

BILL ANALYSIS

Senate Research Center

S.B. 1836
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Intergovernmental Relations
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

S.B. 1836 creates the Pflugerville Municipal Management District No. 1 and sets forth the boundaries, governance, and powers of the district, which include the authority to issue bonds and impose a tax.

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 3852, as follows:

CHAPTER 3852. PFLUGERVILLE MUNICIPAL MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3852.001. DEFINITIONS. Defines "board" and "district."

Sec. 3852.002. PFLUGERVILLE MUNICIPAL MANAGEMENT DISTRICT NO. 1. Sets forth that the Pflugerville Municipal Management District No. 1. (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3852.003. PURPOSE; DECLARATION OF INTENT. Sets forth the purpose and intent in the creation of the district.

Sec. 3852.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Sets forth the public purpose of the district.

Sec. 3852.005. 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 statutes. Provides that the boundaries and filed 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.

Sec. 3852.006. 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 special zones.

Sec. 3852.007. 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. 3852.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3852.009-3852.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3852.051. GOVERNING BODY; TERMS. Provides that the district is governed by a board of five directors (board) who serve staggered four-year terms.

Sec. 3852.052. COMPENSATION. Entitles a director to compensation as provided by Section 49.060 (Fees of Office; Reimbursement), Water Code.

Sec. 3852.053. ADDITIONAL QUALIFICATIONS. Sets forth eligibility requirements for appointment to the board. Provides that Section 375.063 (Qualifications of Director), Local Government Code, does not apply to a director appointed under this section.

Sec. 3852.054. APPOINTMENT OF DIRECTORS. (a) Requires the mayor and members of the governing body of the City of Pflugerville (city) (governing body) to appoint directors from among persons recommended by the board. Provides that a person is appointed if a majority of the members and the mayor vote to appoint the person.

(b) Prohibits a person from being appointed to the board if the appointment of that person would result in fewer than two-thirds of the directors being residents of the city.

Sec. 3852.055. NONVOTING DIRECTORS. (a) Sets forth that certain persons, including the directors of specific city departments, serve as nonvoting directors.

(b) Authorizes the board, if a city 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, if a department described by Subsection (a) is abolished, to appoint a representative of another department of city that performs duties comparable to those performed by the abolished department.

Sec. 3852.056. CONFLICTS OF INTEREST. (a) Authorizes a director, except as provided in this section, to participate in all board votes and decisions. Sets forth that except as provided in this section 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.

(c) Authorizes the director, after the affidavit is filed, to participate in a discussion or vote on that action under certain conditions.

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

(e) 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.

Sec. 3852.057. INITIAL VOTING DIRECTORS. Sets forth that the initial board consists of certain voting directors. Provides that the terms of directors appointed for positions 1 through 3, of the initial voting directors, expire June 1, 2009, and the terms of directors appointed for positions 4 and 5 expire June 1, 2007. Provides that Section 3852.054 does not apply to the appointment of initial voting directors under this section. Provides that this section expires September 1, 2009.

[Reserves Sections 3852.058-3852.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3852.101. **ADDITIONAL DISTRICT POWERS.** Authorizes the district to exercise powers given to certain entities.

Sec. 3852.102. **EXERCISE OF POWERS OUTSIDE DISTRICT.** Authorizes the district to exercise its powers in an area outside the district if the board determines that exercising those powers benefits the district.

Sec. 3852.103. **NONPROFIT CORPORATION.** 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. Sets forth certain powers and authorizations of the nonprofit corporation. 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 the board of directors of a local government corporation.

Sec. 3852.104. **RECLAMATION PROJECT.** Authorizes the district to own, operate, or maintain a reclamation project.

Sec. 3852.105. **AGREEMENTS; GRANTS; DONATIONS.** (a) Authorizes the district to enter into an agreement with or accept a donation, grant, or loan from any person.

(b) Authorizes certain entities to contract with the district for certain services.

(c) Sets forth certain authorizations for a contract under Subsection (b).

(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.

(e) Provides that to the extent of any conflict between this section and any other law, including a charter of a home-rule municipality, this section controls.

