

BILL ANALYSIS

Senate Research Center
78R4750 KSD-D

S.B. 754
By: West
Subcommittee on Higher Education
3/21/2003
As Filed

DIGEST AND PURPOSE

Currently, revenue available to regional university systems for research, scholarship and discretionary spending is decreasing. As proposed, S.B. 754 increases the local sales cap if approved by a majority of the voters within an enhancement district to boost dwindling university revenues.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Higher Education Coordinating Board in SECTION 1 (Section 159.352, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 3, Education Code, by adding Subtitle I, as follows:

SUBTITLE I. HIGHER EDUCATION DISTRICTS
CHAPTER 159. HIGHER EDUCATION ENHANCEMENT DISTRICTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 159.001. DEFINITIONS. Defines “coordinating board,” “district,” “regional university,” and “service territory.”

Sec. 159.002. PURPOSE. Provides that the purpose of this chapter is to enable a regional university and the community served by the university, through the creation of a higher education enhancement district, to elect to provide local funding to supplement endowment and scholarship funds at the university and to otherwise enhance the quality of education provided by the university.

Sec. 159.003. ESTABLISHMENT OF SERVICE TERRITORIES. (a) Requires the THECB to establish a service territory for each regional university, except as provided by Subsection (b) or (c).

(b) Requires the THECB to establish a single service territory for two or more regional universities located in the same county. Requires the service territory established under this subsection to include the entire county in which the universities are located.

(c) Authorizes the THECB to establish a single service territory for two or more regional universities located in adjacent counties if the THECB determines, based on the criteria described by Subsection (d), that the universities serve primarily the same areas.

(d) Requires the THECB, in establishing a service territory under this section, to attempt to include certain areas.

(e) Prohibits a service territory created under this section from containing territory that is contained within another service territory.

(f) Authorizes a service territory to consist of whole counties or portions of counties, except as provided by Subsection (b).

(g) Requires the THECB to hold, after notice published in one or more newspapers having general circulation in the counties in which the service territory is authorized to be established, at least one public hearing at which any interested person may appear and offer testimony, before establishing a service territory under this section.

Sec. 159.004. DISTRICT AUTHORIZATION. Authorizes a higher education enhancement district to be created, operated, and financed as provided by this chapter.

Sec. 159.005. PERFORMANCE REVIEW BY COORDINATING BOARD. Requires the THECB to conduct a performance review of each district created under this chapter every five years.

[Reserves Section 159.006-159.050 for expansion.]

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 159.051. CREATION OF DISTRICT. (a) Authorizes a district to be created under this subchapter to include all of or any portion of a service territory. Requires the district to include the campus of each regional university located in the service territory.

(b) Authorizes only one district to be created in each service territory. Requires the district to include the campus of each regional university located in the service territory.

Sec. 159.052. REQUEST FOR HEARING ON CREATION OF DISTRICT. (a) Requires the president of the regional university located in the service territory or a person designated by the president to submit to the THECB a written request that the THECB hold a public hearing on the creation of the district, before a district is authorized to be created in a service territory that includes only one regional university.

(b) Requires the presidents of the universities or their designees to jointly submit to the THECB a written request that the THECB hold a public hearing on the creation of the district, before a district is authorized to be created in a service area that includes more than one regional university.

(c) Requires a request under this section to include a description of the proposed district and to state whether the district would impose a sales and use tax or property tax.

Sec. 159.053. HEARING; NOTICE. (a) Requires the THECB to hold a public hearing on the request in each county having territory located in the proposed district, on receipt of a written request for a hearing under Section 159.052.

(b) Requires the THECB to give notice of the hearing by publishing notice at least twice in one or more newspapers having general circulation in the county. Prohibits the notice from being smaller than one-quarter page of a standard-size newspaper and requires the headline on the notice is required to be in 19-point or larger type.

(c) Requires the notice to include certain information.

Sec. 159.054. COORDINATING BOARD FINDINGS. Requires the THECB to submit its findings to the county judge of each county located in the proposed district in the form of a petition described by Section 159.055, if, after holding a hearing in each county having territory located in the proposed district, the THECB finds that it is in the best

interest of the voters of those counties to provide the voters with an opportunity to authorize the creation of a district and the imposition of a sales and use tax or property tax.

Sec. 159.055. CONTENTS OF PETITION. (a) Requires the petition prescribed by Section 159.054 to include certain information.

(b) Requires a person, to be eligible to be named in the petition as a temporary supervisor, to meet certain qualifications.

Sec. 159.056. FILING OF PETITION; HEARING; ORDERING ELECTION. (a) Requires the county judge, if the petition is in proper form, to perform certain tasks.

(b) Requires the commissioners court to set a place, date, and time for the hearing to consider the petition, at the next regular or special session of the commissioners court held after the petition is filed with the county clerk.

(c) Requires the county clerk to issue a notice of the hearing in accordance with Chapter 551, Government Code.

