

BILL ANALYSIS

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S.B. 1813
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1813 creates the Pearland Municipal Management District No. 1 (district) as a political subdivision of the State of Texas to administer and provide funding for community improvement projects and services in the district, which is located entirely within the City of Pearland and Harris County. The district is a municipal management district similar to those operating pursuant to Chapter 375 (Municipal Management Districts in General), Local Government Code, and Title 4 (Development and Improvement), Special Districts Code.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Pearland Municipal Management District No. 1 in SECTION 1 (Sec. 3838.152, Special District Local Laws Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3838, as follows:

CHAPTER 3838. PEARLAND MUNICIPAL MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3838.001. DEFINITIONS. Defines "board," "district," and "economic development corporation."

Sec. 3838.002. PEARLAND MUNICIPAL MANAGEMENT DISTRICT NO. 1. Provides that the Pearland Municipal Management District No. 1 (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3838.003. 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 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 Pearland, 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, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve Harris County or the City of Pearland 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. 3838.004. 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 II, 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 certain purposes.

(d) Provides that the district will serve certain functions.

(e) 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.

(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. 3838.005. 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 is authorized to be modified under certain statutes.

(b) Provides that the boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter 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.

Sec. 3838.006. 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 or enterprise zones.

Sec. 3838.007. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3838.008-3838.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3838.051. BOARD OF DIRECTORS; TERMS. Provides that the district is governed by a board of five directors (board) who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

Sec. 3838.052. APPOINTMENT OF DIRECTORS. (a) Requires the mayor and members of the governing body of the City of Pearland to appoint directors. Authorizes the city to consider persons recommended by the board. Provides that a person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

(b) Requires the board, not later than 30 days before nominating a director, to solicit from the property owners in the district the name of proposed directors in a manner of the board's choosing. Authorizes the board to nominate for appointment as directors persons from a list of names solicited under this subsection.

Sec. 3838.053. QUORUM. Provides that vacant director positions are not counted for the purposes of establishing a board quorum.

Sec. 3838.054. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Provides that, except as provided by this section, certain conditions apply to the 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 required only if the director's interest changes substantially. Authorizes the director, after the affidavit is filed with the board secretary, to participate in a discussion or vote on that action if certain conditions are satisfied.

(c) 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. 3838.055. INITIAL VOTING DIRECTORS. (a) Provides that the initial board consists of certain members.

(b) Provides that, of the initial directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2007, and the terms of directors appointed for positions 4 and 5 expire June 1, 2009.

(c) Provides that Section 3838.052 does not apply to this section.

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

[Reserves Sections 3838.056-3838.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3838.101. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to an economic development corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.), including the power to own, operate, acquire, construct, lease, improve, or maintain a project described by that section.

Sec. 3838.102. 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) Sets forth certain powers and abilities of the nonprofit corporation.

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

Sec. 3838.103. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept a gift, grant, or loan from any person.

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

Sec. 3838.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with a qualified party, including Harris County or the City of Pearland, for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3838.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to certain organizations.

Sec. 3838.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) Authorizes the district to establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs that serve certain purposes.

(b) Provides that district improvements qualify as projects for funding by an economic development corporation.

(c) Provides that, for purposes of this section, the district has all of the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

(d) Provides that the district is eligible to receive grants from a municipality under Chapter 380, Local Government Code.

Sec. 3838.107. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3838.108-3838.150 for expansion.]

SUBCHAPTER D. PARKING FACILITIES

Sec. 3838.151. 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 parking facilities or a system of certain parking facilities.

(b) Requires a parking facility of the district to be leased to or operated for the district by an entity other than the district.

(c) Provides that the district's parking facilities serve a public purpose under Section 3838.003 and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

Sec. 3838.152. RULES FOR PARKING SYSTEM. (a) Authorizes the district to adopt rules covering its public parking system.

(b) Provides that rules adopted under this section that relate to or affect the use of the public right-of-way or a requirement for off-street parking are subject to all applicable municipal charter, code, and ordinance requirements.

