

BILL ANALYSIS

H.B. 3592
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Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently several conditions exist in downtown Midland that suppress property values and financially impede new development and investment. House Bill 3592 is relating to the creation of the Downtown Midland Management District; providing authority to impose taxes and issues bonds. This bill will give the needed initiative to improve economic stability and encourage revitalization and reinvestment in downtown Midland.

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.

SECTION BY SECTION ANALYSIS

SECTION 1. CREATION OF DISTRICT. (a) The Downtown Midland Management District is a special district created under Section 59, Article XVI, Texas Constitution.

(b) The board by resolution may change the name of the district.

SECTION 2. DEFINITIONS. Defines the terms "Board" and "District."

SECTION 3. DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) The creation of the district and this legislation may not be interpreted to relieve Midland County or the City of Midland from providing the level of services provided, as of the effective date of this Act, to the area in the district. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

(d) By creating the district and in authorizing the City of Midland, Midland County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

SECTION 4. BOUNDARIES. This section sets forth the metes and bounds of the Downtown Midland Management District.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure; if a mistake is made, the mistake does not in any way affect the district's organization, existence, or validity; right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on a bond; right to impose or collect an assessment or tax; legality; or operation.

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. This section sets forth legislative findings of benefit and public purpose of the Downtown Midland Management District.

SECTION 7. APPLICATION OF OTHER LAW. Except as otherwise provided, Chapter 375, Local Government Code, and Chapter 311, Government Code (Code Construction Act) apply.

SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally construed in conformity with the findings and purposes stated.

SECTION 9. BOARD OF DIRECTORS IN GENERAL. This section provides that the Downtown Midland Management District is governed by a board of nine voting directors and nonvoting directors as provided by SECTION 11, below, and sets terms of the directors. This section also provides that the board may increase or decrease the number of directors on the board by resolution; however the board may not consist of fewer than seven or more than 13 directors.

SECTION 10. APPOINTMENT OF DIRECTORS. This section sets forth provisions regarding the appointment of directors.

SECTION 11. NONVOTING DIRECTORS. This section sets forth the composition, qualification, and appointment of nonvoting directors. This section also provides that nonvoting directors are not counted for the purposes of establishing a quorum of the board.

SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. Sets forth Chapter 171, Local Government Code, as governing conflicts of interest for directors. Provides that Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if a majority of the directors have a similar interest in the same entity; or all other similar business or charitable entities in the district will receive a similar pecuniary benefit. A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that same public entity.

For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002, Local Government Code.

SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to a Section 4B corporation, including the power to own, operate, acquire, construct, lease, improve, and maintain projects, and a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

SECTION 14. AGREEMENTS; GRANTS. Provides that the district may make an agreement with or accept a gift, grant, or loan from any person. In addition, the section provides that the implementation of a district project is a governmental function or service for the purposes of Chapter 791, Government Code.

SECTION 15. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with Midland County or the City of Midland to provide law enforcement services in the district for a fee.

SECTION 16. NONPROFIT CORPORATION. This section provides that the board may authorize the creation of a nonprofit corporation, to be considered a local government corporation created under Chapter 431, Transportation Code, by resolution to assist and act on behalf of the district in implementing a project or providing a service authorized by this Act. The board shall appoint the board of directors of a nonprofit corporation, who shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. This section provides that the board may not finance a service or improvement project with assessments unless

a written petition requesting that improvement or service has been filed with the board, signed by the owners of a majority of the assessed value of real property in the district subject to assessment as determined by the most recent certified tax appraisal roll for Midland County; or at least 25 persons who own real property in the district, if more than 25 persons own real property in the district as determined by the most recent certified tax appraisal roll for Midland County.

SECTION 18. ELECTIONS. Provides that the district must hold an election in accordance with Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes a maintenance tax or issues a bond payable from ad valorem taxes. The board may include more than one purpose in a single proposition at an election; provides that Section 375.243, Local Government Code, does not apply to the district.

SECTION 19. MAINTENANCE TAX. Provides that the district, if approved in an election under SECTION 18, above, may impose an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services; the board will determine the tax rate.

SECTION 20. ASSESSMENTS. Provides that the board, by resolution, may impose and collect an assessment for any purpose authorized by this Act. However, board may not impose an assessment on a parcel of real property that at the time of the assessment is appraised at less than \$200,000, according to the most recent certified tax appraisal roll for Midland County, without the written consent of the owner. Provides that assessments and associated costs are a first and prior lien against the property assessed; are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and are the personal liability of and charge against the owners of the property even if the owners are not named in the assessment proceedings.

Such a lien is effective from the date of the resolution which imposed the assessment until the date the assessment is paid; empowers the board to enforce the lien in the same manner as an ad valorem tax lien against real property. Allows the board to make corrections to or deletions from the assessment roll without notice and hearing if the corrections or deletions do not increase the amount of assessment of any parcel of land.

SECTION 21. UTILITIES. Prohibits the district from imposing an impact fee or assessment upon electric utilities, power generation companies, gas utilities, or a person that provides to the public cable television or advanced telecommunications services.

SECTION 22. BONDS. This section provides for the issuance of bonds or other obligations payable wholly or partially from ad valorem taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination; these can take the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or any other type of obligation.

SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the City of Midland is not required to pay a bond, note, or other obligation of the district.

SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board, by resolution, must establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

SECTION 25. COMPETITIVE BIDDING LIMIT. Provides that Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$50,000.

SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. Provides that the board may vote to dissolve the district even if it has outstanding debts, in which case the district shall remain in existence solely for the limited purpose of discharging its debts. Once such debts

are discharged, the dissolution will be effective. Provides that Section 375.264, Local Government Code, does not apply to the district.

SECTION 27. ANNEXATION. Provides that the district may annex territory as provided by Subchapter C, Chapter 375, Local Government Code; including territory located inside the boundaries of a reinvestment zone created by the City of Midland, if the governing body of the city consents to the annexation.

SECTION 28. TAX AND ASSESSMENT ABATEMENTS. This section empowers the district to grant tax and assessment abatements .

SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. This section authorizes the district to join and pay dues to tax-exempt organization that performs services or provides activities consistent with the furtherance of the purposes of the district.

SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in a tax increment or tax abatement reinvestment zone, or an enterprise zone.

SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS. This section provides that the district may establish and administer state or local economic development programs with all of the powers and authority of a municipality under Chapter 380, Local Government Code.

SECTION 32. INITIAL DIRECTORS. This section names initial directors of the district, and provides for their terms of office; supercedes SECTION 10 for the purposes of this section; sunsets this section on September 1, 2007.

SECTION 33. LEGISLATIVE FINDINGS. This section sets forth specific legislative findings.

SECTION 34. EFFECTIVE DATE. Effective date.

EFFECTIVE DATE

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