

By: Jackson

S.B. No. 35

A BILL TO BE ENTITLED

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AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

CHAPTER 375A. MUNICIPAL MANAGEMENT DISTRICTS IN CERTAIN SMALL MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 375A.001. DEFINITIONS. In this chapter:

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

(2) "County" means the county in which a district is created.

(3) "District" means a district created under this chapter.

(4) "Municipality" means the municipality that created the district.

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

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

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

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

6 (b) The ordinance or resolution must:

7 (1) name the district; and

8 (2) define the boundaries of the district to include
9 all or part of the incorporated territory or extraterritorial
10 jurisdiction of the municipality, except that the boundaries of a
11 district may not include single-family detached residences or
12 residential duplexes, triplexes, or fourplexes.

13 Sec. 375A.004. MISTAKE IN BOUNDARY DESCRIPTION. A mistake
14 in the field notes in the municipal ordinance or resolution
15 creating the district or in copying the field notes of district
16 boundaries does not in any way affect the district's:

17 (1) organization, existence, or validity;

18 (2) right to issue any type of bond for a purpose for
19 which the district is created or to pay the principal of and
20 interest on the bond;

21 (3) right to impose or collect an assessment or tax; or

22 (4) legality or operation.

23 Sec. 375A.005. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
24 All or any part of the area of the district is eligible to be
25 included in:

26 (1) a tax increment reinvestment zone created by a
27 municipality under Chapter 311, Tax Code;

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

3 (3) an enterprise zone created by a municipality under
4 Chapter 2303, Government Code.

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

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

9 SUBCHAPTER B. BOARD OF DIRECTORS

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

14 (b) The governing body of the municipality may change the
15 number of voting directors on the board. The board may not consist
16 of fewer than five or more than 15 voting directors.

17 Sec. 375A.052. APPOINTMENT OF DIRECTORS. (a) The mayor
18 and members of the governing body of the municipality shall appoint
19 the district's voting directors. A person is appointed if a
20 majority of the members of the governing body, including the mayor,
21 vote to appoint that person.

22 (b) Section 375.063 does not apply to a district.

23 Sec. 375A.053. NONVOTING DIRECTORS. (a) The following
24 persons serve as a district's nonvoting directors:

25 (1) the presiding officer of the municipality's
26 planning and zoning commission;

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

1 (3) the municipality's chief of police.

2 (b) If a department described by Subsection (a) is
3 consolidated, renamed, or changed, a board may appoint a director
4 of the consolidated, renamed, or changed department as a nonvoting
5 director. If a department described by Subsection (a) is
6 abolished, the board may appoint a representative of another
7 department that performs duties comparable to those performed by
8 the abolished department.

9 Sec. 375A.054. QUORUM. For purposes of determining the
10 requirements for a quorum, the following are not counted:

11 (1) a board position vacant for any reason, including
12 death, resignation, or disqualification;

13 (2) a director who is abstaining from participation in
14 a vote because of a conflict of interest; or

15 (3) a nonvoting director.

16 Sec. 375A.055. INITIAL VOTING DIRECTORS. (a) The mayor
17 and members of the governing body of the municipality shall appoint
18 the district's initial seven voting directors by position.

19 (b) Of the initial voting directors, the terms of directors
20 appointed for positions 1 through 4 expire the first June 1 of an
21 odd-numbered year following the appointment, regardless of whether
22 the appointment occurred in an odd-numbered year, and the terms of
23 directors appointed for positions 5 through 7 expire June 1 of the
24 next odd-numbered year.

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

26 SUBCHAPTER C. POWERS AND DUTIES

27 Sec. 375A.101. ADDITIONAL POWERS OF DISTRICT. A district

1 may exercise the powers given to:

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

7 (2) a housing finance corporation under Chapter 394,
8 Local Government Code, to provide housing or residential
9 development projects in the district.

10 Sec. 375A.102. NONPROFIT CORPORATION. (a) A board by
11 resolution may authorize the creation of a nonprofit corporation to
12 assist and act for the district in implementing a project or
13 providing a service authorized by this chapter.

14 (b) The nonprofit corporation:

15 (1) has each power of and is considered for purposes of
16 this chapter to be a local government corporation created under
17 Chapter 431, Transportation Code; and

18 (2) may implement any project and provide any service
19 authorized by this chapter.

20 (c) The board shall appoint the board of directors of the
21 nonprofit corporation. A director of the corporation is not
22 required to reside in the district.

