

SUBJECT: Revising requirements for agricultural development districts

COMMITTEE: Agriculture and Livestock — Reported favorably without amendments

VOTE: 5 ayes — Hardcastle, Miller, Brown, D. Jones, Laney
0 nays
2 absent — Burnam, Swinford

WITNESSES: For — (*Registered but did not testify:*) Bob Turner, Texas Sheep and Goat Raisers Association
Against — None

BACKGROUND: In 2001, the 77th Legislature enacted HB 1880 by Swinford, the Agricultural Development District Act (Agriculture Code, ch. 60). An agricultural development district (ADD) is a special purpose district formed voluntarily by property owners who vote to do so under the auspices of county commissioners courts. ADDs may be non-contiguous, crossing county and precinct lines, and may issue bonds and use other fiscal tools to provide economic incentives for agri-business enterprises. Sec. 60.063 requires sellers or conveyors of real property located in ADDs to disclose that fact to prospective buyers in writing before the execution of binding contracts.

DIGEST: CSHB 3383 would specify the information ADDs must file with appropriate governmental entities; create an exception to the requirement of sellers' notice to purchasers; and exempt sparsely populated ADDs from holding elections on uniform dates.

Each ADD would have to file an accurate map or plat showing its boundaries; a copy of the form for required notice to purchasers; and an information form with the Texas Department of Agriculture (TDA) and the clerks of each county in which all or part of the ADD was located. The information form would have to contain the ADD's name; a complete and accurate legal description of its boundaries; its most recent assessment rate; the total amount of any voter-approved bonds (other than refunding bonds or bonds payable

solely from revenues received under contract with a governmental entity); the election date on which the ADD was created; and a statement of the ADD's functions. ADDs established on or before October 1, 2003, would have to file information forms by October 3, 2003.

Each ADD board officer and a majority of each ADD's board members would have to sign the information form and the map or plat before filing. Board members and each officer also would have to sign each amendment to the form, map, or plat. Forms would have to be filed no later than 48 hours after certification of results of the election to create the ADD. Amendments would have to be filed within seven days of any changes to forms, maps, or plats.

An election to create an ADD would not have to be held on one of the uniform election dates specified in Election Code, sec. 41.001(a), if the proposed district contained 25 or fewer registered voters.

Boards of ADDs that were dissolved, annexed, or consolidated would have to file statements of the effective dates of those actions. Sellers or conveyors of property in such districts would be exempt from the disclosure requirement.

A seller would not have to notify a prospective buyer that real property for sale was in an ADD if the seller had a written contractual obligation to furnish the buyer with title insurance commitments before closing and the buyer was entitled to terminate the contract because the property was located in an ADD. ADD boards would have to prescribe forms for sellers' notice to purchasers by September 30, 2003.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 3383 would conform statutory requirements for ADDs to similar provisions governing other special-purpose districts. The bill would address concerns raised by property owners, prospective buyers, real estate professionals, title insurers, and others about locating and obtaining information on newly created ADDs.

Current law allows property owners to ask county commissioners to call elections to create ADDs, which provide incentives for developing agricultural operations and facilities. Unlike some other special-purpose

districts, ADDs have no direct impact on nonparticipants, so elections are not countywide or open to all registered voters. Only property owners who voluntarily seek to join an ADD may vote in an election to create a district, which may be noncontiguous across county and precinct boundaries. ADDs may issue tax abatements, provide legal services, and levy assessments on real property or on agricultural products produced on real property within their boundaries to defray costs. To date, no ADDs have been formed, and no elections to create any have been called.

Most ADDs would be located in sparsely populated rural areas. It is not uncommon for such areas to have 25 or fewer registered voters. Requiring elections to create ADDs to be held on uniform dates could delay their formation unnecessarily, perhaps inhibiting economic growth through lost development opportunities.

By requiring ADDs to report both to TDA and to the clerks of counties in which they operate, CSHB 3383 would help ensure public access to important information. Many rural communities where ADDs are likely to be located lack broadband access, so an Internet posting requirement would be impracticable and of little use locally. Newspaper notices also would be of minimal benefit because they are not permanent records easily accessible.

Prospective buyers need to be aware of any ADD assessments, land-use regulations, or economic development incentives that apply to property for sale in ADDs.

**OPPONENTS
SAY:**

If the goal of the bill is greater public access to information, it should require ADD information to be posted on the Internet, either by TDA or by individual ADDs, or at least in local newspapers of record.

NOTES:

As filed, HB 3383 did not contain the exception to seller notice requirements based on sellers' title insurance commitments and purchasers' contract termination rights. It also would have proposed an immediate effective date. The committee substitute also would correct some statute citations.