

By: Hegar

S.B. No. 1534

A BILL TO BE ENTITLED

AN ACT

relating to county assistance districts.

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

SECTION 1. Section 387.003, Local Government Code, is amended to read as follows:

Sec. 387.003. CREATION AND FUNCTIONS OF DISTRICT. (a) The commissioners court of the county may call an election on the question of creating a county assistance district under this chapter. More than one county assistance district may be created in a county.

(a-1) ~~[to]~~ A district may perform the following functions ~~[in the district]~~:

(1) the construction, maintenance, or improvement of roads or highways;

(2) the provision of law enforcement and detention services;

(3) the maintenance or improvement of libraries, museums, parks, or other recreational facilities;

(4) the provision of services that benefit the public health or welfare, including the provision of firefighting and fire prevention services; or

(5) the promotion of economic development and tourism.

(b) The order calling the election must:

(1) define the boundaries of the district to include

1 any portion of the county in which the combined tax rate of all  
2 local sales and use taxes imposed, including the rate to be imposed  
3 by the district if approved at the election, would not exceed the  
4 limits on the combined rate of sales and use taxes of the county,  
5 municipalities, and political subdivisions of this state under  
6 Sections 321.101 and 323.101, Tax Code [two percent]; and

7 (2) call for the election to be held within those  
8 boundaries.

9 (b-1) If the proposed district includes any territory of a  
10 municipality, the commissioners court shall send notice by  
11 certified mail to the governing body of the municipality of the  
12 commissioners court's intent to create the district. If the  
13 municipality has created a development corporation under Section 4A  
14 or 4B, Development Corporation Act of 1979 (Article 5190.6,  
15 Vernon's Texas Civil Statutes), the commissioners court shall also  
16 send the notice to the board of directors of the corporation. The  
17 commissioners court must send the notice not later than the 60th day  
18 before the date the commissioners court orders the election. The  
19 governing body of the municipality may exclude the territory of the  
20 municipality from the proposed district by sending notice by  
21 certified mail to the commissioners court of the governing body's  
22 desire to exclude the municipal territory from the district. The  
23 governing body must send the notice not later than the 45th day  
24 after the date the governing body receives notice from the  
25 commissioners court under this subsection. The territory of a  
26 municipality that is excluded under this subsection may  
27 subsequently be included in the district in an election held under

1 Subsection (f) with the consent of the municipality or in another  
2 district after following the procedures of this subsection.

3 (c) The ballot at the election must be printed to permit  
4 voting for or against the proposition: "Authorizing the creation  
5 of the \_\_\_\_\_ County Assistance District No. \_\_\_\_\_ (insert  
6 name of district) and the imposition of a sales and use tax at the  
7 rate of \_\_\_\_\_ of one percent (insert one-eighth, one-fourth,  
8 three-eighths, or one-half, as appropriate) for the purpose of  
9 financing the operations of the district."

10 (d) The district is created if a majority of the votes  
11 received at the election favor the creation of the district.

12 (e) If a majority of the votes received at the election are  
13 against the creation of the district, then the district is not  
14 created and the county may call other elections [~~another election~~]  
15 on the questions [~~question~~] of creating [~~a~~] county assistance  
16 districts [~~district may not be held in the county before the first~~  
17 ~~anniversary of the most recent election concerning the creation of~~  
18 ~~a district~~].

19 (f) The commissioners court may call an election to be held  
20 in an area of the county that is not located in a district created  
21 under this section to determine whether the area should be included  
22 in the district and whether the district's sales and use tax should  
23 be imposed in the area. An election may not be held in an area in  
24 which the combined tax rate of all local sales and use taxes  
25 imposed, including the rate to be imposed by the district if  
26 approved at the election, would exceed the limits on the combined  
27 rate of sales and use taxes of the county, municipalities, and

1 political subdivisions of this state under Sections 321.101 and  
2 323.101, Tax Code [~~two percent~~].

3 (g) The area in which an election is held under Subsection  
4 (f) is included in the district and the sales and use tax is imposed  
5 if a majority of the votes received at the election favor inclusion  
6 in the district and imposition of the sales and use tax.

7 (h) If more than one election to authorize a local sales and  
8 use tax is held on the same day in the area of a proposed district or  
9 an area proposed to be added to a district and if the resulting  
10 approval by the voters would cause the imposition of a local sales  
11 and use tax in any area to exceed the limits on the combined rate of  
12 sales and use taxes of the county, municipalities, and political  
13 subdivisions of this state under Sections 321.101 and 323.101, Tax  
14 Code [~~two percent~~], only a tax authorized at an election under this  
15 section may be imposed.

16 (i) In addition to the authority to include an area in a  
17 district under subsection (f), the governing body of a district by  
18 order may include an area in the district upon receipt of a petition  
19 or petitions signed by a majority in value of the owners of land in  
20 the area to be included. If there are no qualified voters residing  
21 in the area to be included, then no election is required.

22 (j) The commissioners court may exclude an area from a  
23 district by order if the district has no outstanding bonds payable  
24 in whole or in part from sales and use taxes and the exclusion does  
25 not impair any outstanding district debt or contractual obligation  
26 while any district debt or contractual obligation remains  
27 outstanding.

1 SECTION 2. Section 387.005, Local Government Code, is  
2 amended to read as follows:

3 Sec. 387.005. GOVERNING BODY. (a) The commissioners court  
4 of the county in which the district is created shall provide by  
5 order that:

6 (1) the commissioners court is the governing body of  
7 the district; or

8 (2) a governing body of the district shall be  
9 appointed by the commissioners court.

10 (b) A member of the [~~commissioners court~~] governing body of  
11 the district is not entitled to compensation for service [~~on the~~  
12 ~~governing body of the district~~] but is entitled to reimbursement  
13 for actual and necessary expenses.

