

BILL ANALYSIS

S.B. 1022
By: Barrientos
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Village of Bee Cave, located in Travis County, is experiencing substantial growth, both residential and commercial. Property located at the intersection of State Highway 71 and Ranch Road 620 has been offered for sale. A proposed project for this tract would be built with 55 percent impervious cover, and 50 acres dedicated to Bee Cave along with money set aside for the purchase of mitigation property could reduce the amount of impervious cover in the area to 20 percent or lower. The project would also include improvements to State Highway 71 and the construction of a road connecting Bee Cave Road and Ranch Road 620 (bypassing the State Highway 71-Ranch Road 620 intersection) without the use of scarce state highway funding. The issuance of bonds to be repaid through assessments on tenants of the proposed mall will facilitate this project by enabling the use of long-term financing.

C.S.S.B. 1022 creates the Bee Cave Development District in order to promote and encourage economic growth and development and public welfare in the Village of Bee Cave.

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 Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3840, as follows:

CHAPTER 3840. BEE CAVE DEVELOPMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3840.001. DEFINITIONS. Defines "board" and "district."

Sec. 3840.02. BEE CAVE DEVELOPMENT DISTRICT. Sets forth that the Bee Cave Development District (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3840.003. PURPOSE; DECLARATION OF INTENT. Sets forth the purpose and intent in the creation of the district.

Sec. 3840.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Sets forth the public purpose of the district.

Sec. 3840.005. DISTRICT TERRITORY. Provides that the district is composed of the territory described by Section 2 of the Act creating this chapter. Provides that the boundaries and field notes form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not affect the validity, legality, or certain rights of the district. Prohibits district boundaries from being changed. Provides that Sections 375.043 (Annexation) and 375.044 (Excluding Territory), Local Government Code, and Subchapter J, Chapter 49, (Provisions Applicable to All Districts), Water Code, are not applicable to the district.

Sec. 3840.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in certain tax increment and enterprise zones.

Sec. 3840.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that except as provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code applies to the district.

Sec. 3840.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3840.009-3840.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3840.051. GOVERNING BODY; TERMS. Provides that the district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring July 1 of each odd-numbered year.

Sec. 3840.052. APPOINTMENT. (a) Requires the governing body of the Village of Bee Cave (governing body) to appoint directors as provided by Subchapter D, Chapter 375, Local Government Code, except that certain conditions exist.

Sec. 3840.053. VACANCY. (a) Requires the governing body to appoint a person to fill a board vacancy in the same manner as an original appointment.

(b) Provides that Section 375.066 (Board Vacancy), Local Government Code, is not applicable to the district.

Sec. 3840.054. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Authorizes a director, except as provided in this section, to participate in all board votes and decisions. Sets forth that Chapter 171 (Regulations of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, governs conflicts of interest of board members.

(b) Provides that Section 171.004 (Affidavit and Abstention From Voting), 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 an affidavit with the board secretary declaring the interest. Provides that another affidavit is not required if the director's interest changes. Authorizes the director, after the affidavit is filed, to participate in a discussion or vote on that action under certain conditions.

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

(d) Sets forth that for the 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), Local Government Code.

[Reserves Sections 3840.055-3840.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3840.101. NONPROFIT CORPORATION. (a) Authorizes the board by resolution, with the consent of the Village of Bee Cave, 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) Sets forth the authority of a nonprofit corporation under this chapter.

(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 conditions of the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code.

Sec. 3840.102. AGREEMENTS; GRANTS; DONATIONS. (a) Authorizes a district to enter into an agreement with or accept a donation, grant, or loan from any person.

(b) Authorizes a municipality, county, or other political subdivision of this state, without further authorization, to contract with the district for certain services.

(c) Authorizes a contract under Subsection (b) to contain certain provisions.

(d) Sets forth that the implementation of a project is a governmental function or service for the purposes of Chapter 791 (Interlocal Cooperation Contracts), Government Code.

Sec. 3840.103. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with the Village of Bee Cave for the village to provide law enforcement services to the district for a fee.

Sec. 3840.104. APPROVAL OF CERTAIN IMPROVEMENT PROJECTS. (a) Requires the district, except as provided by Subsection (b), to obtain the approval of the governing body for certain plans of improvement projects.

(b) Authorizes the district, if the district obtains the approval of the 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 of the Village of Bee Cave.

