

BILL ANALYSIS

Senate Research Center
80R8708 MXM-F

S.B. 1421
By: Wentworth
Finance
3/28/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The cultural and scientific facilities of Texas are a source of knowledge for all Texans and are also a significant part of economic development since they attract visitors and encourage new businesses. The creation of scientific and cultural districts will promote the development of these facilities and improve a region's ability to access the knowledge and inspiration that these facilities provide.

As proposed, S.B. 1421 authorizes the most populous county within a Council of Government region to create a scientific and cultural district, and to serve as the lead government entity of the district. Authorizes a district created under this Act to impose a sales tax in the district, if approved by voters in the district.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of directors of a scientific and cultural facilities district in SECTION 2 (Section 337.152, Local Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. FINDINGS. Provides that the legislature finds that the scientific and cultural facilities located in this state are a rich source of inspiration and knowledge to this state, the preservation and development of this state's scientific and cultural facilities are vital to the cultural and economic life and well-being of this state, and the creation of scientific and cultural facilities districts in this state will promote the health, safety, and welfare of the residents of this state.

SECTION 2. SCIENTIFIC AND CULTURAL FACILITIES DISTRICTS. Amends Subtitle C, Title 10, Local Government Code, by adding Chapter 337, as follows:

CHAPTER 337. SCIENTIFIC AND CULTURAL FACILITIES DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 337.001. DEFINITIONS. Defines "board," "director," "district," "executive director," "lead governmental entity," and "region."

Sec. 337.002. NATURE OF DISTRICT. Provides that a district is a special district and a political subdivision of this state (district).

Sec. 337.003. SUPPORT AND MAINTENANCE OF SCIENTIFIC OR CULTURAL FACILITY. Requires a district to assist in the development and diversification of the economy of this state by helping to equip, support, and maintain a facility having as its primary purpose the advancement and preservation of zoology, botany, anthropology, cultural history, or natural history, or art, music, theater, or dance.

[Reserves Sections 337.004-337.020 for expansion.]

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 337.021. COUNCIL OF GOVERNMENT REGIONS. Authorizes each region to create not more than one district.

Sec. 337.022. ROLE OF LEAD GOVERNMENTAL ENTITY. (a) Authorizes a district to be created by the most populous county in a region that, by resolution, assumes the role of a lead governmental entity under this chapter (lead governmental entity) and proposes the creation of a district for specific contiguous counties in the region that by resolution agree to have their territory in the district.

(b) Authorizes the governing body of the most populous county in a region to adopt a resolution under Subsection (a) on its own motion or after a hearing held on a petition requesting the creation of a district.

Sec. 337.023. TERRITORY INCLUDED IN DISTRICT. (a) Requires the lead governmental entity to describe the initial district territory, which must include all territory of each county in the region that agrees to have its territory in the district under Section 337.022.

(b) Authorizes the district to include incorporated or unincorporated territory and any contiguous territory in one or more counties in the region that agree to have the counties' territory in the district under Section 337.022.

Sec. 337.024. CONFIRMATION ELECTION REQUIRED. Authorizes a district to be created only if confirmed at an election held for the purpose of confirming the creation of the district and approving a sales tax in the district.

Sec. 337.025. PAYMENT OF CONFIRMATION ELECTION COSTS. Prohibits the lead governmental entity from ordering the confirmation election until the entity deposits with the county clerk an amount of money equal to the cost of conducting the confirmation election, as computed by the county clerk.

Sec. 337.026. ORDERING CONFIRMATION ELECTION. (a) Authorizes the lead governmental entity to order a confirmation election to confirm the district's creation and to confirm the imposition of a sales tax in the proposed district.

(b) Requires the election order, in addition to the elements required to be included by the Election Code, to state the ballot proposition stating the measure to be voted on, the hours that the polls will be open, and the location of each polling place.

Sec. 337.027. NOTICE OF CONFIRMATION ELECTION. (a) Requires the lead governmental entity to give notice of the election by publishing a substantial copy of the election order once a week for two consecutive weeks in a newspaper with general circulation in each county in which the proposed district is located.

(b) Requires the notice to be published not earlier than the 30th day and not later than the 10th day before election day.

Sec. 337.028. BALLOT PROPOSITION. Sets forth the required language for the ballot.

Sec. 337.029. RESULTS OF CONFIRMATION ELECTION. (a) Requires the lead governmental entity, if a majority of the voters voting in the election favor the creation of the district and the adoption of a sales tax, to declare by resolution or order that the district is created, and to declare the rate of the sales tax adopted and enter the result in its minutes.

