

BILL ANALYSIS

S.B. 1822
By: Hegar
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Port O'Connor Municipal Utility District (district) was created by the legislature by Act, effective August 29, 1977. The district was created to provide water, sewer, and drainage facilities to a residential community located in an unincorporated part of Calhoun County, along the intercoastal waterway.

The district is requesting the authority to levy a sales and use tax, subject to voter approval. Because there is no other local taxing jurisdiction, the only component of the sales and use tax being imposed is the state sales and use tax (6.5 percent). If authorized by the voters, the district may impose a sales tax of up to two percent. The district is also proposing to be renamed "Port O'Connor Improvement District."

As proposed, S.B. 1822 amends current law relating to the name and powers and duties of the Port O'Connor Municipal Utility District, and provides authority to impose a sales and use tax.

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

SECTION 1. Amends Section 1, Chapter 693, Acts of the 65th Legislature, Regular Session, 1977, as follows:

Section 1. Provides that pursuant to the provisions of Article XVI (General Provisions), Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), of the Texas Constitution, a conservation and reclamation district is created and established in Calhoun County, Texas, to be known as the Port O'Connor Improvement District, rather than the Port O'Connor Municipal Utility District, which is required to be a governmental agency and a body politic and corporate subject to the confirmation election provided for in Section 6 of this Act. Provides that the creation and establishment of the district is declared to be essential to the accomplishment of the purposes of Article XVI, Section 59, of the Texas Constitution.

SECTION 2. Amends Chapter 693, Acts of the 65th Legislature, Regular Session, 1977, by adding Sections 1A, 11, 12, 13, 14, and 15, as follows:

Sec. 1A. Provides that in this Act:

(1) Defines "board" to mean the district's board of directors.

(2) Defines "district" to mean the Port O'Connor Improvement District.

Sec. 11. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Provides that Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax

authorized by Sections 12-15 of this Act except to the extent Chapter 321, Tax Code, is inconsistent with those sections.

(b) Provides that a reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the Port O'Connor Improvement District (district) or the Port O'Connor Improvement District board of directors (board), respectively.

Sec. 12. ELECTION; ADOPTION OF TAX. (a) Authorizes the district to adopt a sales and use tax if authorized by a majority of the voters of the district voting at an election held for that purpose.

(b) Authorizes the board by order to call an election to authorize the adoption of the sales and use tax. Authorizes the election to be held on any uniform election date and in conjunction with any other district election.

(c) Requires that the district provide notice and hold the election in the manner provided by Subchapter D (Election Provisions), Chapter 49, Water Code.

(d) Requires the ballot to be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the Port O'Connor Improvement District at a rate not to exceed ____ percent" (insert rate of one or more increments of one-eighth of one percent).

Sec. 13. SALES AND USE TAX RATE. (a) Requires the board, after the date the results are declared of an election held under Section 12 of this Act at which the voters approved imposition of the tax authorized by that section, to determine and adopt by resolution or order the initial rate of the tax, which is required to be in one or more increments of one-eighth of one percent.

(b) Authorizes the board, after the election held under Section 12 of this Act, to increase or decrease the rate of the tax by one or more increments of one-eighth of one percent.

(c) Prohibits the initial rate of the tax or any rate resulting from subsequent increases or decreases from exceeding the lesser of:

(1) the maximum rate authorized by the district voters at the election held under Section 12 of this Act; or

(2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f) (relating to prohibiting a municipality from adopting or increasing a sales and use tax or an additional sales and use tax under certain circumstances), Tax Code, at any location in the district.

(d) Requires the board, in determining whether the combined sales and use tax rate under Subsection (c)(2) of this section would exceed the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district, to include:

(1) any sales and use tax imposed by a political subdivision whose territory overlaps all or part of the district;

(2) any sales and use tax to be imposed by Calhoun County as a result of an election held on the same date as the election held under Section 12 of this Act; and

(3) any increase to an existing sales and use tax imposed by Calhoun County as a result of an election held on the same date as the election held under Section 12 of this Act.

(e) Requires the board to notify the comptroller of public accounts of the State of Texas (comptroller) of any changes made to the tax rate in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b) (relating to the requirement that the municipal secretary send to the comptroller by United States certified or registered mail a certified copy of the resolution or the ordinance along with a map of the municipality clearly showing its boundaries if the application of the taxes that may be imposed under this chapter is changed by the results of the election), Tax Code.

Sec. 14. USE OF REVENUE. Provides that revenue from the sales and use tax imposed under Section 13 of this Act is for the use and benefit of the district and is authorized to be used for any district purpose. Authorizes the district to pledge all or part of the revenue to the payment of bonds, notes, or other obligations, and that pledge of revenue is authorized to be in combination with other revenue, including tax revenue, available to the district.

Sec. 15. ABOLITION OR DECREASE OF TAX. (a) Authorizes the board, except as provided by Subsection (b) of this section, to abolish or decrease the tax imposed under Section 13 of this Act without an election.

(b) Prohibits the board from abolishing or decreasing the tax imposed under Section 13 of this Act if the district has outstanding debt secured by the tax and repayment of the debt would be impaired by the abolition or decrease of the tax.

(c) Requires the board, if the board abolishes or decreases the tax, to notify the comptroller of that action in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.

(d) Requires that a new election be held to authorize a sales and use tax under Section 12 of this Act before the district is authorized subsequently to impose the tax if the board abolishes the tax or decreases the tax rate to zero.

SECTION 3. Provides that the district retains all rights, powers, privileges, authorities, duties, and functions that it had before the effective date of this Act.

SECTION 4. (a) Provides that the legislature validates and confirms all governmental acts and proceedings of the district that were taken before the effective date of this Act.

(b) Provides that this section does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment, or has been held invalid by a final court judgment.

SECTION 5. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 6. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house; otherwise, this Act takes effect September 1, 2013.