

1-1 By: Jackson S.B. No. 77
1-2 (In the Senate - Filed July 7, 2005; July 8, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; July 14, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 July 14, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 77 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation of municipal management districts by
1-11 certain small municipalities; providing authority to impose an
1-12 assessment or sales and use tax, and to issue bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle A, Title 12, Local Government Code, is
1-15 amended by adding Chapter 375A to read as follows:

1-16 CHAPTER 375A. MUNICIPAL MANAGEMENT DISTRICTS IN CERTAIN SMALL
1-17 MUNICIPALITIES

1-18 SUBCHAPTER A. GENERAL PROVISIONS

1-19 Sec. 375A.001. DEFINITIONS. In this chapter:

1-20 (1) "Board" means the board of directors of a
1-21 district.

1-22 (2) "County" means the county in which a district is
1-23 created.

1-24 (3) "District" means a district created under this
1-25 chapter.

1-26 (4) "Municipality" means the municipality that
1-27 created the district.

1-28 Sec. 375A.002. APPLICABILITY. This chapter applies only to
1-29 a home-rule or a Type A general-law municipality with a population
1-30 of 5,000 or less that is located in:

1-31 (1) a county with a population of 3.3 million or more;
1-32 or

1-33 (2) a county with a population of more than 800,000 and
1-34 less than one million.

1-35 Sec. 375A.003. CREATION; INITIAL DISTRICT NAME AND
1-36 TERRITORY. (a) The governing body of a municipality may adopt an
1-37 ordinance or resolution to create a district under this chapter.

1-38 (b) The ordinance or resolution must:

1-39 (1) name the district; and

1-40 (2) define the boundaries of the district to include
1-41 all or part of the incorporated territory or extraterritorial
1-42 jurisdiction of the municipality, except that the boundaries of a
1-43 district may not include single-family detached residences or
1-44 residential duplexes, triplexes, or fourplexes.

1-45 Sec. 375A.004. MISTAKE IN BOUNDARY DESCRIPTION. A mistake
1-46 in the field notes in the municipal ordinance or resolution
1-47 creating the district or in copying the field notes of district
1-48 boundaries does not in any way affect the district's:

1-49 (1) organization, existence, or validity;

1-50 (2) right to issue any type of bond for a purpose for
1-51 which the district is created or to pay the principal of and
1-52 interest on the bond;

1-53 (3) right to impose or collect an assessment or tax; or

1-54 (4) legality or operation.

1-55 Sec. 375A.005. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
1-56 All or any part of the area of the district is eligible to be
1-57 included in:

1-58 (1) a tax increment reinvestment zone created by a
1-59 municipality under Chapter 311, Tax Code;

1-60 (2) a tax abatement reinvestment zone created by a
1-61 municipality under Chapter 312, Tax Code; or

1-62 (3) an enterprise zone created by a municipality under
1-63 Chapter 2303, Government Code.

2-1 Sec. 375A.006. APPLICABILITY OF OTHER MUNICIPAL MANAGEMENT
2-2 DISTRICTS LAW. Except as otherwise provided by this chapter,
2-3 Subchapters A and C-N, Chapter 375, apply to a district.

2-4 [Sections 375A.007-375A.050 reserved for expansion]

2-5 SUBCHAPTER B. BOARD OF DIRECTORS

2-6 Sec. 375A.051. BOARD OF DIRECTORS; TERMS. (a) A district
2-7 is governed by a board of seven voting directors who serve staggered
2-8 terms of four years, with three or four directors' terms expiring
2-9 June 1 of each odd-numbered year.

2-10 (b) The governing body of the municipality may change the
2-11 number of voting directors on the board. The board may not consist
2-12 of fewer than five or more than 15 voting directors.

2-13 Sec. 375A.052. APPOINTMENT OF DIRECTORS. (a) The mayor
2-14 and members of the governing body of the municipality shall appoint
2-15 the district's voting directors. A person is appointed if a
2-16 majority of the members of the governing body, including the mayor,
2-17 vote to appoint that person.

2-18 (b) Section 375.063 does not apply to a district.

2-19 Sec. 375A.053. NONVOTING DIRECTORS. (a) The following
2-20 persons serve as a district's nonvoting directors:

2-21 (1) the presiding officer of the municipality's
2-22 planning and zoning commission;

2-23 (2) the municipality's director of public works; and

2-24 (3) the municipality's chief of police.

2-25 (b) If a department described by Subsection (a) is
2-26 consolidated, renamed, or changed, a board may appoint a director
2-27 of the consolidated, renamed, or changed department as a nonvoting
2-28 director. If a department described by Subsection (a) is
2-29 abolished, the board may appoint a representative of another
2-30 department that performs duties comparable to those performed by
2-31 the abolished department.

