

By: Gates

H.B. No. 4308

Substitute the following for H.B. No. 4308:

By: Button

C.S.H.B. No. 4308

A BILL TO BE ENTITLED

AN ACT

relating to the creation of industrial development districts in certain counties; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

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

SECTION 1. Subtitle B, Title 12, Local Government Code, is amended by adding Chapter 389 to read as follows:

CHAPTER 389. COUNTY INDUSTRIAL DEVELOPMENT DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 389.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means a county industrial development district created under this chapter.

(4) "Primary job" has the meaning assigned by Section 501.002.

(5) "Project" includes:

(A) a project described by Section 501.101, other than a port;

(B) the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are:

(i) for the creation or retention of primary jobs and found by the board to be required or suitable for

1 the development, retention, or expansion of advanced
2 manufacturing, operations, and industrial facilities or advanced
3 nuclear reactors; or

4 (ii) found by the board to be required or
5 suitable for use for a career center in the area to be benefited by
6 the district;

7 (C) job training required or suitable for the
8 promotion or development and expansion of business enterprises
9 described by this chapter; and

10 (D) expenditures that are found by the board to
11 be required or suitable for infrastructure necessary to promote or
12 develop new or expanded business enterprises, including:

13 (i) streets and roads, rail spurs, water
14 and sewer utilities, electric utilities, gas utilities, drainage,
15 site improvements, and related improvements; and

16 (ii) telecommunications and Internet
17 service improvements.

18 Sec. 389.002. PURPOSE; DECLARATION OF INTENT. (a) The
19 creation of a district is essential to accomplish the purposes of
20 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
21 Texas Constitution, and other public purposes stated in this
22 chapter.

23 (b) The creation of each district under this chapter is
24 necessary to promote, develop, encourage, and maintain employment,
25 commerce, transportation, housing, tourism, recreation, the arts,
26 entertainment, economic development, safety, and the public
27 welfare in the district.

1 (c) The creation of a district may not be interpreted to
2 relieve a county or municipality from providing the level of
3 services provided to the area in the district as of the date the
4 district is created. A district is created to supplement and not to
5 supplant county or municipality services provided in a district.

6 Sec. 389.003. FINDINGS OF BENEFIT. (a) Certain counties in
7 this state need incentives for the development of public
8 improvements to attract major industrial employers to those
9 counties, and those counties are at a disadvantage in competing
10 with counties in other states for the location and development of
11 projects that attract major industrial employers by virtue of the
12 availability and prevalent use of financial incentives in other
13 states.

14 (b) All land and other property included in the boundaries
15 of a district will benefit from the projects, improvements, and
16 services to be provided by the district under powers conferred by
17 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
18 Texas Constitution, and other powers granted under this chapter.

19 (c) The creation of a district is in the public interest and
20 is essential to further the public purposes of:

21 (1) developing and diversifying the economy of this
22 state;

23 (2) eliminating unemployment and underemployment; and

24 (3) developing or expanding transportation and
25 commerce.

26 (d) A district will:

27 (1) promote the health, safety, and general welfare of

residents, employers, potential employees, employees, visitors,
and consumers in the district, and of the public; and

(2) promote the economic welfare of the citizens of
this state by providing incentives for the location and development
in certain counties of projects that attract major industrial
employers in order to increase employment and economic activity.

(e) A district will not act as the agent or instrumentality
of any private interest even though the district might benefit many
private interests as well as the public.

Sec. 389.004. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
All or any part of the area of a district is eligible to be included
in:

(1) a tax increment reinvestment zone created under
Chapter 311, Tax Code; or

(2) a tax abatement reinvestment zone created under
Chapter 312, Tax Code.

Sec. 389.005. GOVERNMENTAL AGENCY; TORT CLAIMS. Sections
375.004 and 383.062 apply to a district created under this chapter.

Sec. 389.006. CONSTRUCTION OF CHAPTER. This chapter shall
be liberally construed in conformity with the findings and purposes
stated in this chapter.

SUBCHAPTER B. CREATION OF DISTRICTS

Sec. 389.051. CREATION ELECTION. The commissioners court
of a county with a population of not more than three million may
order an election on the question of creating a district under this
chapter.