(b) Requires the lead governmental entity, if a majority of the voters voting in the election do not favor the creation of the district, to declare the measure defeated and enter the result in its minutes.

(c) Requires an order under Subsection (a) to contain a description of the district's boundaries and a map of the district, and to state the election date and the total number of votes cast for and against the ballot proposition.

(d) Requires the lead governmental entity to file in the deed records of each county in which the district is located a resolution or order issued under Subsection (a).

Sec. 337.030. INITIAL BOARD AND PRESIDING OFFICER. (a) Requires the initial directors to agree to stagger their terms, and provides that the initial directors' appointments are made as provided by Subchapter C with four terms expiring in two years and three terms expiring in one year. Requires the directors to draw lots to determine the staggering, if the directors cannot agree on the initial staggering.

(b) Requires the lead governmental entity to appoint the board's initial presiding officer to serve a two-year term in that capacity. Provides that the requirement of Section 337.056 that the board elect the presiding officer does not apply to the presiding officer appointed under this subsection.

Sec. 337.031. REPAYMENT OF ORGANIZATIONAL EXPENSES. (a) Authorizes the district to pay all costs and expenses necessarily incurred in the creation and organization of the district, and reimburse any person for money advanced for the aforementioned costs and expenses.

(b) Authorizes payments under this section to be made from money obtained from taxes or other district revenue.

[Reserves Sections 337.032-337.050 for expansion.]

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 337.051. GOVERNING BODY. Provides that a district is governed by a seven-member board. Provides that the board has control over, and requires the board to manage, the affairs of the district.

Sec. 337.052. APPOINTMENT. (a) Requires the lead governmental entity to appoint four directors to the board.

(b) Requires the most populous municipality in the district to appoint three directors to the board.

Sec. 337.053. ELIGIBILITY FOR APPOINTMENT. Sets forth the eligibility requirements for a person to be appointed to the board.

Sec. 337.054. TERMS. Provides that directors serve staggered two-year terms.

Sec. 337.055. VACANCY. Requires that a vacancy on the board be filled by appointment for the remainder of the unexpired term by the governmental entity that appointed the vacating director.

Sec. 337.056. OFFICERS. (a) Requires the board to elect a director to serve as the board's presiding officer. Provides that the presiding officer presides at all board meetings and is the chief executive officer of the district.

(b) Requires the board to elect from among its members a vice presiding officer, a secretary, and any other officers the board considers necessary.

(c) Provides that the vice presiding officer acts as the presiding officer if the presiding officer is incapacitated or absent from a meeting.

(d) Provides that the secretary acts as the presiding officer if both the presiding officer and the vice presiding officer are incapacitated or absent from a meeting.

Sec. 337.057. MEETINGS AND NOTICE. (a) Authorizes the board to establish regular meetings to conduct district business and to hold special meetings at other times as the business of the district requires.

(b) Requires the board to hold its meetings at a designated meeting place.

Sec. 337.058. CONFLICT OF INTEREST IN CONTRACT. (a) Provides that for the purpose of this section, a director who is an employee of or a director related within the second degree by affinity or consanguinity as determined under Subchapter B, Chapter 573 (Relationships by Consanguinity or by Affinity), Government Code, to a person who is financially interested in a contract is considered to be financially interested in a contract.

(b) Prohibits a director who is financially interested in a contract to vote on the acceptance of the contract or participate in the discussion on the contract.

(c) Requires a director who is financially interested in a contract with the district to disclose that fact to the other directors. Requires the disclosure to be entered into the minutes of the meeting.

(d) Provides that the failure of a director to disclose the director's financial interest in a contract and to have the disclosure entered in the minutes invalidates the contract.

[Reserves Sections 337.059-337.100 for expansion.]

SUBCHAPTER D. OTHER ADMINISTRATIVE PROVISIONS

Sec. 337.101. BYLAWS. Authorizes the board to adopt bylaws to govern certain activities.

Sec. 337.102. EMPLOYEES. (a) Authorizes the board to employ any person the board considers necessary for conducting the district's affairs.

(b) Authorizes the board to remove any employee.

Sec. 337.103. EXECUTIVE DIRECTOR. (a) Authorizes the board to employ an executive director to administer the affairs of the district under policies and requirements established by the board.

(b) Requires the board to set the compensation of the executive director.

(c) Authorizes the board to delegate to the executive director the board's authority to hire, establish the compensation of, review the performance of, discipline, or remove a district employee.

Sec. 337.104. BOND. Authorizes the board to require an officer or employee to execute a bond payable to the district and conditioned on the faithful performance of the person's duties.