2-32 Sec. 375A.054. QUORUM. For purposes of determining the
2-33 requirements for a quorum, the following are not counted:

2-34 (1) a board position vacant for any reason, including
2-35 death, resignation, or disqualification;

2-36 (2) a director who is abstaining from participation in
2-37 a vote because of a conflict of interest; or

2-38 (3) a nonvoting director.

2-39 Sec. 375A.055. INITIAL VOTING DIRECTORS. (a) The mayor
2-40 and members of the governing body of the municipality shall appoint
2-41 the district's initial seven voting directors by position.

2-42 (b) Of the initial voting directors, the terms of directors
2-43 appointed for positions 1 through 4 expire the first June 1 of an
2-44 odd-numbered year following the appointment, regardless of whether
2-45 the appointment occurred in an odd-numbered year, and the terms of
2-46 directors appointed for positions 5 through 7 expire June 1 of the
2-47 next odd-numbered year.

2-48 [Sections 375A.056-375A.100 reserved for expansion]

2-49 SUBCHAPTER C. POWERS AND DUTIES

2-50 Sec. 375A.101. ADDITIONAL POWERS OF DISTRICT. A district
2-51 may exercise the powers given to:

2-52 (1) a corporation under Section 4B, Development
2-53 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil
2-54 Statutes), including the power to own, operate, acquire, construct,
2-55 lease, improve, or maintain a project described by that section;
2-56 and

2-57 (2) a housing finance corporation under Chapter 394,
2-58 Local Government Code, to provide housing or residential
2-59 development projects in the district.

2-60 Sec. 375A.102. NONPROFIT CORPORATION. (a) A board by
2-61 resolution may authorize the creation of a nonprofit corporation to
2-62 assist and act for the district in implementing a project or
2-63 providing a service authorized by this chapter.

2-64 (b) The nonprofit corporation:

2-65 (1) has each power of and is considered for purposes of
2-66 this chapter to be a local government corporation created under
2-67 Chapter 431, Transportation Code; and

2-68 (2) may implement any project and provide any service
2-69 authorized by this chapter.

3-1 (c) The board shall appoint the board of directors of the
 3-2 nonprofit corporation. A director of the corporation is not
 3-3 required to reside in the district.

3-4 (d) The board of directors of the nonprofit corporation
 3-5 shall serve in the same manner as the board of directors of a local
 3-6 government corporation created under Chapter 431, Transportation
 3-7 Code.

3-8 Sec. 375A.103. AGREEMENTS; GRANTS. (a) A district may
 3-9 make an agreement with or accept a gift, grant, or loan from any
 3-10 person.

3-11 (b) The implementation of a project is a governmental
 3-12 function or service for the purposes of Chapter 791, Government
 3-13 Code.

3-14 Sec. 375A.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
 3-15 To protect the public interest, a district may contract with a
 3-16 qualified provider, including a county or municipality, to provide
 3-17 law enforcement services in the district for a fee.

3-18 Sec. 375A.105. APPROVAL BY MUNICIPALITY. (a) Except as
 3-19 provided by Subsection (c), a district must obtain the approval of
 3-20 the municipality's governing body for:

3-21 (1) the issuance of bonds for an improvement project;
 3-22 (2) the imposition of a sales and use tax;
 3-23 (3) the plans and specifications of an improvement
 3-24 project financed by the bonds; and

3-25 (4) the plans and specifications of an improvement
 3-26 project related to the use of land owned by the municipality, an
 3-27 easement granted by the municipality, or a right-of-way of a
 3-28 street, road, or highway.

3-29 (b) The approval obtained under Subsection (a)(1) or (2)
 3-30 must be a resolution by the municipality. The approval obtained
 3-31 under Subsection (a)(3) or (4) must be a permit issued by the
 3-32 municipality.

3-33 (c) If the district obtains the approval of the
 3-34 municipality's governing body for a capital improvements budget for
 3-35 a period not to exceed five years, the district may finance the
 3-36 capital improvements and issue bonds specified in the budget
 3-37 without further approval from the municipality.

3-38 (d) The municipality and the district may agree on
 3-39 conditions for obtaining the approval of the municipality under
 3-40 this section, including an agreement for the approval of a sales and
 3-41 use tax that requires the district to abolish or decrease the rate
 3-42 of the tax if the rate, when combined with other local sales and use
 3-43 taxes, results in a combined tax rate of more than two percent in
 3-44 any location in the district.

3-45 Sec. 375A.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. A
 3-46 district may join and pay dues to an organization that:

3-47 (1) enjoys tax-exempt status under Section 501(c)(3),
 3-48 (4), or (6), Internal Revenue Code of 1986; and

3-49 (2) performs a service or provides an activity
 3-50 consistent with the furtherance of a district purpose.

