions as in the original. The substitute adds a specification not in the original that a district may define areas in the district to pay for improvements, facilities, or services that primarily benefit that area and do not generally and directly benefit the district as a whole. The substitute differs from the original by requiring the rate of a tax adopted by a district to be in increments of one-eighth of one percent and removing options for increments one-fourth, three-eighths, or one-

half of one percent, whereas the original specifies increments of one-eighth, one-fourth, three-eighths, or one-half of one percent. The substitute repeals a provision setting forth the required language for a ballot for an election to repeal the tax, whereas the original strikes the provision from the statute.

C.S.H.B. 3491 differs from the original in other nonsubstantive ways by using language reflective of certain drafting conventions.