BILL ANALYSIS

Senate Research Center

H.B. 2316
By: Coleman (West)
Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Local governments such as counties are governed by a myriad of statutes relating to functions and authority and clarification of these statutes is often necessary. Moreover, it is crucial that a local government maximize available resources since local governmental services directly impact the welfare to the public.

H.B. 2316 amends current law relating to county powers, duties, and services, including the powers and duties of certain districts, and the authorization of certain health care programs and studies.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 26.13, Code of Criminal Procedure, by adding Subsection (j), as follows:

> (j) Authorizes a person who is incarcerated in a facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ) to submit a plea of guilty or plea of nolo contendere regarding a misdemeanor charge in writing, transmitted by mail, facsimile, or other means. Requires the court, before accepting a plea under this subsection, to make the admonitions required by this article to the defendant in writing as provided by Subsection (d).

SECTION 2. Amends Section 31.037, Election Code, as follows:

> Sec. 31.037. New heading: SUSPENSION OR TERMINATION OF EMPLOYMENT. Authorizes the employment of the county elections administrator to be suspended, with or without pay, or terminated at any time for good and sufficient cause on the four-fifths vote of the county election commission and approval of that action by a majority vote of the commissioners court.

SECTION 3. Amends Section 552.116(a), Government Code, as follows:

> (a) Provides that an audit working paper of an audit of the state auditor or the auditor of a state agency, an institution of higher education as defined by Section 61.003 (Definitions), Education Code, a county, a municipality, a school district, a hospital district, or a joint board operating under Section 22.074 (Joint Board), Transportation Code, including any audit relating to the criminal history background check of a public school employee, is excepted from the requirements of Section 552.021 (Availability of Public Information).

SECTION 4. Amends Section 61.002(5), Health and Safety Code, to redefine "general revenue levy."

SECTION 5. Amends Section 363.156(b), Local Government Code, as follows:

(b) Prohibits the board of directors of a district (board), to the extent competitive bidding procedures in Title 8 apply, from entering purchasing contracts that involve spending more than $50,000, rather than more than $25,000, unless the board complies with:

(1) Subchapter C (Competitive Bidding in General), Chapter 262 (Purchasing and Contracting Authority of Counties), if the district was created by a county; or

(2) Chapter 252 (Purchasing and Contracting Authority of Municipalities), if the district was created by a municipality.

SECTION 6. Amends Section 382.002, Local Government Code, as follows:

Sec. 382.002. APPLICABILITY. Provides that this chapter applies only to:

(1) a county with a population of 1.5 million or more, rather than 825,000 or more, other than a county that borders on the Gulf of Mexico or a bay or inlet of the gulf; or has two municipalities located wholly or partly in its boundaries each having a population of 225,000 or more, rather than 300,000 or more; or

(2) Makes no changes to this subdivision.

SECTION 7. Amends Subchapter C, Chapter 382, Local Government Code, by adding Section 382.113, as follows:

Sec. 382.113. ANNEXATION OR EXCLUSION OF LAND. (a) Authorizes a district to annex or exclude land from the district as provided by Subchapter J (Annexation of Exclusion of Land), Chapter 49 (Provisions Applicable to all Districts), Water Code.

(b) Requires the district, before a district is authorized to adopt an order adding or excluding land, to obtain the consent of:

(1) the county that created the district by a resolution of the county commissioners court; and

(2) a municipality in whose extraterritorial jurisdiction the district is located by a resolution adopted by the municipality's governing body.

SECTION 8. Amends Sections 382.155(b) and (d), Local Government Code, as follows:

(b) Requires a district, if authorized by a county, to impose a hotel occupancy tax in the same manner as provided by Chapter 383, Local Government Code, and Section 352.107, Tax Code. Authorizes a hotel occupancy tax, except as provided by Subsection (d), to be used only:

(1) for a purpose described by Chapter 352 (County Hotel Occupancy Taxes), Tax Code, rather than may be used for any purpose authorized in this chapter; and

(2) to encourage the development or operation of a hotel in the district, including an economic development program for or a grant, loan, service, or improvement to a hotel in the district, rather than is authorized by the county to be imposed by the district.

(d) Authorizes a district to impose a hotel occupancy tax on the occupants of a hotel and use the revenue from the tax for any purpose authorized by this chapter if the owner of the hotel agrees to the imposition of the tax, rather than prohibiting a hotel occupancy tax from being imposed on the occupants of the hotel unless the owner of the hotel agrees to the imposition of the hotel occupancy taxes under this chapter. Deletes existing text

authorizing the district, after an agreement under this section, to impose hotel occupancy taxes as provided by this chapter.

SECTION 9. Amends Section 387.003, Local Government Code, by amending Subsections (a), (b), (b-1), (c), (e), (f), and (h) and adding Subsections (a-1), (i), and (j), as follows:

(a) Authorizes the commissioners court of the county to call an election on the question of creating a county assistance district under this chapter. Authorizes more than one county assistance district to be created in a county.