Sec. 3840.105. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3840.106-3840.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3840.151. DISBURSEMENTS AND TRANSFERS OF MONEY. Requires the board by resolution to establish the number of directors' signatures and the procedure required for the disbursement or transfer of the district's money.

Sec. 3840.152. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. Prohibits the board from financing a service or an improvement project under this chapter unless a written petition requesting that service or improvement is filed with the board. Requires the petition to be signed by certain persons.

Sec. 3840.153. AUTHORITY TO IMPOSE AD VALOREM TAXES, ASSESSMENTS, AND IMPACT FEES. Authorizes the district to impose an ad valorem tax, assessment, or impact fee as provided by Chapter 375 (Municipal Management Districts in General), Local Government Code, on all property in the district including industrial, commercial, or residential property in the district, excluding municipal property, for certain purposes. Provides that this section is not applicable to property owned by a municipality

Sec. 3840.154. ASSESSMENTS. (a) Authorizes the board, by resolution, to impose and collect an assessment for any purpose authorized by this chapter.

(b) Prohibits the district from imposing an assessment against any property of the Village of Bee Cave in the district. Requires payment of an assessment by another exempt jurisdiction to be established by contract.

(c) Authorizes the board to apportion the cost of an improvement project or service to be assessed against property in the district on all property in the district according to a finding of the board that the improvement project or service benefits all property in the district.

(d) Authorizes the board to include two or more types of improvements and services in one assessment proceeding. Authorizes the board to conduct separate assessment proceedings as the district undertakes improvement projects or the provision of services.

(e) Authorizes the board to adjust annual assessments for services in accordance with the annual budget the board adopts for the provision of those services. Prohibits an annual adjustment from exceeding the annual amount set forth in the original assessment proceedings except after public notice and hearing on the increase.

(f) Authorizes the board, after notice and hearing as provided by Subchapter F, Chapter 375, Local Government Code, to take certain actions relating to assessments.

Sec. 3840.155. LIENS FOR ASSESSMENTS. (a) Sets forth that an assessment, including an assessment resulting from an addition to or correction of the assessment roll by the district, a reassessment, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

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

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

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

(b) 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 is authorized to enforce an ad valorem tax lien against real property.

Sec. 3840.156. AD VALOREM TAX. Authorizes the district, if authorized at an election held in accordance with Section 3840.169, to impose an annual ad valorem tax on taxable property in the district for certain purposes. Requires the board to determine the tax rate.

Sec. 3840.157. CONTRACTS SECURED BY AD VALOREM TAXES. Prohibits a contract for which the payments are secured wholly or partly by ad valorem taxes from being executed unless the imposition of the ad valorem taxes to secure the payment of the contract is approved by a majority, or a larger percentage if constitutionally required, of the voters in the district voting at an election held for that purpose.

Sec. 3840.158. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits a district from imposing an assessment or impact fee on the property of a person that provides gas, electricity, telephone, sewage, or water service to the public.

Sec. 3840.159. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations payable wholly or partly 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.

(b) Authorizes the district 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.

Sec. 3840.160 TAX AND BOND ELECTIONS. (a) Requires the district, except as provided by Subsection (c), to hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code to obtain voter approval before the district is authorized to impose a maintenance tax, or issues bonds payable from ad valorem taxes or assessments.

(b) Authorizes the board to include more than one purpose in a single proposition at an election.

(c) Provides that if the district obtains written consent of all property owners in the district to impose a maintenance tax or issue bonds payable from ad valorem taxes or assessments, the district is exempt from the election requirement under Subsection (a) and is authorized to cancel an election called under Subsection (a).

Sec. 3840.161. MUNICIPALITIES NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

Sec. 3840.162. COMPETITIVE BIDDING. Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, does not apply to a district contract for \$25,000 or less.

[Reserves Sections 3840.163-3840.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3840.201. 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 Bee Cave Development District.

SECTION 3. Requires the governing body, not later than January 1, 2006, to appoint the initial board of directors for the district under Section 3840.052, Special District Local Laws Code, as added by this Act. Requires the governing body to stagger the initial directors' terms so that three terms expire July 1, 2007, and two terms expire July 1, 2009.

SECTION 4. Sets forth that the legislature finds that:

(1) that the 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 persons, agencies, officials, or entities to which they are required to be furnished, including the governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(2) that the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with certain 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 land in those districts has been complied with; and

(4) that 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 are fulfilled and accomplished.

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

EFFECTIVE DATE

This Act takes effect September 1, 2005 or immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.