Sec. 337.105. EMPLOYEE PLANS. (a) Authorizes the board to provide for and administer a workers' compensation, health benefit, retirement, disability, or death compensation plan for district employees.

(b) Authorizes the board to adopt a plan to accomplish the purpose of this section.

(c) Authorizes the board, after notice and a hearing, to change any plan or rule adopted under this section.

Sec. 337.106. RECORDS; SECRETARY. (a) Provides that the secretary is responsible for ensuring that all district books and other records are properly maintained.

(b) Authorizes the board to appoint the executive director or an employee as assistant or deputy secretary to assist the secretary in performing the secretary's duties under this section. Authorizes the assistant or deputy secretary to certify the authenticity of any district record.

[Reserves Sections 337.107-337.150 for expansion.]

SUBCHAPTER E. POWERS AND DUTIES

Sec. 337.151. GENERAL POWERS OF DISTRICT. Provides that a district has all authority necessary to accomplish district purposes.

Sec. 337.152. RULES; VIOLATION OF RULES. (a) Authorizes the board to adopt reasonable rules to accomplish district purposes.

(b) Authorizes the board to set monetary charges in reasonable amounts for the violation of a district rule.

Sec. 337.153. DETERMINATION OF FACILITY ELIGIBILITY FOR MONEY; ALLOCATION. (a) Requires the board to determine the eligibility of a scientific cultural facility, including a museum or zoo, to receive money distributed under this chapter. Requires the board, in making the determination, to consider the facility's financial and organizational capacity to spend tax dollars to serve the public purpose of the district and achieve the facility's mission.

(b) Authorizes the district to allocate money to equip, support, or maintain a scientific or cultural facility described by Section 337.003 only if the facility meets certain requirements.

(c) Requires the board to allocate money, including sales tax revenue, to a scientific or cultural facility based on the facility's annual operating income, annual paid attendance, accessibility, quality, and need.

Sec. 337.154. CONTRACTS. Authorizes a district to contract with any person for any district purpose.

Sec. 337.155. SUITS. (a) Authorizes a district to sue and be sued in any court of this state in the district's name.

(b) Requires a court of this state to take judicial notice of the district's establishment.

(c) Provides that a district is not required to give security for costs in a suit or to give a supersedeas or cost bond in an appeal of a judgment.

Sec. 337.156. EXPANSION OF DISTRICT. (a) Authorizes the district to expand to include additional territory if the commissioners court of the county in which the territory is located holds an election for that purpose in the territory to be added to the district.

(b) Provides that if a majority of the voters voting at the expansion election approve the expansion of the district, the territory of the district is expanded.

[Reserves Sections 337.157-337.200 for expansion.]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 337.201. BORROWING. Authorizes a district to borrow money.

Sec. 337.202. DEPOSITORY. (a) Requires the board to designate one or more banks inside or outside of the district to serve as the depository bank.

(b) Requires the district to deposit district tax revenue in a depository bank.

Sec. 337.203. ACCOUNTS AND RECORDS; AUDITS. (a) Requires the district to keep a complete system of accounts.

(b) Requires the district to have an annual audit of the district affairs performed by an independent certified public accountant.

(c) Requires the district to have a signed copy of the audit report delivered to each director not later than the 120th day after the closing date of each fiscal year.

(d) Requires a copy of the audit report to be kept on file at the district office and to be made available for inspection by any interested person during regular business hours.

Sec. 337.204. GRANTS AND DONATIONS. Authorizes a district to accept and administer a grant or donation from any source for any district purpose.

[Reserves Sections 337.205-337.250 for expansion.]

SUBCHAPTER G. SALES AND USE TAX

Sec. 337.251. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF SALES AND USE TAX. (a) Authorizes a district to impose a sales and use tax.

(b) Provides that Chapter 321 (Municipal Sales and Use Tax), Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the sales and use tax under this subchapter, and sets forth the sections of Chapter 321, Tax Code, that do not apply.

(c) Provides that Chapter 321, Tax Code, does not apply to the use and allocation of revenue under this chapter.

(d) Requires that, in applying the procedures under Chapter 321, Tax Code, to the district, the district's name be substituted for "the municipality" and "board of directors" be substituted for "governing body."

Sec. 337.252. SALES AND USE TAX RATES. Provides that the permissible rates for a sales and use tax imposed under this chapter are one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, and one-half of one percent.

Sec. 337.253. USE OF SALES AND USE TAX. Authorizes a sales and use tax collected under this subchapter to be used only for a district purpose. Authorizes such sales and use tax to be pledged as collateral for borrowing money to further those purposes.

SECTION 3. EFFECTIVE DATE. Effective date: upon passage or September 1, 2007.