

BILL ANALYSIS

Senate Research Center
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S.B. 520
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Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under Chapter 387 (County Assistance District), Local Government Code, it is unclear whether a county may establish more than one county assistance district. It is also unclear whether the county has the authority to add land or exclude land from a county assistance district. There are also questions relating to sales and use tax issues and the county commissioners court serving as the board of the district.

S.B. 520 would amend Chapter 387, Local Government Code, by clarifying a county's authority to create more than one district in the county and whether the county has the authority to add land to or exclude land from a county assistance district. The bill allows the county to establish the maximum sales and use tax that may be levied by a county assistance district in accordance with the limitations of general law and authorizes a commissioners court to choose to appoint directors to serve on the board of directors of a district.

As proposed, S.B. 520 amends current law relating to the creation, administration, powers, and duties of a county assistance district.

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 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 that the order calling the election:

(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 held under Subsection (f).

(c) Requires that the ballot at the election be printed to permit voting for or against the proposition. Sets forth the required language of the ballot.

(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. Provides that the failure to approve the creation of a district under this subsection does not affect the authority of the county to call one or more elections on the question of creating one or more county assistance districts. Deletes existing text prohibiting another election on the question of creating a county assistance district from being held in the county before the first anniversary of the most recent election concerning the creation of a district, if a majority of the votes 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, rather than prohibiting 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 two percent.

(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, rather than two percent, only a tax authorized at an election under this section may be imposed.

(i) Authorizes the governing body of a district, in addition to the authority to include an area in a district under Subsection (f), to by order 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 registered 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 2. 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 but is entitled to reimbursement for actual and necessary expenses, rather than provides that 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 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 3. Amends Section 387.006(a), Local Government Code, as follows:

(a) Authorizes a district to:

(1) perform any act necessary to the full exercise of the district's functions;

(2) accept a grant or loan from:

(A) the United States;

(B) an agency or political subdivision of this state; or

(C) a public or private person;

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

(4) employ necessary personnel;

(5) adopt rules to govern the operation of the district and its employees and property; 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.

Makes nonsubstantive changes.

SECTION 4. 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, rather than two percent, in any location in the district.

(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. Prohibits the sales and use tax rate in each area from exceeding the

rate approved at an election held under Section 387.003 (Creation and Functions of District).

SECTION 5. Amends Section 387.009, Local Government Code, as follows:

Sec. 387.009. TAX RATE. Requires that the rate of a tax adopted under this chapter be in increments of one-eighth of one percent, rather than one-eighth, one-fourth, three-eighths, or one-half of one percent.

SECTION 6. 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) (relating to prohibiting a district from adopting a sales and use tax under this chapter if its adoption would result in a combined tax rate of all local sales and use taxes of more than two percent in any location in the district):

(1) reduce 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 is approved by a majority of the votes received in the district at an election held for that purpose.

Deletes existing text authorizing a district that has adopted a sales and use tax under this chapter to, by order and subject to Section 387.007(b), change the rate of the tax or repeal the tax if the 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 in one or more increments of one-eighth of one percent to a maximum of one-half of one percent.

(c) Requires that the ballot for an election to increase, rather than change, the tax be printed to permit voting for or against the proposition. Sets forth the required language of the ballot.

SECTION 7. 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 of public accounts receives a copy of the order of the district's governing body adopting, increasing, reducing, or repealing the tax, rather than after the date the comptroller receives a notice of the results of the election adopting, changing, or repealing the tax.

SECTION 8. Repealer: Section 387.010(d) (relating to the required language on the ballot for the election to repeal a sales or use tax), Local Government Code.

SECTION 9. Effective date: upon passage or September 1, 2011.