Sec. 3838.153. PAYING COST OF PARKING FACILITIES. (a) Authorizes the district to use any of its resources, including revenue, assessments, taxes, or grant or contract proceeds, to pay the cost of acquiring or operating a system of public parking facilities.

(b) Authorizes the district to take certain actions regarding the costs of parking facilities.

[Reserves Sections 3838.154-3838.200 for expansion.]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3838.201. 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. 3838.202. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS. (a) Prohibits the board from financing a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) Requires a petition requesting a project financed by assessment to be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County.

Sec. 3838.203. AD VALOREM TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 3838.207, to impose an annual ad valorem tax on taxable property in the district to serve certain purposes.

(b) Requires the board to determine the tax rate.

(c) Provides that Section 54.601 (Tax Levy for Bonds), Water Code, applies to the district.

Sec. 3838.204. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter.

(b) Provides that 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 have certain characteristics.

(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 is authorized to 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. 3838.205. 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 certain entities.

Sec. 3838.206. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations, by competitive bid or negotiated sale, payable wholly or partly from taxes, assessments, impact fees, revenue, grants, or other money of the district, including economic development funds contributed to the district by the municipality or by an economic development corporation, 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 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. Prohibits the term of a bond issued under this chapter from exceeding 40 years from the date of issuance.

Sec. 3838.207. TAX AND BOND ELECTIONS. (a) Requires the district to hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district imposes a maintenance tax or a sales and use tax or issues bonds payable from ad valorem taxes.

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

(c) Provides that Subchapter L, Chapter 375, Local Government Code, does not apply to the district.

Sec. 3838.208. MUNICIPALITY 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. 3838.209. COMPETITIVE BIDDING. Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, does not apply to the district.

[Reserves Sections 3838.210-3838.250 for expansion.]

SUBCHAPTER F. SALES AND USE TAX

Sec. 3838.251. MEANINGS OF WORDS AND PHRASES. Provides that words and phrases used in this subchapter that are defined by Chapters 151 (Limited Sales, Excise, and Use Tax) and 321 (Municipal Sales and Use Tax Act), Tax Code, have the meanings assigned by Chapters 151 and 321, Tax Code.

Sec. 3838.252. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Provides that, except as otherwise provided by this subchapter, Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code, apply to taxes imposed under this subchapter and to the administration and enforcement of those taxes in the same manner that those laws apply to state taxes.

(b) Provides that the provisions of Subchapters B, C, and D, Chapter 321, Tax Code, relating to municipal sales and use taxes apply to the application, collection, change, and administration of a sales and use tax imposed under this subchapter to the extent consistent with this chapter, as if references in Chapter 321, Tax Code, to a municipality referred to the district and references to a governing body referred to the board.

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

Sec. 3838.253. AUTHORIZATION; ELECTION. (a) Authorizes the district to adopt a sales and use tax for the benefit of the district at an election in which a majority of the voters of the district voting in the election approve the adoption of the tax.

(b) Authorizes the board by order to call an election to adopt a sales and use tax. Authorizes the election to be held with any other district election.

(c) Requires the district to provide notice of the election and to hold the election in the manner prescribed by Section 3838.207.

(d) Requires the ballots to be printed to provide for voting for or against the proposition. Sets forth appropriate language for the ballots.

Sec. 3838.254. ABOLISHING SALES AND USE TAX. (a) Authorizes the board, except as provided in Subsection (b), with the consent of the governing body of the municipality where the district is located, to abolish the sales and use tax without an election.

(b) Prohibits the board from abolishing the sales and use tax if the district has outstanding debt secured by the tax.

Sec. 3838.255. SALES AND USE TAX RATE. (a) Provides that, on adoption of the tax authorized by this subchapter, there is imposed a tax of one-half of one percent on the receipts from the sale at retail of taxable items within the district, and an excise tax on the use, storage, or other consumption within the district of taxable items purchased, leased, or rented from a retailer within the district during the period that the tax is in effect.

(b) Provides that the rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the taxable item.

SECTION 2. Sets forth the boundaries of the district.

SECTION 3. Sets forth the findings of the legislature regarding legal notice and requirements regarding the introduction of this Act.

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