3-51 Sec. 375A.107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER
 3-52 POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) A district may
 3-53 establish and provide for the administration of one or more
 3-54 programs to promote state or local economic development and to
 3-55 stimulate business and commercial activity in the district,
 3-56 including programs to:

3-57 (1) make loans and grants of public money; and
 3-58 (2) provide district personnel and services.

3-59 (b) A district has all of the powers of a municipality under
 3-60 Chapter 380.

3-61 Sec. 375A.108. ANNEXATION. In addition to the authority to
 3-62 annex territory under Subchapter J, Chapter 49, Water Code, a
 3-63 district may annex territory if the municipality's governing body
 3-64 by ordinance or resolution consents to the annexation.

3-65 Sec. 375A.109. NO EMINENT DOMAIN. A district may not
 3-66 exercise the power of eminent domain.

3-67 [Sections 375A.110-375A.150 reserved for expansion]

3-68 SUBCHAPTER D. FINANCIAL PROVISIONS

3-69 Sec. 375A.151. DISBURSEMENTS AND TRANSFERS OF MONEY. A

4-1 board by resolution shall establish the number of directors'
4-2 signatures and the procedure required for a disbursement or
4-3 transfer of the district's money.

4-4 Sec. 375A.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. A
4-5 district may acquire, construct, finance, operate, or maintain any
4-6 improvement or service authorized under this chapter or Chapter 375
4-7 using any money available to the district.

4-8 Sec. 375A.153. PETITION REQUIRED FOR FINANCING SERVICES AND
4-9 IMPROVEMENTS WITH ASSESSMENTS. (a) A board may not finance a
4-10 service or improvement project with assessments under this chapter
4-11 unless a written petition requesting that service or improvement
4-12 has been filed with the board.

4-13 (b) A petition filed under Subsection (a) must be signed by:

4-14 (1) the owners of a majority of the assessed value of
4-15 real property in the district subject to assessment according to
4-16 the most recent certified tax appraisal roll for the county;

4-17 (2) at least 25 persons who own real property in the
4-18 district, if more than 25 persons own real property in the district
4-19 according to the most recent certified tax appraisal roll for the
4-20 county;

4-21 (3) the owners of a majority of the surface area of
4-22 real property in the district subject to assessment as determined
4-23 by the board; or

4-24 (4) the owners of a majority of the number of platted
4-25 lots of real property subject to assessment as determined by the
4-26 board.

4-27 Sec. 375A.154. METHOD OF NOTICE FOR HEARING. A district may
4-28 mail the notice required by Section 375.115(c) by certified United
4-29 States mail or an equivalent service that can provide a record of
4-30 mailing or other delivery.

4-31 Sec. 375A.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) A
4-32 board by resolution may impose and collect an assessment for any
4-33 purpose authorized by this chapter in all or any part of the
4-34 district.

4-35 (b) An assessment, a reassessment, or an assessment
4-36 resulting from an addition to or correction of the assessment roll
4-37 by a district, penalties and interest on an assessment or
4-38 reassessment, an expense of collection, and reasonable attorney's
4-39 fees incurred by the district:

4-40 (1) are a first and prior lien against the property
4-41 assessed;

4-42 (2) are superior to any other lien or claim other than
4-43 a lien or claim for county, school district, or municipal ad valorem
4-44 taxes; and

4-45 (3) are the personal liability of and a charge against
4-46 the owners of the property even if the owners are not named in the
4-47 assessment proceedings.

4-48 (c) The lien is effective from the date of the board's
4-49 resolution imposing the assessment until the date the assessment is
4-50 paid. The board may enforce the lien in the same manner that the
4-51 board may enforce an ad valorem tax lien against real property.

4-52 (d) The board may make a correction to or deletion from the
4-53 assessment roll that does not increase the amount of assessment of
4-54 any parcel of land without providing notice and holding a hearing in
4-55 the manner required for additional assessments.

4-56 Sec. 375A.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
4-57 ASSESSMENTS. A district may not impose an impact fee or assessment
4-58 on the property, including the equipment, rights-of-way,
4-59 facilities, or improvements, of:

4-60 (1) an electric utility or a power generation company
4-61 as defined by Section 31.002, Utilities Code;

4-62 (2) a gas utility as defined by Section 101.003 or
4-63 121.001, Utilities Code;

4-64 (3) a telecommunications provider as defined by
4-65 Section 51.002, Utilities Code; or

4-66 (4) a person who provides to the public cable
4-67 television or advanced telecommunications services.

