

SUBJECT: Expanding eligibility for creation of county assistance districts

COMMITTEE: Local Government Ways and Means — favorable, without amendment

VOTE: 5 ayes — Hill, Creighton, Puente, Quintanilla, Villarreal
0 nays
2 absent — Elkins, C. Howard

WITNESSES: For — Mark Evans, Trinity County, County Judges and Commissioners Association of Texas (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas)

Against — None

On — (*Registered, but did not testify*: Bob Bearden, State Comptroller's Office)

BACKGROUND: Local Government Code, ch. 387 establishes rules and regulations governing county assistance districts (CADs). A county commissioners court is empowered to call an election to create a CAD and levy a sales and use tax to:

- build, maintain, and improve roads;
- provide law enforcement and detention services;
- maintain and improve libraries, parks, museums, and other recreational facilities;
- provide services beneficial to public safety and health; or
- promote economic development and tourism.

Under sec. 387.002, eligibility to create a CAD is limited to a county with a population fewer than 45,000 as long as:

- any portion of the county contains a rapid transit authority or regional transportation authority; or
- prior to calling an election to create the district, the county does not contain a municipality that has either created a development

corporation or imposed a sales-and-use tax that exceeds 2 percent when combined with any other sales-and-use taxes approved in the municipality.

Ballot language, contained in sec. 387.003, must include the rate at which the county is seeking to impose the sales-and-use tax, and the order calling for the election must designate the proposed district's borders. If the majority of voters within those borders approve the measure, the district is created and approved sales-and-use taxes are imposed. If the majority of voters oppose the measure, the district cannot put it back on the ballot for at least one year. The commissioners court can hold a subsequent election within the county but outside the district to determine whether the sales-and-use tax should be imposed on that area, with a majority vote authorizing inclusion in the district.

Election Code, sec. 3.005 specifies that the general election for county officers must be ordered at least 70 days before the date of the election.

DIGEST:

HB 1720 would amend Local Government Code, secs. 387.002 and 387.003, to increase to 50,000 the maximum population of a county eligible to seek an election creating a CAD. It would allow for a district's borders to be fashioned in any part of a county in which, upon approval through an election, the combined local sales-and-use tax did not exceed 2 percent. Eligibility requirements related to transportation authority districts would be eliminated. Funding from the taxes also could be spent on firefighting and fire prevention.

If a county and municipality held tax elections on the same day and the resulting combined sales-and-use tax exceeded the 2 percent cap, the tax approved for the municipality would be voided.

If a proposed district covered an area containing a municipality, the commissioners court would be required to send a letter of intent via certified mail to the municipality's governing body or board of directors if the municipality had created a development corporation. This notice would have to be sent at least 60 days before the date the commissioners court ordered the election. The municipality could exclude itself from the district's borders if it responded within 45 days of receiving the notice. Municipal voters outside the district could vote, with the municipality's permission, to be included within the CAD, provided that election did not result in a combined tax rate in excess of the 2 percent cap.

The section requiring a county to give notice to a municipality in reference to a pending election would apply only to elections ordered on or after the effective date.

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, 2007.

**SUPPORTERS
SAY:**

HB 1720 would expand the number of smaller counties eligible to petition voters to generate much-needed revenue for vital government services. It would allow counties, which rely heavily on property taxes, an opportunity to diversify their revenue stream. The bill is a careful compromise between counties and municipalities that would allow the two entities to either work together or independently in creating a sales-and-use tax district.

Because of current restrictions on CADs, only a few counties are eligible to create such a district, and only one has done so to date. HB 1720 would present this opportunity to more counties that currently are limited because of their size, their lack of a rapid transit or regional transportation authority, or the prior establishment of a sales-and-use tax in a portion of the county. It especially would be helpful for counties with unincorporated areas or large recreational destinations that are barred today from taking advantage of sales-and-use taxes. This revenue could be used for vital infrastructure needs, including firefighting and fire prevention.

Municipalities and voters also would be protected under this bill because they would be able to opt in or out of the proposed CAD. The notification required in the bill would prevent municipalities and counties from attempting a “race to the top” in which one governing body tried to hit the 2 percent cap first to prevent the other from taking away the potential revenue stream. According to the Secretary of State’s Office, current law governing election orders would require this notification to occur at least 130 days prior to the general election date. Even if a municipality took 45 days to respond to the county, elections officials would have ample time to properly prepare a ballot within 85 days of the election.

Voters still could decide whether they wanted to impose higher sales-and-use taxes and create another revenue source to reduce reliance on property taxes, giving counties another funding mechanism that would not involve raising property tax rates.

OPPONENTS
SAY:

The language in HB 1720 specifying when a county would be required to alert a municipality of a pending CAD election is ambiguous and should reference Election Code, sec. 3.005 to confirm that the notification would occur 130 days before the general election date. Counties could misconstrue this provision in HB 1720 to mean they were required to notify a municipality no more than 60 days prior to the date of the election. This would cause problems for elections officials, who would not have enough time to properly and lawfully prepare a ballot. Early voting, mail-in voting, and election machine configuration all could be compromised under such a scenario.