(f) Authority the city, Travis County (county), or another political subdivision to use another law to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.

(g) Provides that this section is wholly sufficient authority for the execution of a contract, the imposition and pledging of taxes and revenues to the contract, and the performance of other acts and procedures authorized by this section, or by the district, the City of Pflugerville, Travis County, and any other political subdivision without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section.

Sec. 3852.106. **ECONOMIC DEVELOPMENT PROGRAMS AND OTHER POWERS RELATED TO PLANNING AND DEVELOPMENT.** (a) Authorizes the district to establish and provide for the administration of certain programs to promote state or local economic development and to stimulate business and commercial activity in the district.

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

Sec. 3852.107. **AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.** Authorizes the district, to protect the public interest, to contract with the city or county to provide law enforcement services in the district for a fee.

Sec. 3852.108. 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.

Sec. 3852. 109. APPROVAL BY CITY OF PFLUGERVILLE. (a) Requires, except as provided by Subsection (b), the district to obtain certain approvals from the governing body.

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

Sec. 3852.110. ANNEXATION. Provides that the district, in addition to the authority to annex territory under Subchapter J, Chapter 49, Local Water Code, has the authority to annex territory located in a reinvestment zone created by the municipality under Chapter 311 (Code Construction Act), Tax Code, if the governing body consents to the annexation.

[Reserves Sections 3852.111-3852.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3852.151. 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 that will be subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 3852.152. 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. 3852.153. MAINTENANCE TAX. (a) Authorizes the district to impose an annual ad valorem tax on taxable property in the district and the improvements constructed or acquired by the district to provide a service under certain conditions.

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

Sec. 3852.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter only if thwo-thirds of the directors vote in favor of imposing the assessment.

(b) Authorizes the board to adjust an annual assessment for a service in accordance with an annual budget adopted by the board to provide those services. Prohibits the annual adjustment from being more than the original assessment unless the board provides notice and hearing.

(c) 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 are first and prior lien. Sets forth characteristics of the lien.

(d) 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. 3852.155. 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. 3852.156. ELECTIONS REGARDING TAXES OR TAX BONDS. (a) Requires the district, in addition to the elections required under Subchapter L, Chapter 375, Local Government Code, to hold an election in the manner provided by that subchapter to obtain voter approval before the district is authorized to take certain actions.

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

(c) Provides that Section 375.243 (Petition Required for Bond Election), Local Government Code, does not apply to the district.

Sec. 3852.157. 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 certain forms evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) Authorizes the district to issue a bond to refinance a public security issued by the City of Pflugerville or to finance a district project located outside the boundaries of the district if the board finds that the refinancing or project wholly or partly furthers the purposes of and benefits the district.

(d) Provides that Sections 375.208 and 375.243, Local Government Code, do not apply to certain bonds or other obligations issued under this section.

(e) Authorizes the district to issue bonds in accordance with terms and provisions as determined by the board, including the sale of bonds in a manner and with terms as determined by the board. Provides that as provided by Section 3852.007, certain sections of the Local Government Code apply to bonds issued under this section.

(f) Authorizes a bond issued under this section to be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by board order or resolution. Authorizes a refunding bond to be issued in an amount necessary to pay the principal and any interest and redemption premium of bonds to be refunded, at maturity or on any redemption date, and issued to provide for the payment of costs incurred in connection with the refunding. Authorizes a refunding bond to be issued in any manner provided by law.

Sec. 3852.158. ECONOMIC DEVELOPMENT BONDS. Authorizes a district to issue bonds for economic development projects in accordance with Section 52-a, Article III, Texas Constitution.

Sec. 3852.159. MUNICIPALITY NOT OBLIGATED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Sections 3852.105 and 3852.157 of this code and 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.

[Reserves Sections 3852.160-3852.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3852.201. 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 territory of the district.

SECTION 3. Authorizes the Pflugerville Municipal Management District No. 1 to hold the first election under Section 3852.156, Special District Local Laws Code, as added by this Act, on a date other than a uniform election date.

SECTION 4. Provides that all of the 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.