

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3518
By: Coleman (Ellis)
Intergovernmental Relations
5/20/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.H.B. 3518 creates a management district in the East Montrose area of Houston. This area consists of a combination of single family homes, condominiums, apartments, various arts and cultural venues, and commercial development.

The management district will be used to preserve the artistic and cultural character of the district; improve safety and security in the community; beautify the community in order to maintain and increase property values; provide investment opportunities; and enhance the quality of life for residents, business owners, and customers.

The management district will also enhance and build upon the strengths and diversities in the East Montrose area of Houston by preserving the diversity of the arts community and encouraging new development in the community by identifying visual, environmental, aesthetic, security, and philosophical improvements.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Harris County Improvement District No. 6 in SECTION 1 (Section 3843.153, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 6. Amends Title 4, Special District Local Laws Code, by adding Chapter 3843, as follows:

CHAPTER 3843. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 6

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3843.001. DEFINITIONS. Defines "board" and "district."

Sec. 3843.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 6. Provides that a special district known as the "Harris County Improvement District No. 6" (district) is a governmental agency and political subdivision of this state.

Sec. 3843.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article XVI, Texas Constitution, and other public purposes stated in this chapter. Provides that by creating the district and in authorizing Harris County, the City of Houston, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve Harris County and the City of Houston from providing the level of

services provided as of September 1, 2005, to the area in the district or to release the county or the city from the obligations of each entity to provide services to that area. Provides that the district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3843.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that each improvement project or service authorized by this chapter is essential to carry out a public purpose.

(d) Provides that the creation of the district is in the public interest and is essential to serve certain purposes.

(e) Provides that the district will serve certain purposes.

(f) 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 parts of and necessary components of a street and are considered to be a street or road improvement.

(g) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3843.005. DISTRICT TERRITORY. (a) Provides that the district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under certain laws.

(b) Provides that the boundaries and field notes of the district contained in Section 2 of this Act form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not in any way affect certain aspects of the district.

(c) Requires a description of the district's boundaries to be filed with the Texas Commission on Environmental Quality (TCEQ). Authorizes TCEQ by order to correct a mistake in the description of the district's boundaries.

Sec. 3843.006. TORT LIABILITY. Provides that the district is a governmental unit under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, and the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

Sec. 3843.007. ELIGIBILITY FOR REINVESTMENT ZONES. Provides that all or part of the area of the district is eligible to be included in a tax increment reinvestment zone created by the City of Houston under Chapter 311 (Tax Increment Financing Act), Tax Code.

Sec. 3843.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3843.009-3843.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3843.051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of eleven directors (board) who serve staggered four-year terms with five or six directors' terms expiring June 1 of each odd-numbered year.

(b) Authorizes the board by resolution to increase or decrease the number of directors of the board, but only if a majority of the board finds that it is in the best interest of the district to do so. Prohibits the board from increasing or decreasing the number of directors past certain parameters.

(c) Provides that Sections 49.053 (Quorum), 49.054 (Officers), 49.056 (General Manager), 49.057 (Management of District), 49.058 (Conflicts of Interest), and 49.060 (Fees of Office; Reimbursement), apply to the board.

(d) Provides that Subchapter D (Administrative Provisions; Board of Directors), Chapter 375, Local Government Code, applies to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3843.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. Requires the board, if the board increases the number of directors under Section 3843.051, to appoint qualified persons to fill the new director positions and to provide for staggering the terms of the directors serving in the new positions. Requires, on expiration of the term of a director appointed under this section, a succeeding director to be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code.

Sec. 3843.053. INITIAL DIRECTORS. (a) Provides that the initial board consists of certain directors.

(b) Provides that, of the initial directors, the terms of directors appointed for positions 1 through 6 expire June 1, 2009, and the terms of directors appointed for positions 7 through 11 expire June 1, 2007.

(c) Provides that Section 3843.051 does not apply to this section.

(d) Provides that this section expires September 1, 2009.

[Reserves Sections 3843.054-3843.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3843.101. DISTRICT POWERS. Sets forth certain powers and rights of the district.

Sec. 3843.102. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) Provides that the nonprofit corporation has certain powers and authority.

(c) Requires the board to appoint the board of directors of the nonprofit corporation (board of directors). Requires the board of directors to serve in the same manner as, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code.

Sec. 3843.103. ELECTIONS. (a) Requires district elections to be held in the manner provided by Subchapter L (Elections), Chapter 375, Local Government Code.

(b) Authorizes the board to submit multiple purposes in a single proposition at an election.

Sec. 3843.104. CONTRACT FOR LAW ENFORCEMENT AND SECURITY SERVICES. Authorizes the district to contract with certain political subdivisions or private entities for certain services.

Sec. 3843.105. ANNEXATION OR EXCLUSION OF TERRITORY. Authorizes the district to annex or exclude land from the district in the manner provided by Subchapter C (Boundaries), Chapter 375, Local Government Code.

