

BILL ANALYSIS

Senate Research Center

S.B. 1674
By: Barrientos
Finance
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As Filed

DIGEST

Currently, there is no provision in Texas law that allows residents of a community to vote to tax themselves to support a library through a library district, even though many Texans live in suburban or rural areas and do not enjoy a city- or county-supported library system. This bill would provide a mechanism for residents of communities without a municipal public library to create a library district to support the educational, informational, and literary needs of citizens in such areas.

PURPOSE

As proposed, S.B. 1674 provides for the creation of library districts and sets forth the requirements for creating such districts.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of trustees of a library district under SECTION 1 (Sections 326.062, 326.064 and 362.094, Local Government Code) of this bill

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 10B, Local Government Code, by adding Chapter 326, as follows:

CHAPTER 326. LIBRARY DISTRICTS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 326.001. FINDINGS. Sets forth findings of the legislature.

Sec. 326.002. PURPOSE. Sets forth the purpose of a library district.

Sec. 326.003. DEFINITIONS. Defines "board," "district," and "municipal public library."

Sec. 326.004. DISTRICT AUTHORIZATION. Authorizes the creation of a library district. Requires a library district, if created, to be maintained, operated, and financed as provided by this chapter. Provides that a district created under this chapter is a governmental agency, body politic and corporate, and political subdivision of the state.

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 326.021. CONFIRMATION ELECTION. Authorizes the creation of a district and authorizes a sales and use tax only if the creation is confirmed and the tax is approved by a majority of the qualified voters of the district voting at an election held for that purpose.

Sec. 326.021. TERRITORY INCLUDED IN A DISTRICT. Authorizes a district to include any contiguous territory that, on the date on which an election is ordered on the question of creating the district, is not a municipality that operates a municipal public library. Authorizes the district to include incorporated and unincorporated territory. Prohibits a district from including territory in more than one county.

Sec. 326.023. PETITION FOR CREATION OF DISTRICT. Requires the commissioners

court of the county in which the proposed district is located, before a district may be created, to receive a petition signed by at least 100 registered voters who reside in the territory of the proposed district. Sets forth requirements regarding the petition.

Sec. 326.024. PAYMENT OF ELECTION COSTS. Prohibits the commissioners court from ordering the creation of the district or a confirmation election until certain conditions are met.

Sec. 326.025. FILING OF PETITION; HEARING; ORDERING ELECTION. Sets forth requirements for the commissioners court at the next regular or special session of the commissioners court held after the petition is filed with the commissioners court.

Sec. 326.026. ELECTION ORDER. Sets forth requirements regarding the election order.

Sec. 326.027. NOTICE. Requires the commissioners court 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 the county in which the proposed district is located. Sets forth additional requirements regarding the notice.

Sec. 326.028. BALLOT PROPOSITION. Sets forth the required language for the ballot for the election. Sets forth additional requirements regarding the ballot. Prohibits a voter from voting for more than five persons for trustee.

Sec. 326.029. RESULTS OF ELECTION. Sets forth requirements for the commissioners court if a majority of the votes received in the election favor the creation of the district and the adoption of the sales and use tax. Sets forth provisions applicable if a majority of the votes received in the election are against the creation of the district. Sets forth requirements regarding the order canvassing the results of the election.

Sec. 326.030. INITIAL TRUSTEES. Requires the commissioners court to declare the five persons receiving the highest number of votes to be elected as trustees. Sets forth provisions regarding the two trustees elected who received the fewest number of votes and the three trustees who received the highest number of votes.

SUBCHAPTER C. DISTRICT ADMINISTRATION

Sec. 326.041. BOARD OF TRUSTEES. Requires a district to be governed by a board of five trustees.

Sec. 326.042. REGISTERED VOTER REQUIREMENT. Prohibits a person from being elected to the board of trustees unless the person is a registered voter of the county in which the district is located.

Sec. 326.043. ELECTION OF TRUSTEES; TERM OF OFFICE. Requires trustees to serve two-year terms. Requires the general election for trustees to be held annually on an authorized uniform election date under Chapter 41, Election Code. Requires a candidate for a candidate for the office of trustee, except for the initial members of the board of trustees, to file an application for a place on the ballot in accordance with Chapter 144, Election Code, and other applicable provisions of that code.

Sec. 326.044. BOARD VACANCY. Requires a vacancy in the office of a trustee to be filled by appointment by the remaining trustees.

Sec. 326.045. OFFICERS. Requires the trustees, after the trustees have assumed office, to elect from among the trustees a president, a vice president, a secretary, and any other officers the board considers necessary.

Sec. 326.046. QUORUM; OFFICERS' DUTIES. Provides that three trustees constitute a quorum and a concurrence of three is sufficient in any matter relating to the business of the district. Sets forth provisions regarding the duties of officers. Authorizes the board to

appoint the library director or an employee as assistant or deputy secretary to assist the secretary. Authorizes the assistant or deputy secretary to certify the authenticity of any record of the district.

Sec. 326.047. BYLAWS. Authorizes the board to adopt certain bylaws.

Sec. 326.048. MEETINGS AND NOTICE. Authorizes the board to establish regular meetings to conduct district businesses and to hold special meetings at other times as the business of the district requires. Requires the board to hold its meetings at a designated meeting place.