(d) Requires the commissioners court to consider the petition at the time and place set for the hearing. Requires the court to grant the petition at the conclusion of the hearing, if the commissioners court finds that the petition is in proper form and contains the information required by Section 159.055.

(e) Requires the commissioners court, subject to Subsection (f), to order an election in the portion of the proposed district located in that county to confirm the district's creation and to authorize the imposition of a sales and use tax or a property tax at a rate not to exceed the limits provided by law, if a petition is granted. Requires the election to be held on the next uniform election date in November that occurs at least 90 days after the date the election is ordered.

(f) Prohibits the commissioners courts from ordering an election until the commissioners court of each county in which the district will be located has granted the petition, if the proposed district will contain territory in more than one county.

Sec. 159.057. ELECTION ORDER. Requires the order calling the election to state the nature of the election, including the proposition that is to appear on the ballot.

Sec. 159.058. BALLOT PROPOSITION. Requires the ballot to be printed to permit voting for or against a certain proposition.

Sec. 159.059. ELECTION RESULTS; CREATION OF DISTRICT. (a) Provides that the commissioners court of each county in which the election is held is the canvassing authority for the election in that county. Requires the canvass to be conducted in the manner provided by law for a local canvass.

(b) Requires the commissioners court, if the election is held in one county, of that county to declare the proposition to have been approved and enter an order creating the district if a majority of the votes cast in the election favor creation of the district. Requires the commissioners court to declare the proposition to create the district to have been defeated, if a majority of the votes cast do not favor creation of the district.

(c) Requires the commissioners court of each county, on receiving the returns of the election, to canvass the returns and certify the results of the election in that county to the commissioners court of the county in which the election is held having the greatest population, if the election is held in more than one county.

Requires the commissioners court of the county with the greatest population to conduct a final canvass of the returns and certify the final results of the election, on receipt of the returns of all the counties. Requires the commissioners court of that county to declare the proposition to have been approved and enter an order creating the district if a majority of the votes cast in the election in the entire area in which the election is held favor the creation of the district. Requires the commissioners court to declare the proposition to create the district to have been defeated, if a majority of the votes cast in the election in the entire area do not favor creation of the district.

(d) Requires the commissioners court ordering creation of a district to notify the comptroller of public account of the State of Texas (comptroller) of the results of the election in the manner specified by the comptroller, as soon as practicable.

Sec. 159.060. RESTRICTION ON SUBSEQUENT ELECTION. Provides that if the proposition to create the district is defeated, another election on the question of creating a district in the same service territory may not be held before the first anniversary of the election.

Sec. 159.061. TEMPORARY SUPERVISORS. (a) Requires the commissioners court that enters an order creating a district to appoint those persons named as temporary supervisors in the petition as the temporary supervisors of the district on the date the commissioners court enters the order creating the district.

(b) Provides that temporary supervisors serve as supervisors of the district until a majority of the initial supervisors take office.

(c) Requires a vacancy in the office of temporary supervisor to be filled by appointment by the remaining temporary supervisors.

[Reserves Sections 159.062-159.100 for expansion.]

SUBCHAPTER C. BOARD OF SUPERVISORS

Sec. 159.101. BOARD OF SUPERVISORS. (a) Provides that the district is governed by a board of five supervisors.

(b) Requires the supervisors to be elected at the uniform election date in May of each year and serve staggered terms of two years.

Sec. 159.102. INITIAL SUPERVISORS' ELECTION. (a) Requires the initial supervisors to be elected at large at an election held on the next uniform election date in May that is at least 60 days after the date the district is created.

(b) Requires the initial supervisors to draw lots to determine which two initial supervisors serve one-year terms and which three initial supervisors serve two-year terms.

(c) Authorizes the district to establish single-member election districts within the district from which supervisors may be elected in subsequent elections, after the district confirms the initial supervisors.

Sec. 159.103. QUALIFICATIONS FOR OFFICE. Requires a person, to be eligible to be a candidate for or to serve as a supervisor, to meet certain requirements.

Sec. 159.104. BOARD VACANCY. Requires a vacancy in the office of a supervisor to be filled for the unexpired term appointed by the remaining supervisors.

[Reserves Sections 159.105-159.150 for expansion.]

SUBCHAPTER D. CHANGE IN BOUNDARIES

Sec. 159.151. EXPANSION OF DISTRICT TERRITORY. Authorizes any portion of the service territory not already included in the district to be added to the district in any manner in which territory may be added to a junior college district under Chapter 130D.

[Reserves Sections 159.152-159.200 for expansion.]

SUBCHAPTER E. SALES AND USE TAX

Sec. 159.201. COUNTY SALES AND USE TAX ACT APPLICABLE. (a) Provides that Chapter 323, Tax Code, applies to a sales and use tax authorized by this chapter in the same manner as that chapter applies to the tax authorized by that chapter, except as provided by Subsection (b) or as inconsistent with this chapter.

(b) Provides that Sections 323.101(b), (c), (d), and (e), Tax Code (Tax Authorized), do not apply to a sales and use tax authorized by this chapter.