14 (c) A governing body appointed by the commissioners court  
15 under this section shall consist of five directors who serve  
16 staggered terms of four years. To be qualified to serve as a  
17 director, a person shall be at least 18 years old and a resident  
18 citizen of the county in which the district is located. The initial  
19 directors shall draw lots to achieve staggered terms, with three of  
20 the directors serving two year terms and two of the directors  
21 serving four year terms.

22 SECTION 3. Section 387.006, Local Government Code, is  
23 amended to read as follows:

24 Sec. 387.006. GENERAL POWERS OF DISTRICT. (a) A district  
25 may:

26 (1) perform any act necessary to the full exercise of  
27 the district's functions;

- 1           (2) accept a grant or loan from:  
2                 (A) the United States;  
3                 (B) an agency or political subdivision of this  
4 state; or  
5                 (C) a public or private person;  
6           (3) acquire, sell, lease, convey, or otherwise dispose  
7 of property or an interest in property under terms determined by the  
8 district;  
9           (4) employ necessary personnel; ~~and~~  
10           (5) adopt rules to govern the operation of the  
11 district and its employees and property; and  
12           (6) enter into agreements with municipalities  
13 necessary or convenient for the full exercise of the district's  
14 functions, including agreements regarding the duration, rate and  
15 allocation between the district and the municipality of sales and  
16 use taxes.

17           (b) A district may contract with a public or private person  
18 to perform any act the district is authorized to perform under this  
19 chapter.

20           (c) A district may not levy an ad valorem tax.

21           SECTION 4. Section 387.007, Local Government Code, is  
22 amended to read as follows:

23           Sec. 387.007. SALES AND USE TAX. (a) A district by order  
24 may impose a sales and use tax under this chapter to finance the  
25 operations of the district only if the tax is approved at an  
26 election held under Section 387.003.

27           (b) A district may not adopt a sales and use tax under this

1 chapter if the adoption of the tax would result in a combined tax  
2 rate of all local sales and use taxes that would exceed the limits  
3 under Sections 321.101 and 323.101, Tax Code [~~of more than two~~  
4 ~~percent~~] in any location in the district.

5 (c) A district may define areas within the district and  
6 impose different rates of sales and use tax within each area,  
7 provided that no sales and use tax rate exceeds the rate approved at  
8 an election held under Section 387.003.

9 SECTION 5. Section 387.009, Local Government Code, is  
10 amended to read as follows:

11 Sec. 387.009. TAX RATE. The rate of a tax adopted under  
12 this chapter must be in increments of one-eighth, one-fourth,  
13 three-eighths, or one-half of one percent.

14 SECTION 6. Section 387.010, Local Government Code, is  
15 amended to read as follows:

16 Sec. 387.010. REPEAL OR RATE CHANGE. (a) A district that  
17 has adopted a sales and use tax under this chapter may, by order and  
18 subject to Section 387.007(b), [~~change~~] reduce the rate of the tax  
19 or repeal the tax without an election, provided that the district  
20 may not repeal the sales and use tax or reduce the rate of the sales  
21 and use tax below the amount pledged to secure payment of any  
22 outstanding district debt or contractual obligation while any  
23 district debt or contractual obligation remains outstanding. A  
24 district may, by order and subject to Section 387.007(b), increase  
25 the rate of the sales and use tax, provided that the increased rate  
26 does not exceed the rate approved at an election held under Section  
27 387.003. If the increased rate of the sales and use tax exceeds the

1 rate approved at an election held under Section 387.003, then a  
2 district may, by order and subject to Section 387.007(b), increase  
3 the rate if the increase [~~change or repeal~~] is approved by a  
4 majority of the votes received in the district at an election held  
5 for that purpose.

6 (b) The tax may be changed under Subsection (a) in one or  
7 more increments of one-eighth of one percent [~~to a maximum of~~  
8 ~~one-half of one percent~~].

9 (c) The ballot for an election to [~~change~~] increase the tax  
10 shall be printed to permit voting for or against the proposition:  
11 "The [~~change~~] increase of a sales and use tax for the \_\_\_\_\_  
12 County Assistance District No.\_\_\_\_\_ (insert name of district) from  
13 the rate of \_\_\_\_\_ of one percent (insert in increments of  
14 one-eighth, one-fourth, three-eighths, or one-half, as  
15 appropriate) to the rate of \_\_\_\_\_ of one percent (insert in  
16 increments of one-eighth, one-fourth, three-eighths, or one-half,  
17 as appropriate)."

18 ~~(d) The ballot for the election to repeal the tax shall be~~  
19 ~~printed to permit voting for or against the proposition. "The~~  
20 ~~repeal of the sales and use tax for financing the \_\_\_\_\_~~  
21 ~~County Assistance District (insert name of district)."~~

22 SECTION 7. Section 387.012, Local Government Code, is  
23 amended to read as follows:

24 Sec. 387.012. EFFECTIVE DATE OF TAX. The adoption of the  
25 tax, the [~~change~~] increase or reduction of the tax rate, or the  
26 repeal of the tax takes effect on the first day of the first  
27 calendar quarter occurring after the expiration of the first



1 complete quarter occurring after the date the comptroller receives  
2 a [~~notice of the results of the election~~] copy of the order of the  
3 governing body adopting, [~~changing~~] increasing, reducing, or  
4 repealing the tax.

5 SECTION 8. This Act takes effect immediately if it receives  
6 a vote of two-thirds of all the members elected to each house, as  
7 provided by Section 39, Article III, Texas Constitution. If this  
8 Act does not receive the vote necessary for immediate effect, this  
9 Act takes effect September 1, 2009.