

BILL ANALYSIS

Senate Research Center
79R11478 MSE-D

C.S.S.B. 993
By: Ellis
Intergovernmental Relations
3/31/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The proposed management district is being created to improve the Harris County area, and to recapture the atmosphere and image once enjoyed by the community. In addition, it may prevent the continued decline of the southwest portion of Harris County as well as enhance the value of the community's investments, so it can better plan for its future.

C.S.S.B. 993 creates a management district in southwest Houston. This legislation allows the district to make a number of improvements, in order to enhance safety, security, and property values; increase the flow of business; and improve the quality of life. It also will enhance and build upon the strengths and diversities in the greater Fondren Southwest area of Houston to bring about a renaissance community by identifying visual, environmental, aesthetic, security, and philosophical improvements for roughly a 12-square-mile area of Harris County.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3834, as follows:

CHAPTER 3834. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3834.001. DEFINITIONS. Defines "board" and "district."

Sec. 3834.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 5. Provides that the Harris County Improvement District No. 5 (district) is a special district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 3834.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purpose of Sections 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds) and 52a (Loan or Grant of Public Money for Economic Development), Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. Provides that by creating the district and in authorizing the City of Houston, Harris County, 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 certain types of economic development and public welfare and safety.

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

provided as of the effective date of this Act to the area in the district. Provides that the district is created to supplement and not to supplant the county services provided in the area in the district.

Sec. 3834.004. 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 the creation of the district is in the public interest and is essential to promote certain economic developments.

(d) Sets forth the responsibilities of the district.

(e) Provides that the pedestrian ways along or across a street, whether at grade or above or below 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.

(f) 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. 3834.005. DISTRICT TERRITORY. 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 codes or laws.

Sec. 3834.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that, except as otherwise provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district.

Sec. 3834.007. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purpose stated in this chapter.

[Reserves Sections 3834.008-3834.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS.

Sec. 3834.051. BOARD OF DIRECTORS. Sets forth the quantity and terms of the members of the board of directors (board) of the district.

Sec. 3834.052. QUALIFICATIONS. Sets forth certain qualifications for board members.

Sec. 3834.053. APPOINTMENT OF DIRECTORS. Sets forth procedures for the appointment of board members by the mayor and members of the governing body of the City of Houston.

Sec. 3834.054. NONVOTING DIRECTORS. (a) Provides that certain persons representing departments of the City of Houston serve as nonvoting directors.

(b) Authorizes the board, if a department described by Subsection (a) is consolidated, renamed, or changed to appoint a director of the consolidated, renamed, or changed department as a nonvoting director. Authorizes the board to appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Sec. 3834.055. QUORUM. Provides that Section 375.071 (Quorum), Local Government Code, does not apply to the district. Sets forth terms for establishing a quorum.

Sec. 3834.056. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Provides that, except as provided by this section, a director may participate in all board votes and decisions; and Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, governs conflicts of interest for directors.

(b) Provides that Section 171.004 (Affidavit and Abstention from Voting Required), Local Government Code, does not apply to the district. Requires a director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action to file a one-time affidavit declaring the interest. Provides that an additional affidavit is not required if the director's interest changes. Authorizes the director, after the affidavit is filed with the board secretary, to participate in a discussion or vote on that action if certain procedures are followed.

(c) Prohibits a director who is also an officer or employee of a public entity from participating in the discussion of or vote on a matter regarding a contract with that public entity.

(d) Provides that, for purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002 (Substantial Interest in Business Entity), Local Government Code.

Sec. 3834.057. INITIAL VOTING DIRECTORS. (a) Provides that the initial board consists of certain voting directors.

(b) Provides that, of the initial voting 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 Section 3834.053 does not apply to this section.

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

[Reserves Sections 3834.058-3834.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3834.101. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to certain corporations.

Sec. 3834.102. 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.

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

Sec. 3834.103. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept certain funds from any person.

(b) Provides that the implementation of a project is a governmental function or services for the purposes of Chapter 791 (Interlocal Corporation Contracts), Government Code.

Sec. 3834.104. **AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.** Authorizes the district, to protect the public interest, to contract with Harris County or the City of Houston for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3834.105. **APPROVAL BY CITY OF HOUSTON.** (a) Requires the district, except as provided by Subsection (b), to obtain the approval of the City of Houston's governing body for certain improvement projects.

(b) Authorizes the district, if the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, to finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3834.106. **MEMBERSHIP IN CHARITABLE ORGANIZATIONS.** Authorizes the district to join and pay dues to certain organizations.

Sec. 3834.107. **REMOVAL OF DANGEROUS BUILDINGS.** (a) Authorizes the district to cooperate with the City of Houston to have the City of Houston demolish and remove dangerous buildings in or outside the district as provided by this section.

(b) Authorizes the district to cooperate with the City of Houston to demolish and remove dangerous buildings outside the district if certain procedures are followed.

(c) Authorizes the district to borrow money to finance the demolition and removal of dangerous buildings under this section without complying with Section 3834.152.

(d) Requires the City of Houston to reimburse the district for all costs financed by the district from certain funds.

Sec. 3834.108. **NOTICE.** Authorizes the notice required by Chapter 375, Local Government Code, to be sent by first class U.S. mail rather than certified mail, return receipt requested, if the board determines that first class mail is preferable and provides adequate notice. Requires the board, if the board determines that first class mail is preferable, to publish notice in a newspaper of general circulation in the district at least 20 days before the event of which the district is giving notice.

Sec. 3834.109. **NO EMINENT DOMAIN.** Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3834.110-3834.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3834.151. **DISBURSEMENTS AND TRANSFERS OF MONEY.** Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3834.152. **PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS.** (a) Prohibits a board from financing a service or improvement with assessments under this chapter unless a written petition requesting that services or improvements has been filed with the board.

(b) Requires a petition requesting a project financed by assessment to be signed by a certain number of property owners.

Sec. 3834.153. MAINTENANCE TAX. Authorizes the district, if authorized at an election held in accordance with Section 3834.157, to impose an annual ad valorem tax on taxable property in the district to provide certain services to the district. Requires the board to determine the tax rate.

Sec. 3834.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter.

(b) Sets forth the legal characteristics of 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, an expense of collection, and reasonable attorney's fees incurred by the district.

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

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

Sec. 3834.155. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of service providers.

Sec. 3834.156. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations payable wholly or partly 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.

(b) Authorizes the district, in exercising the district's power to borrow, to issue a bond or other obligation in the form of certain instruments evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3834.157. TAX AND BOND ELECTIONS. Sets forth terms for a bond election for a maintenance tax payable from ad valorem taxes.

Sec. 3834.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that a municipality, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, is not required to pay certain obligations of the district.

Sec. 3834.159. COMPETITIVE BIDDING. Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.

[Reserves Section 3834.160-3834.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3834.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) Authorizes the board to dissolve the district regardless of whether the district has debt. Provides 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 debts. Provides that the dissolution is effective when all debts have been discharged.

SECTION 2. Sets forth the boundaries of the Harris County Improvement District No. 5 as of the effective date of this Act.

SECTION 3. Authorizes the Harris County Improvement District No. 5 to reimburse the cost of creating the district from assessments or other revenues created by the district.

SECTION 4. Provides that the legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all person, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environments Quality has filed its recommendations relating to this Act with certain state elected officials within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of the land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 5. Effective date: upon passage or September 1, 2005.