Sec. 389.052. CONTENTS OF ORDER. The order calling an

election under Section 389.051 must:

(1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area; and

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

Sec. 389.053. CONDUCT OF ELECTION. (a) The election must be held in accordance with the provisions of the Election Code, to the extent not inconsistent with this chapter.

(b) The ballot must be printed to permit voting for or against the proposition: "The creation of the _____ County Industrial Development District No. _____."

Sec. 389.054. RESULTS OF ELECTION. The district is created if a majority of the votes received at the election favor the creation of the district. If a majority of the votes received at the election are against the creation of the district, the district is not created. A failure to approve the creation of a district under this chapter does not affect the authority of the county to call one or more elections on the question of creating one or more districts.

SUBCHAPTER C. DISTRICT ADMINISTRATION

Sec. 389.101. BOARD OF DIRECTORS. (a) A district is governed by a board of nine directors appointed by the commissioners court of the county in which the district is located.

(b) Directors serve staggered four-year terms with four or five members' terms expiring September 1 of every other year.

(c) Notwithstanding Subsection (b), the first appointed directors shall draw lots to determine:

1 (1) the four directors to serve terms that expire on
2 September 1 of the second year following creation of the district;
3 and

4 (2) the five directors to serve terms that expire on
5 September 1 of the fourth year following creation of the district.

6 Sec. 389.102. QUALIFICATIONS FOR DIRECTORS. To serve as a
7 director, an individual must be:

8 (1) at least 21 years of age; and

9 (2) a qualified voter of the county in which the
10 district is located.

11 Sec. 389.103. PERSONS DISQUALIFIED FROM SERVING. Section
12 49.052, Water Code, relating to disqualification of directors,
13 applies to directors of districts created under this chapter.

14 Sec. 389.104. BOARD VACANCY. A vacancy in the office of
15 director shall be filled by appointment by the commissioners court.

16 Sec. 389.105. REMOVAL OF DIRECTOR. The commissioners
17 court, after notice and hearing, may remove a director for
18 misconduct or failure to carry out the director's duties on
19 petition by a majority of the remaining directors.

20 Sec. 389.106. OFFICERS. After each appointment of
21 directors, and after the directors have qualified by taking the
22 proper oath, the directors shall elect a president, a vice
23 president, a secretary, and any other officers the board considers
24 necessary.

25 Sec. 389.107. QUORUM; OFFICERS' DUTIES; MANAGEMENT OF
26 DISTRICT. Sections 49.053, 49.054, 49.057, and 49.058, Water Code,
27 relating to quorum, officers' duties, and management of the

1 district, govern the board of a district created under this
2 chapter.

3 Sec. 389.108. DISTRICT OFFICE. The board shall designate
4 and establish a district office in the county.

5 Sec. 389.109. MEETINGS AND NOTICE. (a) The board may
6 establish regular meetings to conduct district business and may
7 hold special meetings at other times as the business of a district
8 requires.

9 (b) Notice of the time, place, and purpose of any meeting of
10 the board shall be given by posting at a place convenient to the
11 public within the district. A copy of the notice shall be furnished
12 to the clerk or clerks of the county in which the district is
13 located, who shall post the notice on a bulletin board in the county
14 courthouse used for that purpose.

15 (c) Except as provided by this chapter, Chapter 551,
16 Government Code, applies to meetings of the board. Any interested
17 person may attend any meeting of the board.

18 Sec. 389.110. DIRECTOR'S COMPENSATION; BOND AND OATH OF
19 OFFICE. Sections 375.067, 375.069, and 375.070 apply to directors
20 of a district created under this chapter.

21 SUBCHAPTER D. POWERS AND DUTIES

22 Sec. 389.151. GENERAL POWERS OF DISTRICT. A district has
23 the powers and duties necessary to accomplish the purposes for
24 which the district is created.

25 Sec. 389.152. MUNICIPAL MANAGEMENT DISTRICT POWERS. Except
26 as otherwise provided by this chapter, a district created under
27 this chapter has the powers of a municipal management district

1 created under Chapter 375.