Sec. 159.202. IMPOSITION OF SALES AND USE TAX. Authorizes the district to impose a sales and use tax as provided by this subchapter, if the tax is approved by the voters at the election authorizing the creation of the district.

Sec. 159.203. SALES AND USE TAX RATE; LIMITATIONS ON RATE. (a) Requires the board of supervisors (board), for the first four quarters for which the tax is to be imposed, and for each subsequent year, to set the rate of the district's sales and use tax at a rate the board considers appropriate for the purposes of the district, not to exceed certain rates and percentages.

(b) Provides that if in any year for which the board sets a tax rate the tax imposed by the district generates a total amount of tax revenue in excess of the amount of taxes specified in Subsection (a)(2) or (3) for that year, in setting the rate of the district's sales and use tax for the second year following that year, the tax rate limitations computed under Subsection (a)(2) or (3) are reduced by the rate that, when added to the total taxable receipts used in the computations under Subsections (a)(2) or (3), would generate an amount of total taxes equal to the excess amount of tax revenue generated.

(c) Requires the tax rate set by the board to be in increments of not less than one-eighth of one percent.

(d) Requires the comptroller, on request, to provide the board with the information the board requires to comply with this section.

Sec. 159.204. EFFECTIVE DATE OF SALES AND USE TAX. (a) Provides that the tax takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election creating the district.

(b) Authorizes the comptroller to postpone the effective date until the first day of the next calendar quarter, if the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax.

Sec. 159.205. EFFECT OF ADOPTION OF TAX ON OTHER LAW. Provides that if another law imposes a limit on the combined rate of sales tax imposed by political subdivisions of the state having territory at any location in the district, the total limit provided by that law is increased by one-half of one percent in the territory of the district.

[Reserves Section 159.206-159.250 for expansion.]

SUBCHAPTER F. PROPERTY TAXES

Sec. 159.251. IMPOSITION OF PROPERTY TAX. Authorizes the district to impose and collect a property tax as provided by this subchapter, if the tax is approved by the voters at the election authorizing the creation of the district.

Sec. 159.252. PROPERTY TAX RATE; LIMITATIONS. (a) Requires the board to annually set the rate of the district's property tax at a rate the board considers appropriate for the purposes of the district, not to exceed the rate that, if applied to the taxable property in the district, would generate the lesser of two certain amounts.

(b) Requires the amounts used under Subsections (a)(1) and (2) to compute the maximum tax rate for the next tax year to be reduced by the amount of the excess taxes collected, if the total amount of taxes collected in a calendar year exceeds the amount of taxes specified in Subsections (a)(1) or (2) for the preceding year.

Sec. 159.253. PROPERTY TAX ASSESSOR-COLLECTOR. Authorizes the district to employ a person to assess or collect taxes for the district or contract with another governmental entity as provided by other law for the assessment or collection of the district's taxes.

[Reserves Sections 159.254-159.300 for expansion.]

SUBCHAPTER G. GENERAL TAX PROVISIONS

Sec. 159.301. USE OF TAX REVENUE. (a) Requires the board of the district to retain the portion of the revenue from a tax imposed by the district under this chapter necessary to cover the district's expenses as provided by the district's budget, and deliver the remaining tax revenue to the regional university or universities for which the district was created. Requires the board of the district, if the district includes more than one regional university, to apportion that tax revenue among the universities in proportion to the number of semester credit hours used by the Legislative Budget Board under Section 61.059 for the most recent biennium to establish the base level of appropriations funding for each university.

(b) Requires each regional university to use revenue received under Subsection (a) in certain proportions.

[Reserves Sections 159.302-159.350 for expansion.]

SUBCHAPTER H. HIGHER EDUCATION ENHANCEMENT FUND

Sec. 159.351. NATURE AND PURPOSE OF FUND. (a) Provides that the higher education enhancement fund is a special fund in the state treasury outside the general revenue fund.

(b) Authorizes the money in the higher education enhancement fund to be used only to provide grants under this subchapter.

Sec. 159.352. ADMINISTRATION. Provides that the THECB administers the higher education enhancement fund and is required to adopt rules for the administration of the fund and this subchapter.

Sec. 159.353. GRANTS. (a) Requires the THECB to award grants from the higher education enhancement fund to regional universities to cover all or part of the initial costs of creating a higher education enhancement district under this chapter.

(b) Prohibits the amount of a grant from exceeding \$2,500.

(c) Requires the THECB to establish criteria for the award of a grant under this section.

Sec. 159.354. SOURCE OF FUNDS. (a) Authorizes the THECB to solicit and accept gifts and grants from any public or private source for the purposes of this subchapter.

(b) Authorizes the legislature to appropriate money for the purposes of this subchapter.

SECTION 2. Requires the THECB to establish service territories for regional universities as required by Section 159.003, Education Code, as added by this Act, and adopt initial rules for the administration of the higher education enhancement fund as required by Section 159.352, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. Authorizes the THECB to adopt those initial rules in the manner provided by law for emergency rules.

SECTION 3. Effective date: upon passage or September 1, 2003.