

BILL ANALYSIS

S.B. 520
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Ways & Means
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that it is unclear whether a county has the authority to establish more than one county assistance district or to add or exclude land from a county assistance district. They also raise questions relating to sales and use tax issues and the county commissioners court serving as the board of such a district. S.B. 520 seeks to address these concerns relating to the creation, administration, powers, and duties of a county assistance district.

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

S.B. 520 amends the Local Government Code to authorize more than one county assistance district to be created in a county. The bill changes the maximum combined rate of all local sales and use taxes imposed in a district from two percent to the maximum combined rate that is prescribed by Tax Code provisions relating to municipal and county sales and use taxes.

S.B. 520 authorizes territory of a municipality that was included in a proposed county assistance district but is excluded from the district by the governing body of the municipality to subsequently be included in another district after complying with applicable statutory requirements and after an election is held regarding inclusion in a district and imposition of the district's sales and use tax.

S.B. 520 removes a provision prohibiting another election on the question of creating a county assistance district from being held in a county before the first anniversary of the most recent election concerning the creation of a district if a majority of the votes received at the election are against the creation of the district. The bill instead provides that if a majority of the votes received at an election are against the creation of a district, the district is not created and the failure to approve the creation of a district does not affect the authority of the county to call one or more elections on the question of creating one or more county assistance districts.

S.B. 520 authorizes the governing body of a district by order, in addition to the authority to include an area in a district by election, 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 and provides that no election is required if there are no registered voters in the area to be included in the district. The bill authorizes a county commissioners court by order to exclude an area from the district if the district has no outstanding bonds payable wholly or partly from sales and use taxes and the exclusion does not impair any outstanding district debt or contractual obligation.

S.B. 520 replaces a provision establishing that the commissioners court of the county in which a county assistance district is created is the governing body of the district with a provision

requiring the commissioners court of the county in which such a district is created by order to provide that the commissioners court is the governing body of the district or that the commissioners court shall appoint a governing body of the district.

S.B. 520 requires a board of directors appointed by the commissioners court to consist of five directors who serve staggered terms of two years and requires a person, in order to be eligible to serve as a director, to be a resident of the county in which the district is located. The bill requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving one-year terms and two of the directors serving two-year terms.

S.B. 520 authorizes a county assistance 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 removes language requiring the rate of an adopted tax to be in increments of one-fourth, three-eighths, or one-half of one percent, leaving only increments of one-eighth of one percent.

S.B. 520 revises the authorization of a county assistance district that has adopted a sales and use tax, by order and subject to the maximum combined rate, to change the rate of the tax or repeal the tax, if the change or repeal is approved by a majority of the votes received in the district at an election held for that purpose, to instead authorize such a district to reduce the rate of the tax or repeal the tax without an election, except that the district may not repeal the sales and use tax or reduce its rate below the amount pledged to secure payment of an outstanding district debt or contractual obligation; to increase the rate if the increased rate will not exceed the rate approved at an election to create a district or include territory in a district; or to increase the rate to a rate that exceeds the rate approved at an election to create a district or include territory in a district after the increase is approved by a majority of the votes received in the district at an election held for that purpose.

S.B. 520 removes the cap of one-half of one percent from the provision authorizing the sales and use tax to be changed in one or more increments of one-eighth of one percent. The bill establishes that the adoption of the tax, the increase or reduction of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller of public accounts receives a copy of the order of the district's governing body adopting, increasing, reducing, or repealing the tax, rather than after the date the comptroller receives a notice of the results of an election adopting, changing, or repealing the tax. The bill makes conforming changes.

S.B. 520 repeals Section 387.010(d), Local Government Code, relating to the language of a ballot for an election to repeal the tax.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.