2 Sec. 389.153. SPECIFIC POWERS. (a) A district, using any
3 money available to the district for the purpose, may:

4 (1) provide, design, construct, acquire, improve,
5 relocate, operate, maintain, or finance a district project;

6 (2) provide the necessary infrastructure to attract
7 major industrial employers to the district and its vicinity, which
8 may be conducted by the district using financial incentives and
9 contracts for professional services with persons or organizations
10 selected by the district;

11 (3) acquire, sell, lease, convey, or otherwise dispose
12 of property or an interest in property under terms determined by the
13 district;

14 (4) plan, acquire, establish, develop, construct,
15 renovate, and dispose of projects to benefit the district;

16 (5) enter agreements with governmental or private
17 entities, including providers of public utilities and commercial
18 railways, to develop necessary infrastructure for the purposes of
19 the district and any other district purpose; and

20 (6) adopt rules to govern the operation of the
21 district and its employees and property.

22 (b) The implementation of a district project or service is a
23 governmental function or service for the purposes of Chapter 791,
24 Government Code.

25 Sec. 389.154. NONPROFIT CORPORATION. (a) The board by
26 resolution may authorize the creation of a nonprofit corporation to
27 assist and act for the district in implementing a project or

providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 389.155. COMPETITIVE BIDDING; CONTRACT AWARD. (a) Sections 375.221 and 375.223 of this code apply to a district created under this chapter, except that the district may use a method authorized by Chapter 2269, Government Code, as an alternative to competitive bidding.

(b) Notwithstanding any other provision of this chapter, a contract between the district and a governmental entity or a nonprofit corporation created under Chapter 501 is not subject to the requirements described by Subsection (a).

Sec. 389.156. ECONOMIC DEVELOPMENT PROGRAMS. (a) A district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local

economic development and stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

(1) Chapter 380 of this code; and

(2) Subchapter A, Chapter 1509, Government Code.

Sec. 389.157. ADDING OR EXCLUDING LAND. A district may add or exclude land in the manner provided by Subchapter J, Chapter 49, Water Code, or Subchapter H, Chapter 54, Water Code.

Sec. 389.158. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for the disbursement or transfer of district money.

Sec. 389.159. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) In this section, "cost" has the meaning assigned by Section 501.152.

(b) A district may reimburse any person for a cost or expense necessarily incurred in the creation and organization of the district, including costs of investigation and making plans, costs of engineer's reports, project designer fees, legal fees, and other incidental expenses.

(c) Payments under this section may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district or out of other revenues of the district.

SUBCHAPTER E. ASSESSMENTS

Sec. 389.201. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 389.202. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district are:

(1) a first and prior lien against the property assessed;

(2) superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

1 (c) The lien is effective from the date of the board's
2 resolution imposing the assessment until the date the assessment is
3 paid. The board may enforce the lien in the same manner that the
4 board may enforce an ad valorem tax lien against real property.

5 (d) The board may make a correction to or deletion from the
6 assessment roll that does not increase the amount of assessment of a
7 parcel of land without providing notice and holding a hearing in the
8 manner required for additional assessments.

9 SUBCHAPTER F. TAXES AND BONDS

10 Sec. 389.251. TAX ELECTION REQUIRED. (a) A district must
11 hold an election in the manner provided by Chapter 49, Water Code,
12 or, if applicable, Chapter 375 of this code to obtain voter approval
13 before the district may impose an ad valorem tax.

14 (b) Section 375.243 does not apply to the district.

15 Sec. 389.252. OPERATION AND MAINTENANCE TAX. (a) If
16 authorized by a majority of district voters voting in the election
17 under this section, a district may impose an operation and
18 maintenance tax on taxable property in the district in the manner
19 provided by Section 49.107, Water Code, for any district purpose,
20 including to:

21 (1) maintain and operate the district;

22 (2) construct or acquire improvements or projects; or

23 (3) provide a service.

24 (b) The board shall determine the operation and maintenance
25 tax rate. The rate may not exceed the rate approved at the election.

