

SUBJECT: Revising provisions for creating library districts and levying local sales taxes.

COMMITTEE: State Cultural and Recreational Resources — committee substitute recommended

VOTE: 4 ayes — Hilderbran, Geren, B. Cook, Phillips

0 nays

3 absent — Bailey, Dukes, Kuempel

WITNESSES: For — Carol M. Black; Mike Millsap; Dan W. Pedersen, Lake Travis Community Library District Committee

Against — Carolyn Murphy, Mayor, Village of Bee Cave

BACKGROUND: In 1997, the 75th Legislature enacted a local-option funding mechanism allowing unincorporated areas without library services to create library districts supported by local sales tax revenue (Local Government Code, Ch. 326). The West Bank Library District serving West Lake Hills west of Austin was the first district created under the statute.

The Legislature subsequently expanded applicability of the library-district mechanism to any area regardless of population, including municipalities wholly or partially contained within the proposed district boundaries. Authorities of a municipality that operated a public library on the date an election was ordered must consent by resolution to inclusion in the library district.

State law mandates that local sales tax rates cannot exceed 2 percent in the aggregate. The state sales tax rate is 6.25 percent, and the maximum combined overall rate is 8.25 percent.

The Lake Travis Community Library is housed in multiple sites in southwest Travis County, primarily in Lake Travis High School. In 2002, the Lakeway Library Committee began researching expansion of the library's services for the Lake Travis community and southwest Travis County, including the

villages of Lakeway, Bee Cave, Briarcliff, and the Hills. The process included community surveys, negotiations among the villages, including Bee Cave, and circulation and filing of a petition to create a library district.

The Travis County Commissioners Court approved the petition and authorized a November election to create a library district and impose a one-quarter of one percent tax rate. Bee Cave officials did not consent to the petition, saying they already were operating a public library, and obtained a temporary restraining order from a Travis County court blocking the election.

DIGEST:

CSHB 1770 would add Local Government Code, sec. 326.097 to apply only to municipalities that did not have public libraries. This section would make local-option library district sales and use tax elections on adopting or increasing rates tantamount to elections to reduce rates for industrial development districts under two conditions:

- 1) all or any part of the proposed library district would be within the boundaries of industrial development corporations (IDCs) created under Section 4B, Development Corporation Act of 1979 (Art. 5190.6, V.T.C.S) by municipalities after the date of original filing with county commissioners of the petition to create the library district; and
- 2) adopting or increasing library district sales and use tax rates would raise combined sales tax rates above 2 percent anywhere in the proposed library district.

Under these conditions, if voters adopted or increased library district sales taxes, the IDCs' rates would be reduced to the highest rate possible without exceeding the 2 percent local cap. IDCs' tax rates would increase automatically if and when library district taxes decreased or expired. Any increases would be limited to the amount of reductions caused by the adoption or increasing of library district taxes. The bill would prohibit taxing units from imposing different tax rates within their boundaries.

Petitions to conduct elections to create library districts would remain valid for subsequent filings two years after they originally were filed with county commissioner's courts. The validity period provision would apply to all current and future petitions, regardless of when filed.

The bill also would require affected municipalities to be operating public libraries when library district petitions were filed in order to require the municipalities' consent for inclusion.

The bill also would require accreditation for membership in the state library system for a library to be defined as a "municipal public library" under Local Government Code, ch. 326.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

Local-option library districts successfully have expanded library services to communities throughout the state that were willing pay for them through local sales taxes. CSHB 1770 would close an unforeseen statutory loophole that could allow one municipality to impede the greater community's desire to create a library district. The bill also would alleviate an unintended consequence relating to the 2 percent combined local sales tax cap while extending protections to IDC taxpayers. The Legislature is fully within its rights to correct abuses of authority delegated by the state.