4-68 Sec. 375A.157. BONDS AND OTHER OBLIGATIONS. (a) A
4-69 district may issue by competitive bid or negotiated sale bonds or

5-1 other obligations payable wholly or partly from sales and use
 5-2 taxes, assessments, impact fees, revenue, grants, or other money of
 5-3 the district, or any combination of those sources of money, to pay
 5-4 for any authorized purpose of the district.

5-5 (b) A district may issue a bond or other obligation in the
 5-6 form of a bond, note, certificate of participation or other
 5-7 instrument evidencing a proportionate interest in payments to be
 5-8 made by the district, or other type of obligation.

5-9 (c) Section 375.243 does not apply to the district.

5-10 Sec. 375A.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
 5-11 OBLIGATIONS. Except as provided by Section 375.263, the
 5-12 municipality is not required to pay a bond, note, or other
 5-13 obligation of a district.

5-14 Sec. 375A.159. COMPETITIVE BIDDING. Section 375.221
 5-15 applies to a district only for a contract that has a value greater
 5-16 than \$25,000.

5-17 Sec. 375A.160. TAX AND ASSESSMENT ABATEMENTS. A district
 5-18 may grant in the manner authorized by Chapter 312, Tax Code, an
 5-19 abatement for a tax or assessment owed to the district.

5-20 [Sections 375A.161-375A.200 reserved for expansion]

5-21 SUBCHAPTER E. SALES AND USE TAX

5-22 Sec. 375A.201. MEANINGS OF WORDS AND PHRASES. Words and
 5-23 phrases used in this subchapter that are defined by Chapters 151 and
 5-24 321, Tax Code, have the meanings assigned by Chapters 151 and 321,
 5-25 Tax Code.

5-26 Sec. 375A.202. APPLICABILITY OF CERTAIN TAX CODE
 5-27 PROVISIONS. (a) Except as otherwise provided by this subchapter,
 5-28 Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code,
 5-29 apply to taxes imposed under this subchapter and to the
 5-30 administration and enforcement of those taxes in the same manner
 5-31 that those laws apply to state taxes.

5-32 (b) The provisions of Subchapters B, C, and D, Chapter 321,
 5-33 Tax Code, relating to municipal sales and use taxes apply to the
 5-34 application, collection, change, and administration of a sales and
 5-35 use tax imposed under this subchapter to the extent consistent with
 5-36 this chapter, as if references in Chapter 321, Tax Code, to a
 5-37 municipality referred to a district and references to a governing
 5-38 body referred to a board.

5-39 (c) Sections 321.401-321.406 and Subchapter F, Chapter 321,
 5-40 Tax Code, do not apply to a tax imposed under this subchapter.

5-41 Sec. 375A.203. AUTHORIZATION. A district may adopt a sales
 5-42 and use tax for the benefit of the district. The board is not
 5-43 required to call an election to adopt the tax.

5-44 Sec. 375A.204. ABOLISHING SALES AND USE TAX. (a) Except
 5-45 as provided in Subsection (b), a board, with the consent of the
 5-46 governing body of the municipality, may abolish the sales and use
 5-47 tax without an election.

5-48 (b) A board may not abolish the sales and use tax if the
 5-49 district has outstanding debt secured by the tax.

5-50 Sec. 375A.205. SALES AND USE TAX RATE. (a) On adoption of
 5-51 the tax authorized by this subchapter, there is imposed a tax at the
 5-52 rate authorized by a district on the receipts from the sale at
 5-53 retail of taxable items within the district, and an excise tax on
 5-54 the use, storage, or other consumption within the district of
 5-55 taxable items purchased, leased, or rented from a retailer within
 5-56 the district during the period that the tax is in effect.

5-57 (b) The rate of the excise tax is the same as the rate of the
 5-58 sales tax portion of the tax and is applied to the sales price of the
 5-59 taxable item.

5-60 [Sections 375A.206-375A.250 reserved for expansion]

5-61 SUBCHAPTER F. DISSOLUTION

5-62 Sec. 375A.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING
 5-63 DEBT. (a) A board may dissolve the district regardless of whether
 5-64 the district has debt. Section 375.264 does not apply to the
 5-65 district.

5-66 (b) If a district has debt when it is dissolved, the
 5-67 district shall remain in existence solely for the purpose of
 5-68 discharging its debts. The dissolution is effective when all debts
 5-69 have been discharged.

6-1 SECTION 2. This Act takes effect immediately if it receives
6-2 a vote of two-thirds of all the members elected to each house, as
6-3 provided by Section 39, Article III, Texas Constitution. If this
6-4 Act does not receive the vote necessary for immediate effect, this
6-5 Act takes effect on the 91st day after the last day of the
6-6 legislative session.

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