

BILL ANALYSIS

C.S.H.B. 3629
By: Bohac
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is no community improvement district in the Spring Branch area. C.S.H.B. 3629 creates a Spring Branch Area Community Improvement District, sets forth district responsibilities and powers, and provides the authority to impose taxes and issue bonds. 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.

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. States that the Spring Branch Area Community Improvement District is a special district created under Section 59, Article XVI, Texas Constitution.

SECTION 2. DEFINITIONS. Defines "board" and "district."

SECTION 3. DECLARATION OF INTENT. Sets forth legislative intent for the creation of the district. Provides that the creation of the district and this legislation are not to be interpreted to relieve Harris County or the City of Houston from providing services--the creation of the district supplements, rather than supplants the district's existing services. Provides that the legislature has established a program to accomplish the public purposes set out in Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

SECTION 4. BOUNDARIES. The bill sets forth the metes and bounds of the Spring Branch Area Community Improvement District.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district form a closure. Sets forth issues which are unaffected by mistakes made in the assessment of boundaries.

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Provides that all land and property included in the district will benefit from improvements and services, and the district is created to serve a public use. Sets forth issues which are dependent upon the creation of the district. Sets forth the district's responsibilities and a description of street or road improvements. Provides that the district may not act as the agent or instrumentality of any private interest.

SECTION 7. APPLICATION OF OTHER LAW. Provides that Chapter 375, Local Government Code, and Chapter 311, Government Code, apply to the district and this Act, respectively.

SECTION 8. CONSTRUCTION OF ACT. Requires this Act to be liberally construed in conformity

with the findings and purposes stated in this Act.

SECTION 9. NOTICE AND APPROVAL OF PROPERTY OWNERS. Requires that written notice be mailed via certified mail, return receipt requested to each property owner subject to assessment 30 days before the first board meeting of the district. Specifies contents of notice; provides a method by which property owners may indicate approval or disapproval of the creation of the district; if a majority of the property owners disapprove, the board may not take any action except to repeat the process described in this section and schedule another meeting.

SECTION 10. BOARD OF DIRECTORS IN GENERAL. Provides that 13 board directors serve staggered terms of four years, to govern the district.

SECTION 11. QUALIFICATIONS. Requires a director to meet certain qualifications to serve as director.

SECTION 12. APPOINTMENT OF DIRECTORS. States that the governing body of the City of Houston shall only appoint voting directors from persons recommended by the board. A person is appointed if the governing body votes to appoint that person. Vacancies shall be filled as provided in Chapter 375, Local Government Code, for the balance of the unexpired term.

SECTION 13. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. Authorizes a director to participate in board votes and decisions, and provides that Chapter 171, Local Government Code, governs board members' conflicts of interest. Limits the application of Section 171.004, Government Code, to exclude the district. Requires a director with a conflict of interest to file a one-time affidavit declaring the interest. Authorizes the director to participate in certain actions, subsequent to filing the affidavit, under certain conditions. Prohibits a director who is also a public entity officer or employee from taking part in a matter regarding a contract with that public entity. Sets forth a description of a director's substantial interest regarding a charitable entity.

SECTION 14. ELECTRONIC TRANSMISSIONS. States that the district may acquire, operate, or charge fees for the use of the district conduits for another person's telecommunications network, fiber-optic cable, electronic transmission line, or any other type of transmission line or supporting facility, but may not require a person to use a district conduit.

SECTION 15. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), and a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

SECTION 16. AGREEMENTS; GRANTS. States that the district may make an agreement with or accept a gift, grant, or loan from any person. Also declares that the implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

SECTION 17. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract to provide law enforcement services in the district for a fee.

SECTION 18. NONPROFIT CORPORATION. Authorizes the board to authorize the creation of a nonprofit corporation, with the powers and responsibilities of a local government corporation created under Chapter 431, Transportation Code, to implement a project, with or on behalf of the district. Requires the board to appoint the board of directors of a nonprofit corporation. Sets forth terms and powers of a board of directors of a nonprofit corporation under this section.

SECTION 19. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. States that the board may not finance a service or improvement project under this Act unless a written petition requesting that improvement or service has been filed with the board. The petition must be signed by the

owners of a majority of the assessed value of real property in the district that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County; and at least 30 other persons who own real property in the district that will be subject to the assessment, if there are more than 30 persons own real property in the district that is subject to assessment and did not sign the petition as part of the majority above.

SECTION 20. ASSESSMENTS. Authorizes the board to impose and collect an assessment for any purpose authorized by this Act. Sets forth provisions for assessments resulting from additions or corrections to the assessment roll made by the district. Provides for the priority of assessments and associated costs. Sets forth the term of effectiveness for the lien. Authorizes the board to enforce the lien in the same manner as an ad valorem tax lien against real property.

SECTION 21. RESIDENTIAL PROPERTY. Prohibits the board from imposing an assessment or impact fee on single-family detached residential property, duplexes, triplexes, and quadraplexes.

SECTION 22. UTILITIES. Prohibits the board from imposing an assessment or impact fee on a electric utility, power generation company, gas utility, telecommunications provider, or a person that provides to the public cable television or advanced telecommunications services.

SECTION 23. BONDS. Allows the district to issue bonds or other obligations payable in whole or in part from assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district. The board may not issue bonds for a service or improvement project under this Act unless a written petition requesting that improvement or service has been filed with the board. The petition must be signed by the owners of a majority of the assessed value of real property in the district that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County. In exercising the district's borrowing power, the district may issue a bond or other obligation in 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 other type of obligation.

SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. Requires the board to establish procedures for the number of directors' signatures and the procedure required for the disbursement or transfer of district money.

SECTION 25. COMPETITIVE BIDDING LIMIT. Provides that Section 375.221, Local Government Code, does not apply to the district, unless the contract is for an amount exceeding \$15,000.

SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITHOUT OUTSTANDING DEBTS. Authorizes the board to dissolve a district that has debt. Sets forth procedures for the dissolution of a district. Provides that Section 375.264, Local Government Code, does not apply to the district.

SECTION 27. INITIAL DIRECTORS. Sets forth the initial district board of directors, and sets forth their staggered terms.

SECTION 28. LEGISLATIVE FINDINGS. Provides that the legislature finds that proper and legal notice regarding this Act has been given, the Texas Commission on Environmental Quality has filed its recommendations, certain laws have been complied with, and all requirements have been fulfilled and accomplished.

SECTION 29. Effective Date.

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

C.S.H.B. 3629 modifies the original by changing the number of initial board members from 11 directors to 13 directors. Two initial board members found in the original have been replaced and two more names have been added. The substitute provides for notice and approval of property owners in the district before any action may be taken by the board. In addition, the substitute changes the requirement for financing services and improvements by stating that the petition requesting the service or improvement must be signed by the owners of a majority of the assessed value of real property in the district that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County; and at least 30 other persons who own real property in the district that will be subject to the assessment, if there are more than 30 persons own real property in the district that is subject to assessment and did not sign the petition as part of the majority above. The substitute changes the competitive bidding limit to \$15,000 from the original's \$25,000. The substitute also makes a slight adjustment to the caption, and makes additional non-substantive technical changes.