In 2002, Village of Bee Cave officials created a sham library by pooling donated books and shelving them in a conference room of their municipal building. Their public comments indicated intent to thwart creation of a library district and preserve their taxing capability under the 2-percent cap. Even if Bee Cave were serious about providing library services, the law grants cities consent power only if they are operating existing libraries, not planning or considering them. The law was not designed to allow one municipality to circumvent a lawful library-district referendum simply because it disagrees with the proposal or finds it fiscally or politically expedient to do so. Bee Cave collected \$1.6 million in sales tax revenue in 2002, but only \$188,000 in property taxes, the opposite of most municipalities' fiscal patterns. A library district tax would not adversely affect Bee Cave's budget or operations, which are subsidized by non-residents.

Contrary to Bee Cave officials' statements, library district proponents offered to reduce the proposed tax rate to one-eighth of one percent and pay Bee Cave rent to house the new library in the public use space to be donated to Bee

Cave by the developer of a proposed shopping mall. Instead, Bee Cave chose to block the library district election while holding its own IDC election, instead of putting the issue to all interested voters who would benefit from a community library, including Bee Cave residents. A lone governmental entity should not be allowed to resort to subterfuge to hold the rest of the electorate hostage. All the voters, not just a few, should decide how best to spend their local tax dollars.

State library accreditation is minimal, inexpensive, and ubiquitous. It would not create a hardship even for small cities and towns.

**OPPONENTS
SAY:**

This bill involves a local matter that does not require action by the Legislature. The parties need to settle this controversy among themselves. Support for a library district is not unanimous even outside of Bee Cave.

Bee Cave is entitled under the law to exert its consent power concerning creation of a library district with taxing authority, as a court has ruled, but it does not oppose providing library services. It proposed a one-eighth of one percent rate and set up its library because of the intransigence of district proponents. The village's library, though small, includes donations from a memorial fund created in honor of a late mayor. The collection has grown to approximately 1,000 items, and officials have budgeted \$60,000 to expand it. They hope to house it in a public use space being donated by the developer of a shopping mall to be built by 2005 that would serve the entire area.

The bill is unfair to Bee Cave residents because it unilaterally would reduce sales tax revenue for the IDC approved by voters in November. Bee Cave is experiencing rapid growth, and more roads cannot be built outside its business district because of environmental constraints. Its residents and visitors have other legitimate priorities competing for public funds, including infrastructure and traffic management. A library district tax would usurp Bee Cave's sales tax base and, at a one-quarter of one percent rate, overfund the new library at \$1.2 million based on tax base growth projections, twice as much as necessary for accredited operations.

CSHB 1770 effectively would allow the rest of the Lake Travis community to dictate 800 residents' tax burden and spending priorities, by virtue of their greater voting power. Taxpayers who have expressed a preference for how

they want some of their taxes spent would be paying for more than half the cost of a project preferred by other taxpayers. The Legislature should not condone a political raid on one governmental entity's tax base simply because it was outnumbered at the ballot box. Those who spend money in a municipality should not be able to dictate its fiscal policy or single it out for punitive legislation.

OTHER
OPPONENTS
SAY:

It is inappropriate to bracket statutes and create policy in response to a solitary situation in order to end a parochial feud. IDCs are not unique in relation to library districts vis-a-vis the combined local sales tax cap. The law should be amended to cover all taxing entities that municipalities may create.

Redefining libraries in terms of state accreditation, while helping resolve the Lake Travis issue, could create bureaucratic hurdles for small municipalities.

NOTES:

The committee substitute would apply only to municipalities not having municipal public libraries, as the bill would redefine them, while the original bill would have affected municipalities that, in the previous five years, did not have state-accredited libraries when petitions to create library districts were filed and did not consent to such petitions. The substitute added a time frame condition to the provision linking elections adopting or raising library district tax rates to those of IDCs containing all or part of a district. The substitute would apply the election provision only to IDCs created by municipalities after the original filing dates of petitions to create library districts. The substitute shortened petitions' validity period for subsequent filings from five to two years from the original filing date, including petitions filed before the bill would take effect.

The companion bill, SB 1049 by Wentworth, has been referred to the Senate Intergovernmental Relations Committee.