26 Sec. 389.253. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS
27 AND OTHER OBLIGATIONS. (a) A district may borrow money on terms

1 determined by the board.

2 (b) A district may issue bonds, notes, or other obligations
3 payable wholly or partly from ad valorem taxes, assessments, impact
4 fees, revenue, contract payments, grants, or other district money,
5 or any combination of those sources of money, to pay for any
6 authorized district purpose, including:

7 (1) paying interest on district bonds during and after
8 the period of acquisition or construction of a project;

9 (2) paying administrative and operating expenses;

10 (3) creating a reserve fund for the payment of
11 principal and interest on district bonds; and

12 (4) paying all expenses incurred and to be incurred in
13 the issuance, sale, and delivery of district bonds.

14 (c) The limitation on the outstanding principal amount of
15 bonds, notes, or other obligations provided by Section [49.4645](#),
16 Water Code, does not apply to a district.

17 Sec. 389.254. BONDS SECURED BY REVENUE OR CONTRACT
18 PAYMENTS. A district may issue, without an election, bonds secured
19 by:

20 (1) revenue other than ad valorem taxes, including
21 contract revenues; or

22 (2) contract payments, provided that the requirements
23 of Section [49.108](#), Water Code, have been met.

24 Sec. 389.255. BONDS SECURED BY AD VALOREM TAXES; ELECTIONS.

25 (a) If authorized at an election held under Section 389.251, a
26 district may issue bonds payable from ad valorem taxes.

27 (b) At the time the district issues bonds payable wholly or

1 partly from ad valorem taxes, the board shall provide for the annual
2 imposition of a continuing direct annual ad valorem tax, without
3 limit as to rate or amount, for each year that all or part of the
4 bonds are outstanding as required and in the manner provided by
5 Sections 54.601 and 54.602, Water Code.

6 (c) All or any part of any project, facility, or improvement
7 that may be acquired by a district by the issuance of its bonds may
8 be submitted as a single proposition or as several propositions to
9 be voted on at an election.

10 Sec. 389.256. CONSENT OF MUNICIPALITY REQUIRED. (a) The
11 board of a district may not issue bonds until each municipality in
12 whose corporate limits or extraterritorial jurisdiction the
13 district is located has consented by ordinance or resolution to the
14 creation of the district and to the inclusion of land in the
15 district as required by applicable law.

16 (b) This section applies only to the district's first
17 issuance of bonds payable from ad valorem taxes.

18 SUBCHAPTER G. SALES AND USE TAX

19 Sec. 389.301. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS.
20 (a) Chapter 321, Tax Code, governs the imposition, computation,
21 administration, enforcement, and collection of the sales and use
22 tax authorized by this subchapter except to the extent Chapter 321,
23 Tax Code, is inconsistent with this chapter.

24 (b) A reference in Chapter 321, Tax Code, to a municipality
25 or the governing body of a municipality is a reference to the
26 district or the board, respectively.

27 Sec. 389.302. ELECTION; ADOPTION OF TAX. (a) The district

1 may adopt a sales and use tax if authorized by a majority of the
2 voters of the district voting at an election held for that purpose.

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

7 (c) The ballot shall be printed to provide for voting for or
8 against the proposition: "Authorization of a sales and use tax in
9 the _____ County Industrial Development District No. ____ at a
10 rate not to exceed _____ percent" (insert rate of one or more
11 increments of one-eighth of one percent).

12 Sec. 389.303. SALES AND USE TAX RATE. (a) On or after the
13 date the results are declared of an election held under Section
14 389.302 at which the voters authorized the imposition of a tax, the
15 board shall provide by resolution or order the initial rate of the
16 tax, which must be in one or more increments of one-eighth of one
17 percent.

18 (b) After the authorization of a tax under Section 389.302,
19 the board may increase or decrease the rate of the tax by one or more
20 increments of one-eighth of one percent.

21 (c) The board may not decrease the rate of the tax if the
22 decrease would impair the repayment of any outstanding debt or
23 obligation payable from the tax.