Sec. 326.049. MANAGEMENT OF DISTRICT. Provides that the board has control over and shall control the affairs of the district. Sets forth provisions regarding the employment of any person, firm, partnership, or corporation.

Sec. 326.050. LIBRARY DIRECTOR. Authorizes the board to employ a library director to administer the affairs of the district under policies established by the board. Authorizes the board to set the compensation of the library director.

Sec. 326.051. 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. 326.052. TRUSTEE INTERESTED IN CONTRACT. Sets forth provisions regarding a trustee who is financially interested in a contract with the district, or a trustee who is an employee of a person that is financially interested in a contract with the district.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 326.061. GENERAL POWERS OF DISTRICT. Provides that a district has all of the powers, authority, rights, and duties that will permit the accomplishment of the purposes for which the district was created, including the power to purchase, construct, acquire, own, operate, maintain, repair, or improve any works, materials, supplies, improvements, facilities, equipment, vehicles, machinery, or appliances as necessary for the district. Sets forth provisions applicable if a district acquires existing improvements, facilities, equipment, or appliances.

Sec. 326.062. EMPLOYEE PLANS. Authorizes the board to provide for and administer a workers' compensation, health benefit, retirement, disability, or death compensation plan for employees of the district. Authorizes the board to adopt a plan to accomplish the purpose of this section. Authorizes the board, after notice and a hearing, to change any plan or rule adopted under this section.

Sec. 326.063. SUITS. Authorizes a district to sue and be sued in any court of this state in the name of the district. Requires all courts of this state to take judicial notice of the establishment of a district.

Sec. 326.064. RULES. Authorizes the board to adopt reasonable rules to accomplish the purposes of the district. Authorizes the board to set monetary charges in reasonable amounts for the violation of a district rule. Authorizes the board to exclude from the use of the library a person who wilfully violates a rule adopted by the board.

Sec. 326.065. FEES. Authorizes a district to impose any necessary charges or fees for providing a district service. Authorizes a district to discontinue a service to enforce payment of an unpaid charge or fee that is owed to the district.

Sec. 326.066. DEPOSITORY. Requires the board to designate one or more banks inside or outside of the district to serve as the depository for district money. Requires the tax revenue of the district to be deposited in a depository bank.

Sec. 326.067. INVESTMENTS. Authorizes tax revenue of the district to be invested in an obligation that is an authorized investment for the state. Authorizes district money other than tax revenue to be invested in accordance with policies adopted by the board.

Sec. 326.068. EXPENDITURES. Authorizes a district's money to be disbursed only by check, draft, order, or another instrument that must be signed by one or more officers or employees of the district as designated by the board of trustees.

Sec. 326.069. ACCOUNTS AND RECORDS; AUDITS. Requires the district to keep a complete system of accounts. Sets forth provisions regarding audits.

Sec. 326.070. FISCAL YEAR. Provides that the fiscal year of the district is from January 1 to December 31, unless the board adopts another fiscal year.

Sec. 326.071. REPAYMENT OF ORGANIZATIONAL EXPENSES. Authorizes the district to pay all costs and expenses necessarily incurred in the creation and organization of the district and to reimburse any entity or person for money advanced for the costs and expenses described by Subdivision (1) of this section. Authorizes payments under this section to be made from money obtained from taxes or other revenue of the district.

SUBCHAPTER E. SALES AND USE TAX

Sec. 326.091. SALES AND USE TAX. Provides that the sales and use tax, if adopted, does not count toward the limitation imposed by Chapter 323, Tax Code, on any sales and the use tax that has been levied by the county. Sets forth provisions applicable if a district adopts the tax. Defines "taxable items" for the purposes of this section.

Sec. 326.092. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF TAX. Sets forth provisions regarding applicable law. Requires the district's name, in applying the procedures of Chapter 323, Tax Code, to be substituted for "the county" and "board of trustees" to be substituted for "commissioners court."

Sec. 326.093. TAX RATES. Sets forth the permissible rates for a local sales and use tax levied under this chapter.

Sec. 326.094. ABOLITION OF OR CHANGE IN TAX RATE. Authorizes the board, by order, to decrease or abolish the local sales and use tax rate or to call an election to increase, decrease, or abolish the local sales and use tax rate. Sets forth provisions regarding the ballots at the election. Provides that the increase or decrease in the tax rate is effective if it is approved by a majority of votes cast. Requires the board, in calling and holding the election, to use the procedure for the confirmation and tax election set forth in this chapter.

Sec. 326.095. USE OF TAX. Authorizes taxes collected under this subchapter to be used only for the purposes for which the district was created.

Sec. 326.096. LIMITATION ON ADOPTION OF TAX. Authorizes a district to adopt a tax under this subchapter only if as a result of adoption of the tax the combined rate of all local sales and use taxes imposed by political subdivisions having territory in the district will not exceed two percent. Sets forth provisions applicable if, as a result of the imposition or increase in a sales and use tax by a municipality in which there is located a district with an existing sales and use tax or as a result of the annexation by a municipality of the territory in a district with an existing sales and use tax, the overlapping local sales and use taxes in the area in the district will exceed two percent. Sets forth provisions applicable if a district's tax rate is reduced in accordance with Subsection (b).

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.

