

BILL ANALYSIS

C.S.S.B. 1565
By: Madla
Local Government Ways and Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, Texas law provides for the creation of municipal management districts to include areas within the corporate limits of a municipality. In the years since the passage of the Defense Base Realignment and Closure Act, areas in and around former defense bases have faced considerable challenges to economic development. For a municipality that plans to annex such an area, the creation of a defense adjustment management authority with the power to develop infrastructure and other projects, will advance the economic development of the area and provide for a better transition to annexation. C.S.S.B. 1565 lays out certain findings of the legislature and provides for the creation, governance, and dissolution of a defense adjustment management authority (authority). This bill also creates a structure to address issues, including taxation, annexation, and elections, within the authority.

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. Amends Chapter 375, Local Government Code, by adding Subchapter O, as follows:

SUBCHAPTER O. DEFENSE ADJUSTMENT MANAGEMENT AUTHORITY

Sec. 375.301. LEGISLATIVE FINDINGS; PURPOSES. (a) Sets forth certain findings of the legislature.

(b) Provides that the programs authorized by this subchapter are in the public interest, promote the state's economic welfare, and serve the public purpose of developing and diversifying the economy of this state and eliminating unemployment and underemployment in this state.

Sec. 375.302. CONSTRUCTION OF SUBCHAPTER. (a) Requires this subchapter to be liberally construed in conformity with the findings and purposes stated in Section 375.301.

(b) Provides that except as provided by this subchapter, the other provisions of this chapter apply to an authority created under this subchapter.

Sec. 375.303. DEFINITIONS. Defines "authority" and "eligible project."

Sec. 375.304. ELIGIBILITY FOR CREATION BY MUNICIPALITY. (a) Authorizes the governing body of a municipality, by resolution or ordinance, to create a defense adjustment management authority (authority) in an area that meets certain criteria.

(b) Provides that Subchapter B (Creation of District), Local Government Code, and Sections 375.041 (Commission Order) and 375.042 (Mistake in Boundary Description), Local Government Code, do not apply to this subchapter.

Sec. 375.305. HEARING ON CREATION OF AUTHORITY. (a) Requires the governing body of a municipality to hold two public hearings to consider the creation of the proposed authority, not earlier than the 60th day or later than the 30th day before the date the governing body of a municipality creates the authority. Requires the municipality to publish notice of each public hearing in a newspaper of general circulation in the area of the proposed authority at least seven days before each public hearing.

(b) Sets forth the required content of the notice required by Subsection (a).

Sec. 375.306. BOARD OF DIRECTORS. (a) Provides that the board consists of 15 directors.

(b) Requires the municipality to appoint six members of the board.

(c) Requires the county in which the municipality is primarily located to appoint six members of the board.

(d) Requires school districts whose boundaries overlap with an authority to collectively appoint three members of the board.

(e) Provides that directors are appointed for two-year terms. Authorizes the terms to be staggered and directors to serve successive terms.

(f) Provides that a vacancy on the board is filled for the unexpired term by the governing body of the entity that appointed the director who served in the vacant position.

(g) Requires the mayor of the municipality and the county judge of the county in which the authority is primarily located to appoint, alternately, one director to serve as presiding officer, with the first appointment to be made by the mayor of the municipality. Requires the presiding officers to serve a four-year term, beginning on January 1 of the year following the appointment. Authorizes the board to elect an assistant presiding officer to preside in the presiding officer's absence, or when there is a vacancy in that office. Authorizes the board to elect other officers as it considers appropriate.

(h) Provides that Sections 375.061 (Number of Directors; Terms), 375.066 (Board Vacancy), and 375.068 (Officers), and the limitations of Section 375.072 (c) (Participation in Voting), Local Government Code, do not apply to this subchapter.

Sec. 375.307. QUALIFICATIONS OF DIRECTORS. (a) Provides that except as provided by Subsection (b), a majority of the directors of an authority must meet the qualifications of Section 375.063 (Qualifications of Director), Local Government Code.

(b) Authorizes representatives or agents of a school district whose boundaries overlap with an authority, or of an institution of higher education that operates facilities within an authority, to serve on the board.

Sec. 375.308. POWERS OF THE AUTHORITY; MUNICIPALITY. (a) Sets forth the

powers of an authority.

(b) Prohibits an authority from taking certain actions.

(c) Prohibits a municipality from seeking a charter for or operating an openenrollment charter school authorized by Subchapter D, Chapter 12 (Open-Enrollment Charter School), Education Code, within the boundaries of the authority.

Sec. 375.309. MUNICIPAL ANNEXATION OF AREA IN AN AUTHORITY. (a) Authorizes a municipality that creates an authority under this subchapter to annex all or part of the territory located in the authority under Chapter 43 (Municipal Annexation), Local Government Code.