(a-1) Creates this subsection from existing text. Authorizes a district 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) Requires the order calling the election to:

(1) define the boundaries of the district to include any portion of the county in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would not exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 (Tax Authorized) and 323.101 (Tax Authorized), Tax Code, rather than would not exceed two percent; and

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

(b-1) Authorizes the territory of a municipality that is excluded under this subsection to subsequently be included in:

(1) the district in an election held under Subsection (f) with the consent of the municipality; or

(2) another district after complying with the requirements of this subsection and after an election under Subsection (f).

(c) Requires that the ballot at the election be printed to permit voting for or against the proposition: "Authorizing the creation of the ____ County Assistance District No.___ (insert name of district) and the imposition of a sales and use tax at the rate of ____ percent (insert appropriate rate) for the purpose of financing the operations of the district." Deletes existing text providing that the rate of imposition of the sales tax is one-eighth, one-fourth, three-eighths, or one-half.

(e) Provides that if a majority of the votes received at the election are against the creation of the district, the district is not created and the county at any time may call one or more elections on the question of creating one or more county assistance districts. Deletes existing text prohibiting another election from being held on the question of creating a county assistance program in the county before the first anniversary of the most recent election concerning the creation of a district, if a majority of the voters received at the election are against the creation of the district.

(f) Prohibits an election from being held in an area in which the combined tax rate of all local sales and use taxes imposed, including the rate to be imposed by the district if approved at the election, would exceed the maximum combined rate of sales and use taxes imposed by political subdivisions of this state that is prescribed by Sections 321.101 and 323.101, Tax Code. Makes a conforming change.

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

(i) Authorizes the governing body of a district by order, in addition to the authority to include an area in a district under Subsection (f), to include an area in the district on receipt of a petition or petitions signed by the owner or owners of the majority of the land in the area to be included in the district. Provides that if there are no qualified voters in the area to be included in the district, no election is required.

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

SECTION 10. Amends Section 387.005, Local Government Code, as follows:

Sec. 387.005. GOVERNING BODY. (a) Requires the commissioners court of the county in which the district is created by order to provide that:

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

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

(b) Provides that a member of the governing body of the district is not entitled to compensation for service, rather than a member of the commissioners court is not entitled to compensation for service on the governing body of the district, but is entitled to reimbursement for actual and necessary expenses.

(c) Requires a board of directors appointed by the commissioners court under this section to consist of five directors who serve staggered terms of two years. Requires a person, to be eligible to serve as a director, to be at least 18 years of age and a resident of the county in which the district is located. Requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving one-year terms and two of the directors serving two-year terms.

SECTION 11. Amends Section 387.006(a), Local Government Code, as follows:

(a) Authorizes a district to:

(1)-(5) Makes no changes to these subdivisions; and

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

SECTION 12. Amends Section 387.007, Local Government Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Prohibits a district from adopting a sales and use tax under this chapter if the adoption of the tax would result in a combined tax rate of all local sales and use taxes that

would exceed the maximum combined rate prescribed by Sections 321.101 and 323.101, Tax Code, in any location in the district. Makes a conforming change.

(c) Authorizes a district to define areas in the district to pay for improvements, facilities, or services that primarily benefit that area and do not generally and directly benefit the district as a whole. Authorizes the district to impose different rates of sales and use tax in each defined area, provided that the sales and use tax rate does not exceed the rate approved at an election held under Section 387.003.

SECTION 13. Amends Section 387.009, Local Government Code, to require the rate of a tax adopted under this chapter to be in increments of one-eighth of one percent, rather than be one-fourth, three-eighths, or one-half of one percent.

SECTION 14. Amends Sections 387.010(a), (b), and (c), Local Government Code, as follows:

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

(1) reduce, rather than change, the rate of the tax or repeal the tax without an election, except that the district may not repeal the sales and use tax or reduce the rate of the sales and use tax below the amount pledged to secure payment of an outstanding district debt or contractual obligation;

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

(3) increase the rate of the sales and use tax to a rate that exceeds the rate approved at an election held under Section 387.003 after the increase, rather than change or repeal, is approved by a majority of the votes received in the district at an election held for that purpose.

(b) Authorizes the tax to be changed under Subsection (a) in one or more increments of one-eighth of one percent, rather than authorizing it to be changed to a maximum of one-half of one percent.

(c) Requires that the ballot for an election to increase the tax be printed to permit voting for or against the proposition: "The increase of a sales and use tax for the ____ County Assistance District No. ___ (insert name of district) from the rate of ____ percent (insert appropriate rate) to the rate of ____ percent (insert appropriate rate)." Makes conforming and nonsubstantive changes.

SECTION 15. Amends Section 387.012, Local Government Code, as follows:

Sec. 387.012. EFFECTIVE DATE OF TAX. Provides that the adoption of the tax, the increase or reduction of the tax rate, or the repeal of the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete quarter occurring after the date the comptroller receives a copy of the order of the district's governing body, rather than a notice of the results of the election, adopting, increasing, reducing, or repealing the tax. Makes conforming and nonsubstantive changes.