Sec. 3843.106. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3843.107-3843.150 for expansion.]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3843.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) Requires, before the district is authorized to act under Subsection (a), a petition to be filed with the district requesting the action with regard to a public transit system. Requires the petition to be signed by owners of property representing a majority of either the total assessed value or the area of the real property in the district that abuts the rights-of-way in which the public transit system is proposed to be located. Provides that the determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and prohibits the determination from being calculated on a block-by-block basis.

Sec. 3843.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY; TAX EXEMPTION. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain certain parking facilities.

(b) Requires a parking facility of the district to be either leased to or operated on behalf of the district by a private entity or an entity other than the district. Provides that the district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

(c) Provides that the district's public parking facilities and any lease to a private entity are exempt from the payment of ad valorem taxes and state and local sales and use taxes.

Sec. 3843.153. RULES. Authorizes the district to adopt rules covering its public transit system or its public parking facilities except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3843.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) Authorizes the district to use any of its resources, including revenue, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(b) Authorizes the district to set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and to issue bonds or notes to finance the cost of these facilities.

(c) Provides that, except as provided by Section 3843.151, if the district pays for or finances the cost of acquiring or operating a public transit system or public

parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

Sec. 3843.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. Requires the district, if the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation, to pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property.

[Reserves Sections 3843.156-3843.200 for expansion.]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3843.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. Authorizes the district to impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49, Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function or to accomplish a purpose or duty for which the district was created.

Sec. 3843.202. MAINTENANCE TAX. Authorizes the district, if authorized at an election held in accordance with Section 3843.103, to impose an annual ad valorem tax on taxable property in the district to maintain, restore, replace, or operate the district and improvements that the district constructs or acquires or the district's facilities, works, or services. Requires the board to determine the tax rate.

Sec. 3843.203. ASSESSMENT IN PART OF DISTRICT. Authorizes an assessment to be imposed on only a part of the district if only that part will benefit from the service or improvement.

Sec. 3843.204. PETITION REQUIRED FOR ASSESSMENT AND FOR FINANCING SERVICES AND IMPROVEMENTS. Prohibits the board from imposing an assessment or financing a service or improvement project under this chapter unless a written petition requesting the improvement or service has been filed with the board. Sets forth signature requirements for the petition.

Sec. 3843.205. ASSESSMENTS CONSIDERED TAXES. Provides that, for purposes of a title insurance policy issued under Chapter 9 (Texas Title Insurance Act), Insurance Code, an assessment is a tax.

Sec. 3843.206. LIENS FOR ASSESSMENTS; SUITS TO RECOVER ASSESSMENTS. (a) Provides that an assessment imposed on property under this chapter is a personal obligation of the person who owns the property on January 1 of the year for which the assessment is imposed. Provides that, if the person transfers title to the property, the person is not relieved of the obligation.

(b) Provides that on January 1 of the year for which an assessment is imposed on a property, a lien attaches to the property to secure the payment of the assessment and any interest accrued on the assessment. Provides that the lien has the same priority as a lien for district taxes.

(c) Authorizes the district, not later than the fourth anniversary of the date on which a delinquent assessment became due, to file suit to foreclose the lien or to enforce the obligation for the assessment, or both, and for any interest accrued.

(d) Authorizes the district, in addition to recovering the amount of the assessment and any accrued interest, to recover reasonable costs, including attorney's fees, that the district incurs in foreclosing the lien or enforcing the obligation. Prohibits

the cost from exceeding an amount equal to 20 percent of the assessment and interest.

(e) Provides that if the district does not file a suit in connection with a delinquent assessment on or before the last date on which the district is authorized to file suit under Subsection (c), the assessment and any interest accrued is considered paid.

Sec. 3843.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES. Prohibits the district from imposing an impact fee or assessment on the property, including equipment or facilities of certain utilities and service providers.

Sec. 3843.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) Authorizes the district to impose an assessment to pay certain costs relating to utility lines.

(b) Authorizes the district to acquire, operate, or charge fees for the use of the district conduits for certain types of transmission lines.

(c) Prohibits the district from requiring a person to use a district conduit.

Sec. 3843.209. DEBT. Authorizes the district to issue bonds, notes, or other debt obligations in accordance with Subchapters I (Funds) and J (Bonds), Chapter 375, Local Government Code, for a purpose specified by that chapter or as required to exercise a power or function or to accomplish a purpose or duty for which the district was created.

[Reserves Sections 3843.210-3843.250 for expansion.]

SUBCHAPTER F. DISSOLUTION

Sec. 3843.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) Authorizes the district to be dissolved as provided by Subchapter M, Chapter 375, Local Government, except that Section 375.264 (Limitation), Local Government Code, does not apply to the district.

(b) Requires the district, if the district has debt when it is dissolved, to remain in existence solely for the purpose of discharging its bonds or other obligations according to their terms.

SECTION 2. BOUNDARIES. Sets forth the boundaries of the district.

SECTION 3. LEGISLATIVE FINDINGS. Sets forth the findings of the legislature regarding the notices and requirements for the introduction of this Act.

SECTION 4. Effective date: upon passage or September 1, 2005.