

BILL ANALYSIS

C.S.S.B. 1912
By: Jackson
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.S.B. 1912 creates the Harborside Management District in Galveston County as a political subdivision of Texas to administer and provide funding for community improvement projects and services in certain commercial areas of Harborside.

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) Creates the Harborside Management District (the "district") as a special district under Section 59, Article XVI, Texas Constitution.

(b) Authorizes the Board of Directors of the district (the "board") by resolution to change the name of the district.

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

SECTION 3. DECLARATION OF INTENT. (a) Sets forth findings regarding the necessity of the creation of the district.

(b) Sets forth findings that the creation of the district is essential to accomplish certain purposes.

(c) Provides that the creation of the district may not be interpreted to relieve Galveston County or the City of Galveston from providing the level of services currently provided.

(d) Provides that the creation of the district by the legislature is the establishment of a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

SECTION 4. BOUNDARIES. Sets forth the metes and bounds of the district.

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

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit, and that all land and other property in the District will benefit from the improvements and services to be provided by the District. Provides that the creation of the district is in the public interest and is essential to further the public purposes of the development and diversification of the economy of the state, eliminate unemployment and underemployment, and develop or expand transportation and commerce. Provides that the district will serve the public purpose of promoting the health, safety and general welfare and provide necessary funding for the economic health and vitality of the district as a community and business center. Provides that pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art

objects are part of and necessary components of a street and are considered to be a street or road improvement. Provides that the district will not act as the agent or instrumentality of any private interest even though many private interests will be benefitted by the district, as will the general public.

SECTION 7. APPLICATION OF OTHER LAW. Provides that except as otherwise provided by the Act, Chapter 375, Local Government Code, applies to the district. This section also provides that Chapter 311, Government Code (Code Construction Act) applies to the Act.

SECTION 8. CONSTRUCTION OF ACT. Provides for liberal construction of the Act.

SECTION 9. BOARD OF DIRECTORS IN GENERAL. Sets forth number and terms of directors, and provides the board may, within limits, increase or decrease the number of directors.

SECTION 10. APPOINTMENT OF DIRECTORS. Provides for directors' appointment.

SECTION 11. NONVOTING DIRECTORS. Designates certain persons as nonvoting directors, provides for the appointment of nonvoting directors in the case of a change in the agencies, departments, or divisions described in the section. Provides that nonvoting directors are not counted for the purposes fo establishing quorum.

SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFADAVIT. 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 13. 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 14. AGREEMENTS; GRANTS. (a) Provides that the district may make an agreement with or accept a gift, grant, or loan from any person.
(b) Provides that the implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code, allowing interlocal contracts.

SECTION 15. LAW ENFORCEMENT SERVICES. Provides that the district may contract for law enforcement services with a municipality or a county for a fee to protect the public interest.

SECTION 16. 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 17. 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 Galveston County.

SECTION 18. ELECTIONS. (a) Requires the district to hold an election in a manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds that are payable from ad valorem taxes.

(b) Prohibits the district from including more than one purpose in a single proposition at an election.

SECTION 19. MAINTENANCE TAX. (a) Authorizes the district, if approved at an election held in accordance with Section 18, to impose and collect an annual ad valorem tax on taxable property in the district for any district purpose, including to maintain and operate the district, including improvements constructed or acquired by the district, or to provide a service.

(b) Provides that the board shall determine the tax rate.

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. UTILITIES. Provides that the district may not impose an impact fee or assessment on electric utilities or power generation companies, gas utilities, telecommunication providers, or a person who provides to the public cable television or advanced telecommunications services.

SECTION 22. 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. 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 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that except as provided by Section 375.263, Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

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 WITH 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. TAX AND ASSESSMENT ABATEMENTS. Provides that without further authorization or other procedural requirement, the district may grant an abatement for a tax or other assessment owed to the district.

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 7. FINDINGS RELATED TO REDEVELOPMENT. Provides findings that the area within the district is unproductive, underdeveloped or blighted; development or redevelopment would not occur solely through private investment in the reasonably foreseeable future; the area within the district substantially arrests and impairs sound growth; retards the provision of housing accommodations, and constitutes an economic and social liability and is a menace to the public health, safety, morals, and welfare in its present condition and use; and the area within the district is predominately open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impairs or arrests sound growth.

SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the district is eligible to be included in a tax incremental reinvestment zone created by the City of Galveston under Chapter 311, Tax Code, a tax abatement reinvestment zone created by the City under Chapter 312, Tax Code, or an enterprise zone created by the City under Chapter 2303, Government Code, regardless of other statutory criteria.

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. LEGISLATIVE FINDINGS. Sets forth legislative findings regarding the fulfillment of procedural requirements with respect to the notice, introduction, and passage.

SECTION 27. 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

The substitute modifies the original in the following ways: eliminates the restriction on the governing body of the City of Galveston to only appoint directors from a list provided by the district's board; deletes the provision allowing for assessments to be authorized by a petition of only 25 property owners; prohibits the district's board from including more than one purpose in a proposition at election; and lowers the competitive bidding limit to \$15,000 from the original's \$25,000.