

By: Zerwas

H.B. No. 1107

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, and duties of a county assistance district.

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

SECTION 1. Section 387.003, Local Government Code, is amended by amending Subsections (a), (b), (b-1), (c), (e), (f), and (h) and adding Subsections (a-1), (i), and (j) to read as follows:

(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) A district may ~~to~~ 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 (1) define the boundaries of the district to include
2 any portion of the county in which the combined tax rate of all
3 local sales and use taxes imposed, including the rate to be imposed
4 by the district if approved at the election, would not exceed the
5 maximum combined rate of sales and use taxes imposed by political
6 subdivisions of this state that is prescribed by Sections 321.101
7 and 323.101, Tax Code [~~two percent~~]; and

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

10 (b-1) If the proposed district includes any territory of a
11 municipality, the commissioners court shall send notice by
12 certified mail to the governing body of the municipality of the
13 commissioners court's intent to create the district. If the
14 municipality has created a development corporation under Chapter
15 504 or 505, the commissioners court shall also send the notice to
16 the board of directors of the corporation. The commissioners court
17 must send the notice not later than the 60th day before the date the
18 commissioners court orders the election. The governing body of the
19 municipality may exclude the territory of the municipality from the
20 proposed district by sending notice by certified mail to the
21 commissioners court of the governing body's desire to exclude the
22 municipal territory from the district. The governing body must
23 send the notice not later than the 45th day after the date the
24 governing body receives notice from the commissioners court under
25 this subsection. The territory of a municipality that is excluded
26 under this subsection may subsequently be included in:

27 (1) the district in an election held under Subsection

1 (f) with the consent of the municipality; or
2 (2) another district after complying with the
3 requirements of this subsection and after an election held under
4 Subsection (f).

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

12 (e) If a majority of the votes received at the election are
13 against the creation of the district, the district is not created.
14 The failure to approve the creation of a district under this
15 subsection does not affect the authority of the county to call one
16 or more elections [~~another election~~] on the question of creating
17 one or more [~~a~~] county assistance districts [~~district may not be~~
18 ~~held in the county before the first anniversary of the most recent~~
19 ~~election concerning the creation of a district~~].

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

1 sales and use taxes imposed by political subdivisions of this state
2 that is prescribed by Sections 321.101 and 323.101, Tax Code [~~two~~
3 ~~percent~~].

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

13 (i) In addition to the authority to include an area in a
14 district under Subsection (f), the governing body of a district by
15 order may include an area in the district on receipt of a petition
16 or petitions signed by the owner or owners of the majority of the
17 land in the area to be included in the district. If there are no
18 registered voters in the area to be included in the district, no
19 election is required.

20 (j) The commissioners court by order may exclude an area
21 from the district if the district has no outstanding bonds payable
22 wholly or partly from sales and use taxes and the exclusion does not
23 impair any outstanding district debt or contractual obligation.

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

26 Sec. 387.005. GOVERNING BODY. (a) The commissioners court
27 of the county in which the district is created by order shall

1 provide that:

2 (1) the commissioners court is the governing body of
3 the district; or

4 (2) the commissioners court shall appoint a governing
5 body of the district.

6 (b) A member of the governing body of the district
7 [~~commissioners court~~] is not entitled to compensation for service
8 [~~on the governing body of the district~~] but is entitled to
9 reimbursement for actual and necessary expenses.

10 (c) A board of directors appointed by the commissioners
11 court under this section shall consist of five directors who serve
12 staggered terms of two years. To be eligible to serve as a
13 director, a person must be a resident of the county in which the
14 district is located. The initial directors shall draw lots to
15 achieve staggered terms, with three of the directors serving
16 one-year terms and two of the directors serving two-year terms.

17 SECTION 3. Section 387.006(a), Local Government Code, is
18 amended to read as follows:

19 (a) A district may:

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

22 (2) accept a grant or loan from:

23 (A) the United States;

24 (B) an agency or political subdivision of this
25 state; or

26 (C) a public or private person;

27 (3) acquire, sell, lease, convey, or otherwise dispose

1 of property or an interest in property under terms determined by the
2 district;

3 (4) employ necessary personnel; ~~and~~

4 (5) adopt rules to govern the operation of the
5 district and its employees and property; and

6 (6) enter into agreements with municipalities
7 necessary or convenient to achieve the district's purposes,
8 including agreements regarding the duration, rate, and allocation
9 between the district and the municipality of sales and use taxes.

10 SECTION 4. Section 387.007, Local Government Code, is
11 amended by amending Subsection (b) and adding Subsection (c) to
12 read as follows:

13 (b) A district may not adopt a sales and use tax under this
14 chapter if the adoption of the tax would result in a combined tax
15 rate of all local sales and use taxes that would exceed the maximum
16 combined rate prescribed by Sections 321.101 and 323.101, Tax Code,
17 ~~[of more than two percent]~~ in any location in the district.

18 (c) A district may define areas in the district to pay for
19 improvements, facilities, or services that primarily benefit that
20 area and do not generally and directly benefit the district as a
21 whole. The district may impose different rates of sales and use tax
22 in each defined area. The sales and use tax rate in each area may
23 not exceed the rate approved at an election held under Section
24 387.003.

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

27 Sec. 387.009. TAX RATE. The rate of a tax adopted under

1 this chapter must be in increments of one-eighth[~~, one-fourth,~~
2 ~~three-eighths, or one-half~~] of one percent.

3 SECTION 6. Sections 387.010(a), (b), and (c), Local
4 Government Code, are amended to read as follows:

5 (a) A district that has adopted a sales and use tax under
6 this chapter may, by order and subject to Section 387.007(b):

7 (1) reduce [~~change~~] the rate of the tax or repeal the
8 tax without an election, except that the district may not repeal the
9 sales and use tax or reduce the rate of the sales and use tax below
10 the amount pledged to secure payment of an outstanding district
11 debt or contractual obligation;

12 (2) increase the rate of the sales and use tax, if the
13 increased rate of the sales and use tax will not exceed the rate
14 approved at an election held under Section 387.003; or

15 (3) increase the rate of the sales and use tax to a
16 rate that exceeds the rate approved at an election held under
17 Section 387.003 after [~~if~~] the increase [~~change or repeal~~] is
18 approved by a majority of the votes received in the district at an
19 election held for that purpose.

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

23 (c) The ballot for an election to increase [~~change~~] the tax
24 shall be printed to permit voting for or against the proposition:
25 "The increase [~~change~~] of a sales and use tax for the ____ County
26 Assistance District No. ____ (insert name of district) from the rate
27 of ____ [~~of one~~] percent (insert [~~one-fourth, three-eighths, or~~

1 ~~one-half, as~~] appropriate rate) to the rate of ____ [~~of one~~] percent
2 (insert [~~one-fourth, three-eighths, or one-half, as~~] appropriate
3 rate)."

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

6 Sec. 387.012. EFFECTIVE DATE OF TAX. The adoption of the
7 tax, the increase or reduction [~~change~~] of the tax rate, or the
8 repeal of the tax takes effect on the first day of the first
9 calendar quarter occurring after the expiration of the first
10 complete quarter occurring after the date the comptroller receives
11 a copy of the order of the district's governing body [~~notice of the~~
12 ~~results of the election~~] adopting, increasing, reducing
13 [~~changing~~], or repealing the tax.

14 SECTION 8. Section 387.010(d), Local Government Code, is
15 repealed.

16 SECTION 9. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2011.