(b) Provides that annexation of territory located in the authority does not affect the operation of the authority.

(c) Provides that creation of an authority does not affect certain functions in or of a municipality.

Sec. 375.310. AUTHORITY MASTER PLAN. (a) Authorizes an authority only to develop or construct public improvements of eligible projects in areas designated in an authority master plan approved by the board and the governing body of the municipality that created the authority.

(b) Requires the authority master plan to include information required for a municipal reinvestment zone under Sections 311.011(b) and (c) (Project and Financing Plans), Tax Code, for the area of the authority. Provides that for the purposes of applying those sections, the area of the authority affected constitutes a zone.

(c) Requires the authority to generate the authority master plan based on economic development needs of the property owners and constituents in the authority.

(d) Requires the authority, after approval by the board, to submit the authority master plan to the municipality for approval. Requires the municipality, before taking action to approve or reject the authority master plan, to make a copy of the proposed authority master plan available to the public and hold hearings and publish notice of the hearings in the manner required by Section 375.305. Requires the notice of the public hearings to state where a copy of the proposed authority master plan is available for inspection.

(e) Authorizes the board to amend and submit the approved authority master plan to the governing body of the municipality for approval.

(f) Requires the municipality, before approving the authority's master plan, to publish notice and hold hearings as required by Subsection (d).

(g) Requires the municipality to approve the authority master plan before granting powers under Chapter 311 or Chapter 312, Tax Code. A county making appointments under Section 375.306 may not exercise the powers granted under Chapter 312, Tax Code, until the municipality approves the authority master plan.

Sec. 375.311. SALES AND USE TAX. (a) Authorizes an authority to impose a sales and use tax to support or finance public infrastructure projects and eligible projects authorized under this subchapter if the tax is authorized by a majority of the qualified

voters of the authority voting at an election held for that purpose in the manner provided by Sections 375.241 (Time of Election) and 375.242 (Election Called by Board), Local Government Code.

(b) Provides that if an authority adopts the tax authorized by Subsection (a), a tax is imposed on the receipts from the retail sale of taxable items within the authority at the rate approved by the voters. Requires the rate to be equal to one-eighth, one-fourth, three-eighths, or one-half of one percent.

(c) Provides that Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, governs the imposition, computation, administration, governance, and abolition of a tax imposed under this section.

(d) Provides that if any territory in the authority is annexed by the municipality, the municipality's sales and use tax applies in the annexed area. Provides that if the authority's sales and use tax rate, when combined with any other sales and use tax applicable in the authority exceeds two percent, then the authority's sales and use tax is abolished upon annexation.

Sec. 375.312. ZONING AND PLANNING. (a) Provides that an authority created under this subchapter has the power of a municipality under Chapters 211 (Municipal Zoning Authority) and 212 (Municipal Regulation of Subdivisions and Property Development), Local Government Code, in an area of the authority that is in the boundaries of the municipality's limited purpose jurisdiction. Provides that on a municipality's annexation of an area of the authority, the authority's power to regulate the area under Chapters 211 (Municipal Zoning Authority) and 212 (Municipal Regulation of Subdivisions and Property Development), Local Government Code, expires.

(b) Authorizes the board to divide the authority into distinct areas as provided by Section 211.005 (Districts), Local Government Code, to accomplish the purposes of this chapter and Chapter 211 (Municipal Zoning Authority), Local Government Code.

Sec. 375.313. REGIONAL DEVELOPMENT AGREEMENTS. (a) Authorizes an authority to enter into regional development agreements with certain entities for certain purposes.

(b) Authorizes certain entities, whose boundary overlaps with a portion of an authority, to enter into certain agreements.

(c) Requires any agreement entered into with a school district under this section to be designed to require that the school district funding under Title 2 (Public Education), Education Code, not be less than the school district would have received had the school district not entered into the agreement. Authorizes a school district board of trustees to waive this provision by specific action suspending the provisions of this subsection.

Sec. 375.314. DISSOLUTION OF THE AUTHORITY. (a) Authorizes the governing body of the municipality that created an authority under this subchapter to dissolve the authority.

(b) Requires the municipality to publish notice and hold public hearings on the proposed dissolution, before dissolution, as provided in Section 375.305.

(c) Requires the municipality to assume the assets, debts, and other obligations of

the authority, upon dissolution.

(d) Provides that Subchapter M (Dissolution), Local Government Code, does not apply to this subchapter.

SECTION 2. Effective date: upon passage or September 1, 2003.

EFFECTIVE DATE

Upon passage or September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute requires the municipality to approve the authority master plan before granting powers under Chapter 311 or Chapter 312, Tax Code. A county making appointments under Section 375.306 may not exercise the powers granted under Chapter 312, Tax Code, until the municipality approves the authority master plan.