24 (d) The initial rate of the tax or any rate resulting from
25 subsequent increases or decreases may not exceed the lesser of:

26 (1) the maximum rate authorized at an election held
27 under Section 389.302; or

1 (2) a rate that, when added to the rates of all sales
2 and use taxes imposed by other political subdivisions with
3 territory in the district, would result in the maximum combined
4 rate prescribed by Section 321.101(f), Tax Code, at any location in
5 the district.

6 (e) In determining whether the combined sales and use tax
7 rate under Subsection (d)(2) would exceed the maximum combined rate
8 prescribed by Section 321.101(f), Tax Code, at any location in the
9 district, the board shall include:

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

12 (2) any sales and use tax to be imposed by a
13 municipality or county as a result of an election held on the same
14 date as the election held under Section 389.302; and

15 (3) any increase to an existing sales and use tax
16 imposed by a city or county as a result of an election held on the
17 same date as the election held under Section 389.302.

18 (f) If the district adopts a sales and use tax authorized at
19 an election held under Section 389.302 and subsequently includes a
20 new territory in the district, the district:

21 (1) is not required to hold another election to
22 approve the imposition of the sales and use tax in the included
23 territory; and

24 (2) shall impose the sales and use tax in the included
25 territory as provided by Chapter 321, Tax Code.

26 (g) If the district adopts a sales and use tax authorized at
27 an election held under Section 389.302 and subsequently excludes

1 territory in the district under this section, the sales and use tax
2 is inapplicable to the excluded territory as provided by Chapter
3 321, Tax Code, but is applicable to the territory remaining in the
4 district.

5 Sec. 389.304. NOTIFICATION OF RATE CHANGE. The board shall
6 notify the comptroller of any changes made to the tax rate under
7 this subchapter in the same manner the municipal secretary provides
8 notice to the comptroller under Section 321.405(b), Tax Code.

9 Sec. 389.305. USE OF REVENUE. Revenue from the sales and
10 use tax imposed under this subchapter is for the use and benefit of
11 the district and may be used for any district purpose. The district
12 may pledge all or part of the revenue to the payment of bonds,
13 notes, or other obligations, and that pledge of revenue may be in
14 combination with other revenue, including tax revenue, available to
15 the district.

16 Sec. 389.306. ABOLITION OF TAX. (a) Except as provided by
17 Subsection (b), the board may abolish the tax imposed under this
18 subchapter without an election.

19 (b) The board may not abolish the tax imposed under this
20 subchapter if the district has any outstanding debt or obligation
21 secured by the tax, and repayment of the debt or obligation would be
22 impaired by the abolition of the tax.

23 (c) If the board abolishes the tax, the board shall notify
24 the comptroller of that action in the same manner as the municipal
25 secretary provides notice to the comptroller under Section
26 321.405(b), Tax Code.

27 (d) If the board abolishes the tax or decreases the tax rate

1 to zero, a new election to authorize a sales and use tax must be held
2 under Section 389.302 before the district may subsequently impose
3 the tax.

4 SUBCHAPTER H. DISSOLUTION

5 Sec. 389.351. DISSOLUTION. (a) A district may be dissolved
6 only as provided by this section.

7 (b) The board may petition the commissioners court to
8 dissolve the district if a majority of the board finds at any time:

9 (1) before the authorization of bonds or the final
10 lending of its credit, that a proposed undertaking of the district
11 is impracticable or cannot be successfully and beneficially
12 accomplished; or

13 (2) that all bonds of the district or other debts of
14 the district have been paid and the purposes of the district have
15 been accomplished.

16 (c) On receipt of a petition from the board for dissolution
17 of the district, the commissioners court shall hold a hearing.

18 (d) If the commissioners court determines from the evidence
19 that the best interests of the county and the owners of property and
20 interests in property within the district will be served by
21 dissolving the district, the commissioners court shall enter in its
22 records the appropriate findings and order dissolving the district.
23 Otherwise the commissioners court shall enter its order providing
24 that the district has not been dissolved. On dissolution of the
25 district, funds and property of the district, if any, shall be
26 transferred to the commissioners court.

27 SECTION 2. This Act takes effect immediately if it receives

C.S.H.B. No. 4308

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2025.