23 (d) The board of directors of the nonprofit corporation
24 shall serve in the same manner as the board of directors of a local
25 government corporation created under Chapter 431, Transportation
26 Code.

27 Sec. 375A.103. AGREEMENTS; GRANTS. (a) A district may

1 make an agreement with or accept a gift, grant, or loan from any
2 person.

3 (b) The implementation of a project is a governmental
4 function or service for the purposes of Chapter 791, Government
5 Code.

6 Sec. 375A.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
7 To protect the public interest, a district may contract with a
8 qualified provider, including a county or municipality, to provide
9 law enforcement services in the district for a fee.

10 Sec. 375A.105. APPROVAL BY MUNICIPALITY. (a) Except as
11 provided by Subsection (c), a district must obtain the approval of
12 the municipality's governing body for:

- 13 (1) the issuance of bonds for an improvement project;
14 (2) the imposition of a sales and use tax;
15 (3) the plans and specifications of an improvement
16 project financed by the bonds; and
17 (4) the plans and specifications of an improvement
18 project related to the use of land owned by the municipality, an
19 easement granted by the municipality, or a right-of-way of a
20 street, road, or highway.

21 (b) The approval obtained under Subsection (a)(1) or (2)
22 must be a resolution by the municipality. The approval obtained
23 under Subsection (a)(3) or (4) must be a permit issued by the
24 municipality.

25 (c) If the district obtains the approval of the
26 municipality's governing body for a capital improvements budget for
27 a period not to exceed five years, the district may finance the

1 capital improvements and issue bonds specified in the budget
2 without further approval from the municipality.

3 (d) The municipality and the district may agree on
4 conditions for obtaining the approval of the municipality under
5 this section, including an agreement for the approval of a sales and
6 use tax that requires the district to abolish or decrease the rate
7 of the tax if the rate, when combined with other local sales and use
8 taxes, results in a combined tax rate of more than two percent in
9 any location in the district.

10 Sec. 375A.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. A
11 district may join and pay dues to an organization that:

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

14 (2) performs a service or provides an activity
15 consistent with the furtherance of a district purpose.

16 Sec. 375A.107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER
17 POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) A district may
18 establish and provide for the administration of one or more
19 programs to promote state or local economic development and to
20 stimulate business and commercial activity in the district,
21 including programs to:

22 (1) make loans and grants of public money; and

23 (2) provide district personnel and services.

24 (b) A district has all of the powers of a municipality under
25 Chapter 380.

26 Sec. 375A.108. ANNEXATION. In addition to the authority to
27 annex territory under Subchapter J, Chapter 49, Water Code, a

1 district may annex territory if the municipality's governing body
2 by ordinance or resolution consents to the annexation.

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

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

6 SUBCHAPTER D. FINANCIAL PROVISIONS

7 Sec. 375A.151. DISBURSEMENTS AND TRANSFERS OF MONEY. A
8 board by resolution shall establish the number of directors'
9 signatures and the procedure required for a disbursement or
10 transfer of the district's money.

11 Sec. 375A.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. A
12 district may acquire, construct, finance, operate, or maintain any
13 improvement or service authorized under this chapter or Chapter 375
14 using any money available to the district.

15 Sec. 375A.153. PETITION REQUIRED FOR FINANCING SERVICES AND
16 IMPROVEMENTS WITH ASSESSMENTS. (a) A board may not finance a
17 service or improvement project with assessments under this chapter
18 unless a written petition requesting that service or improvement
19 has been filed with the board.

20 (b) A petition filed under Subsection (a) must be signed by:

21 (1) the owners of a majority of the assessed value of
22 real property in the district subject to assessment according to
23 the most recent certified tax appraisal roll for the county;

24 (2) at least 25 persons who own real property in the
25 district, if more than 25 persons own real property in the district
26 according to the most recent certified tax appraisal roll for the
27 county;

1 (3) the owners of a majority of the surface area of
2 real property in the district subject to assessment as determined
3 by the board; or

4 (4) the owners of a majority of the number of platted
5 lots of real property subject to assessment as determined by the
6 board.

7 Sec. 375A.154. METHOD OF NOTICE FOR HEARING. A district may
8 mail the notice required by Section 375.115(c) by certified United
9 States mail or an equivalent service that can provide a record of
10 mailing or other delivery.

11 Sec. 375A.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) A
12 board by resolution may impose and collect an assessment for any
13 purpose authorized by this chapter in all or any part of the
14 district.

