

BILL ANALYSIS

C.S.H.B. 3571
By: Howard
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Fort Bend Levee Improvement District No. 15 (LID) is in existence, but the LID has no mechanism to finance roads and major thoroughfares in the LID. While municipal utility districts are able to acquire road utility district (RUD) powers through an agency process, LIDs do not have the same opportunity. As proposed, H.B. 3571 grants Fort Bend LID No. 15 the RUD powers it needs to finance roads and major thoroughfares and allows it to construct long stretches of major roads.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. DEFINITIONS. Defines "board," "city," "district," and "project."

SECTION 2. AUTHORITY. Provides that the Fort Bend Levee Improvement District No. 15 is granted road utility district authority under Section 52(b)(3), Article III, Texas Constitution, and Chapter 441, Transportation Code, including the authority to repair and maintain streets and roadways in the district. Provides that in addition, the district has the powers of a metropolitan rapid transit authority under Section 451.065, Transportation Code. Prohibits Section 451.065(d), Transportation Code, from applying to the district.

SECTION 3. FINDING OF BENEFIT AND PUBLIC PURPOSE. Provides that the legislature finds that all of the land and other property included within the boundaries of the district will be benefitted by the works and projects that are to be accomplished by the district under the powers conferred by Section 52, Article III, Texas Constitution, and that the district is created to serve a public use and benefit.

SECTION 4. POWERS. Provides that without limitation of the powers of the district existing before the effective date of this Act, the district has all of the rights, powers, privileges, authority, duties, and functions conferred by the general law of this state, including Chapter 441, Transportation Code, applicable to road utility districts created under Section 52, Article III, Texas Constitution, including the authority to impose taxes, to the extent those provisions can be made applicable.

SECTION 5. APPLICABILITY OF OTHER LAW. (a) Provides that if any provision of general law relating to road utility districts is in conflict with or inconsistent with this Act or Chapter 49 or 57, Water Code, this Act and Chapters 49 and 57, Water Code, prevail.

(b) Provides that this Act prevails over any provision of general law that is in conflict with or inconsistent with this Act, including any provision of Chapter 49 or 57, Water Code.

(c) Provides that Chapters 441B, C,D, H, K, and L, Transportation Code, are not applicable to the

district.

SECTION 6. PROJECTS. (a) Authorizes the district to construct, acquire, improve, maintain, and operate macadamized, graveled, or paved roads and turnpikes or improvements in aid of those roads or turnpikes, within the boundaries of the district, to the extent authorized by Section 52, Article III, Texas Constitution.

(b) Authorizes the works, facilities, or improvements to include drainage or landscaping improvements and lights, signs, or signals that are incidental to the roads and turnpikes and their construction, maintenance, or operation.

(c) Requires a project authorized by this section to meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the city in which it is located.

(d) Authorizes the district, with the consent of the city, on completion of any project authorized by this Act, to convey that project to the city if the conveyance is free of all indebtedness of the district. Provides that if the city becomes the owner of a project, the city is responsible for all future maintenance, operation, and upkeep of the project, and the district has no further responsibility for the project or its maintenance, operation, or upkeep.

SECTION 7. JOINT PROJECT. (a) Authorizes a district contract with a state agency, a political subdivision, or a corporation created under Chapter 431, Transportation Code, to provide for joint payment of the costs of a project and require the state agency, political subdivision, or corporation to design, construct, or improve a project as provided by the contract, including the landscaping of the project.

(b) Authorizes the district to issue bonds to pay all or part of the costs of the project and any other payments required under the contract.

SECTION 8. BONDS AND OTHER OBLIGATIONS. Authorizes the district to issue bonds, notes, and other obligations secured by revenues or contract payments from any lawful source other than ad valorem taxation without an election.

(b) Authorizes the district to issue bonds, notes, and other obligations secured in whole or in part by ad valorem taxation, and levy ad valorem taxes for the payment thereof, only if the issuance is approved by a two-thirds majority of the voters of the district voting at an election called and held for that purpose.

SECTION 9. MAINTENANCE TAX. Authorizes the district to impose a maintenance tax in an amount not to exceed 25 cents on each \$100 of assessed valuation of property in the district to be used for any authorized purpose of the district if the authority to impose the tax is approved by a majority of the voters of the district voting at an election on that proposition.

SECTION 10. DISTRICT CONTRACTS. (a) Authorizes the district to make contracts in the same manner as a road utility district under Chapter 441E, Transportation Code. Provides that the competitive bidding requirements of Section 49.273, Water Code, apply to these contracts.

SECTION 11. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this Act.

(b) Requires the board to appoint the board of directors of a nonprofit corporation created under this section. Requires the board of directors of the nonprofit corporation to serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(c) Provides that nonprofit corporation created under this section has the powers of and is considered for

purposes of this Act to be a local government corporation created under Chapter 431, Transportation Code.

(d) Authorizes a nonprofit corporation created under this section to implement any project and provide any service authorized by this Act.

SECTION 12. SUIT AND JUDGMENT. (a) Authorizes the district, through its board and in the name of the district, to sue and be sued in a state court. Authorizes process in a suit to be served on the presiding officer of the board.

(b) Requires a state court to take judicial notice of the creation of the board.

(c) Authorizes a state court that renders a money judgment against the district to require the board to pay the judgment from money in the district depository that is not dedicated to the payment of the district indebtedness.

(d) Authorizes the court, if the voters of the district have specifically authorized the levy of taxes for the payment of judgments, to issue a writ of mandamus to compel the district to levy the tax to pay the judgment at once or in installments.

(e) Prohibits a court from requiring the board to pay a judgment rendered on a breach of contract claim if the contractor has been paid, either by the district or a third party, the bid price of the contract plus any change orders actually approved by the board in writing.

SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. (a) Provides that the proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state.

(b) Provides that the governor has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

In Section 5(c) of the bill, add Subchapter G, Chapter 441, Transportation Code, to the list of Subchapters that do not apply to the district.