

BILL ANALYSIS

H.B. 3514
By: Eissler
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

H.B. 3514 is an act relating to the amendment of the Southwest Montgomery County Improvement District, which was created by H.B. 3562 in the 78th Legislature. The changes proposed by H.B. 3514 will allow the Improvement District to operate in the same fashion as other successful improvement districts in the State of Texas and will help develop, encourage and maintain employment, commerce, economic development, enhance the quality of life and promote the public welfare in the District.

Montgomery County is the 28th fastest growing county in the United States, and the fifth fastest growing county in Texas. Southwest Montgomery County, including the Magnolia, Texas area, is the fastest growing region in Montgomery County. It is home to Magnolia Independent School District, which, with a growth rate of 10 to 12 percent per year, is the second fastest growing school district of its size in the State of Texas. The district has doubled in size in the last eight years, and expects to double again in the next five years.

This tremendous growth has put a strain on the resources of the School District, and Montgomery County's Precinct 2. The greatest challenges lie in mobility and infrastructure. The affected areas and the state are unable to meet the needs and expand essential services demanded by this dynamic growth. The amendments proposed in H.B. 3514 will provide a more typical structure such as that found in other highly successful management districts in the State.

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 Section 1 (a), Chapter 323, Acts of the 78th Legislature, Regular Session 2003 to read as follows: The Southwest Montgomery County Improvement District is a special district in Montgomery County created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

SECTION 2. Amends Section 6(b), Chapter 323, Acts of the 78th Legislature, Regular Session 2003, to specify that the district has powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted by this Act.

SECTION 3. Amends Section 9, Chapter 323, Acts of the 78th Legislature, Regular Session 2003, to provide that the Board of Directors will be composed of eleven directors serving staggered, four-year terms, with five or six directors' terms expiring June 1 of each odd-numbered year. The board is authorized to increase the number of directors to no more than 30 or decrease the number of directors to no fewer than seven members. All directors will be appointed by the Montgomery County Commissioners Court. Adds to the eligibility requirements that in order to be eligible to serve as a director a person must be a resident of Montgomery County Commissioners Court Precinct 2; be the owner of at least 10 percent of the beneficial interest in a trust that leases real property in the district with a remaining lease term of five years or more; be a lessee of real property in the district with a remaining lease term of five years or more measured from the date of appointment; and be an owner of at least 10 percent of the outstanding interest in a general or limited partnership that leases real property in the district with a remaining lease term of five years or more. A person may not serve as a director if the

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person's appointment would cause more than 20 percent of the board to be an agent, employee, officer, or director of the same individual, corporation, trust, or partnership that owns or leases property in the district. A director may not serve more than three consecutive terms.

SECTION 4. Amends Section 10 (b), Chapter 323, Acts of the 78th Legislature, Regular Session 2003, to provide the Montgomery County Commissioners Court is required to make appointments to fill vacancies if a majority of the board positions are vacant.

SECTION 5. Amends Section 11, Chapter 323, Acts of the 78th Legislature, Regular Session 2003, to provide that the board is required to recommend to the Montgomery County Commissioners Court persons to serve on a succeeding board. If the Commissioners Court is not satisfied with the recommendations, the board, on the request of the commissioners court, is required to submit additional recommendations. If any provision of Subsections (a) through (c) is found to be invalid, the commission is required to appoint the board from recommendations submitted by the preceding board.

SECTION 6. Amends the heading to Section 16, Chapter 323, Acts of the 78th Legislature, Regular Session 2003, to read: "BORROWING MONEY FOR INITIAL DISTRICT OPERATIONS."

SECTION 7. Amends Section 16, Chapter 323, Acts of the 78th Legislature, Regular Session 2003, by amending Subsections (a) and (b) and adding Subsection (d) as follows:

(a) Changes the provision that before the election confirming the district and the election imposing a limited sales and use tax, the board is authorized to borrow money to prepare for commencement of operation. It now simply says that before levying an assessment, the board is authorized to borrow money to prepare for commencement of operation.

(b) Adds the funds borrowed are repayable by the district only if an assessment is levied as required by Chapter 375, Local Government Code (MUNICIPAL MANAGEMENT DISTRICTS IN GENERAL).

(d) Provides that this section does not impair or invalidate an action taken by the board to borrow money that occurred before September 1, 2005.

SECTION 8. Amends Section 28, Chapter 323, Acts of the 78th Legislature, Regular Session 2003, by authorizing the District to issue bonds or other obligations payable wholly or partially from taxes, 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 district is authorized to 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 9. Amends Section 30, Chapter 323, Acts of the 78th Legislature, Regular Session 2003, to authorize the Montgomery County Commissioners Court to dissolve the District on a unanimous vote, subject to compliance with the provisions of the Local Government Code. On dissolution, Montgomery County assumes all bonds, debts, obligations, and liabilities of the district. Section 375.263, Local Government Code (DISSOLUTION BY MUNICIPAL ORDINANCE), does not apply to the district.

SECTION 10. Amends Chapter 323, Acts of the 78th Legislature, Regular Session 2003, by adding Sections 33, 34, 35, and 36 as follows:

33. Prohibits the board from financing a service or improvement project unless a written petition, signed by the owners of a majority of the assessed value of real property in the district subject to assessment and at least 50 persons who own real property in the district, requesting that service or improvement has been filed with the board.

34. Authorizes the board to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project, providing residential housing, or providing a service authorized by this Act. The nonprofit corporation has each power of an is considered for

purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code, and may implement any project and provide any service authorized by this Act. The board is required to appoint the board of directors of the nonprofit organization, which will serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code, except a board member is not required to reside in the district.

35. The board is authorized to impose an assessment. An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, and expense collection, and reasonable attorney's fees incurred by the district are a first and prior lien against the property assessed; are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and are the personal liability of and a charge against the owners of the property. The lien is effective from the date of the board's resolution until the date the assessment is paid.

36. On petition by a majority of directors, the board, after notice and hearing, is authorized to remove a director for misconduct or failure to carry out duties. Section 375.065, Local Government Code (REMOVAL OF DIRECTOR), does not apply to the district.

SECTION 11. Repeals Sections 10(a) and (c), 15, 25(b), (c), and (d), and 26, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 12. Provides that changes in law made by this Act do not affect the entitlement of a director serving on the board immediately before the effective date of this Act to continue to carry out the board's functions for the remainder of the director's term. A person serving as a member of the board on the effective date of this Act is required to continue to serve until the appointment of a new director for that position. Specifies that not later than June 1, 2006, the Montgomery County Commissioners Court is required to appoint directors to the board of the Southwest Montgomery County Improvement District to replace a director appointed or elected before the effective date of this Act. The commissioners court is required to appoint five members with terms expiring June 1, 2007, and six with terms expiring June 1, 2009.

SECTION 13. Effective Date

EFFECTIVE DATE

September 1, 2005