SECTION 16. Amends Section 3815.051(a), Special District Local Laws Code, to provide that the district is governed by a board of 17 directors, rather than 21 directors', who serve staggered terms of four years, with eight directors', rather than 10 directors', terms expiring June 1 of an odd-numbered year and nine directors', rather than 11, terms expiring June 1 of the following odd-numbered year.

SECTION 17. Amends Subchapter B, Chapter 3815, Special District Local Laws Code, by adding Section 3815.055, as follows:

Sec. 3815.055. INTERIM DIRECTORS. (a) Provides that the board serving on September 1, 2011, is abolished and is replaced by an interim board consisting of certain named directors.

(b) Provides that the terms of the interim directors expire June 1, 2015.

(c) Requires the mayor and the members of the governing body of the City of Houston to appoint successor directors not later than June 1, 2015, and to stagger the terms of the directors, with eight of the directors' terms expiring June 1, 2017, and the remaining directors' terms expiring June 1, 2019.

(d) Provides that this section expires September 1, 2015.

SECTION 18. (a) Requires the Health and Human Services Commission (HHSC) to study the health care delivery systems used by health care providers who are not physicians.

(b) Requires the study to examine using health care providers who are not physicians to perform basic emergency and non-emergency health care services and preventive health care services within the scope of the health care providers' practice and license, including evaluating:

(1) the potential cost savings of health care providers who are not physicians performing these health care services;

(2) any projected increase in access to health care services for underserved communities; and

(3) any projected impact on the quality of care for persons treated by health care providers who are not physicians.

(c) Requires the study conducted under this section to specifically address the potential cost savings and other foreseeable consequences of expanding the authority of advanced practice nurses to prescribe medication to patients.

(d) Requires HHSC, in conducting the study under this section, to consult with:

(1) the Texas Medical Board;

(2) the Texas Board of Nursing;

(3) the Texas Physician Assistant Board;

(4) the Midwifery Board;

(5) the Texas State Board of Podiatric Medical Examiners;

(6) the Texas Board of Chiropractic Examiners;

(7) the Texas Optometry Board; and

(8) any other regulatory body or professional association that the department determines would be beneficial to consult for the purposes of this study.

(e) Requires HHSC to submit a report to the legislature on the results of the study conducted under this section not later than December 31, 2012. Requires the report to include any recommendations for potential legislation relating to health care providers who are not physicians.

(f) Provides that this section expires September 1, 2013.

SECTION 19. (a) Provides that an interim committee on health care professionals (committee) is created to conduct a study of:

> (1) the value of health care professionals in cost containment and access to health care; and
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> (2) potential health care delivery systems that include multiple types of providers.

> (b) Provides that the committee is composed of five members as follows:
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>> (1) two members appointed by the lieutenant governor, one of whom must be a senator and one of whom must be a member of the public; and
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>> (2) three members appointed by the speaker of the house of representatives, two of whom must be representatives and one of whom must be a member of the public.

> (c) Requires the committee to select a presiding officer and convene at the call of the presiding officer.

> (d) Provides that the committee has all other powers and duties provided to a special or select committee by the rules of the senate and house of representatives, by Subchapter B (Legislative Reorganization Act), Chapter 301 (Legislative Organization), Government Code, and by policies of the senate and house committees on administration.

> (e) Provides that, from the contingent expense fund of the senate and the contingent expense fund of the house of representatives equally, the members of the committee are entitled to reimbursement for expenses incurred in carrying out this section in accordance with the rules of the senate and house of representatives and the policies of the senate and house committees on administration.

> (f) Requires the committee, not later than December 1, 2012, to report the committee's findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor. Requires the committee to include in its recommendations specific statutory and rule amendments that appear necessary from the results of the committee's study conducted under Subsection (a) of this section.

> (g) Requires the lieutenant governor and the speaker of the house of representatives, not later than November 1, 2011, to appoint the members of the interim committee created under this section.

> (h) Provides that this section expires September 1, 2013.

SECTION 20. (a) Provides that the legislature validates and confirms all governmental acts and proceedings before the effective date of this Act of a district created under Chapter 382, Local Government Code, transferred from Subchapter C, Chapter 372, Local Government Code, by Chapter 87 (S.B. 1969), Acts of the 81st Legislature, Regular Session, 2009, before the effective date of this Act, including acts of the district's board of directors.

> (b) Provides that Subsection (a) does not apply to a matter that on the effective date of this Act:
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>> (1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final court judgment; or
>>
>> (2) has been held invalid by a final court judgment.

SECTION 21. (a) Makes application of Article 26.13(j), Code of Criminal Procedure, as added by this Act, prospective.

(b) Provides that the change in law made by Section 552.116, Government Code, as amended by this Act, applies to an audit working paper created before, on, or after the effective date of this Act.

(c) Makes application of Section 363.156, Local Government Code, as amended by this Act, prospective.

SECTION 22. Repealer: Section 387.010(d) (relating to language required to be printed on proposition), Local Government Code.

SECTION 23. Effective date: September 1, 2011.