15 (b) An assessment, a reassessment, or an assessment
16 resulting from an addition to or correction of the assessment roll
17 by a district, penalties and interest on an assessment or
18 reassessment, an expense of collection, and reasonable attorney's
19 fees incurred by the district:

20 (1) are a first and prior lien against the property
21 assessed;

22 (2) are superior to any other lien or claim other than
23 a lien or claim for county, school district, or municipal ad valorem
24 taxes; and

25 (3) are the personal liability of and a charge against
26 the owners of the property even if the owners are not named in the
27 assessment proceedings.

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

5 (d) The board may make a correction to or deletion from the
6 assessment roll that does not increase the amount of assessment of
7 any parcel of land without providing notice and holding a hearing in
8 the manner required for additional assessments.

9 Sec. 375A.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
10 ASSESSMENTS. A district may not impose an impact fee or assessment
11 on the property, including the equipment, rights-of-way,
12 facilities, or improvements, of:

13 (1) an electric utility or a power generation company
14 as defined by Section 31.002, Utilities Code;

15 (2) a gas utility as defined by Section 101.003 or
16 121.001, Utilities Code;

17 (3) a telecommunications provider as defined by
18 Section 51.002, Utilities Code; or

19 (4) a person who provides to the public cable
20 television or advanced telecommunications services.

21 Sec. 375A.157. BONDS AND OTHER OBLIGATIONS. (a) A
22 district may issue by competitive bid or negotiated sale bonds or
23 other obligations payable wholly or partly from sales and use
24 taxes, assessments, impact fees, revenue, grants, or other money of
25 the district, or any combination of those sources of money, to pay
26 for any authorized purpose of the district.

27 (b) A district may issue a bond or other obligation in the

1 form of a bond, note, certificate of participation or other
2 instrument evidencing a proportionate interest in payments to be
3 made by the district, or other type of obligation.

4 (c) Section 375.243 does not apply to the district.

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

9 Sec. 375A.159. COMPETITIVE BIDDING. Section 375.221
10 applies to a district only for a contract that has a value greater
11 than \$25,000.

12 Sec. 375A.160. TAX AND ASSESSMENT ABATEMENTS. A district
13 may grant in the manner authorized by Chapter 312, Tax Code, an
14 abatement for a tax or assessment owed to the district.

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

16 SUBCHAPTER E. SALES AND USE TAX

17 Sec. 375A.201. MEANINGS OF WORDS AND PHRASES. Words and
18 phrases used in this subchapter that are defined by Chapters 151 and
19 321, Tax Code, have the meanings assigned by Chapters 151 and 321,
20 Tax Code.

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

27 (b) The provisions of Subchapters B, C, and D, Chapter 321,

1 Tax Code, relating to municipal sales and use taxes apply to the
2 application, collection, change, and administration of a sales and
3 use tax imposed under this subchapter to the extent consistent with
4 this chapter, as if references in Chapter 321, Tax Code, to a
5 municipality referred to a district and references to a governing
6 body referred to a board.

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

9 Sec. 375A.203. AUTHORIZATION. A district may adopt a sales
10 and use tax for the benefit of the district. The board is not
11 required to call an election to adopt the tax.

12 Sec. 375A.204. ABOLISHING SALES AND USE TAX. (a) Except
13 as provided in Subsection (b), a board, with the consent of the
14 governing body of the municipality, may abolish the sales and use
15 tax without an election.

16 (b) A board may not abolish the sales and use tax if the
17 district has outstanding debt secured by the tax.

18 Sec. 375A.205. SALES AND USE TAX RATE. (a) On adoption of
19 the tax authorized by this subchapter, there is imposed a tax at the
20 rate authorized by a district on the receipts from the sale at
21 retail of taxable items within the district, and an excise tax on
22 the use, storage, or other consumption within the district of
23 taxable items purchased, leased, or rented from a retailer within
24 the district during the period that the tax is in effect.

25 (b) The rate of the excise tax is the same as the rate of the
26 sales tax portion of the tax and is applied to the sales price of the
27 taxable item.

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

2 SUBCHAPTER F. DISSOLUTION

3 Sec. 375A.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING
4 DEBT. (a) A board may dissolve the district regardless of whether
5 the district has debt. Section 375.264 does not apply to the
6 district.

7 (b) If a district has debt when it is dissolved, the
8 district shall remain in existence solely for the purpose of
9 discharging its debts. The dissolution is effective when all debts
10 have been discharged.

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