

BILL ANALYSIS

Senate Research Center

S.B. 1860
By: Ellis
Intergovernmental Relations
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As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1860 creates the Montrose Community Improvement District (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 Houston 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

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

SECTION BY SECTION ANALYSIS

SECTION 1. MONTROSE COMMUNITY IMPROVEMENT DISTRICT. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3842, as follows:

CHAPTER 3842. MONTROSE COMMUNITY IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3842.001. DEFINITIONS. Defines "board" and "district."

Sec. 3842.002. MONTROSE COMMUNITY IMPROVEMENT DISTRICT. Provides that the Montrose Community Improvement District (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3842.003. 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 Houston (city), Harris County (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 the county or the city from providing the level of services provided as of the effective date of this Act enacting this chapter, to the area in the district. 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. 3842.004. 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. 3842.005. 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 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. 3842.006. 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. 3842.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district, except as otherwise provided by this chapter.

Sec. 3842.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3842.009-3842.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3842.051. BOARD OF DIRECTORS; TERMS. Provides that the district is governed by a board of 11 directors (board) who serve staggered terms of four years, with five or six directors' terms expiring June 1 of each odd-numbered year.

(b) Authorizes the board by resolution to change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district. Prohibits the board from consisting of fewer than five or more than 15 voting directors.

Sec. 3842.052. APPOINTMENT OF DIRECTORS. Requires the city 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.

Sec. 3842.053. NONVOTING DIRECTORS. Sets forth that the nonvoting directors of the board are heads of certain departments of the city or their designees. Authorizes the board, if a department 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 is abolished, to appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Sec. 3842.054. QUORUM. Provides that certain director positions are not counted for the purposes of establishing a board quorum.

Sec. 3842.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Provides that except as provided by this section, the director is authorized to 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), Local Government Code, does not apply to the district. Requires a director who has 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 conditions exist.

(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 the purposes of this section, a director has 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. 3842.056. INITIAL VOTING DIRECTORS. (a) Sets forth the names of voting directors of the initial board.

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

(c) Provides that Section 3842.052 does not apply to this section.

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

[Reserves Sections 3842.057-3842.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3842.101. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to a 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. 3842.102. 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 the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act),

Transportation Code, except that a board member is not required to reside in the district.

Sec. 3842.103. 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. 3842.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with a qualified party, including the county or the city, for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3842.105. APPROVAL BY CITY OF HOUSTON. Requires the district, except as provided by Subsection (b), to obtain the approval of the city's governing body to take certain actions relating to issuing bonds and improvement projects.

(b) Requires the approval obtained for the issuance of bonds under Subsection (a) to be a resolution by the city. Requires the approval obtained for plans and specifications to be a permit issued by the city.

(c) Authorizes the district, if it obtains the approval of the city'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.

Sec. 3842.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to certain organizations.

Sec. 3842.107. 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 the district, for the purposes of this section, has all of the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

Sec. 3842.108. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3842.109-3842.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3842.151. 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. 3842.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. Authorizes the district to take certain actions authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3842.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (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) Sets forth signature requirements for a petition requesting a project financed by assessments.

Sec. 3842.154. **METHOD OF NOTICE FOR HEARING.** Authorizes the district to mail the notice required by Section 375.115(c), Local Government Code, by certified mail or an equivalent service that can provide a record of mailing or other delivery.

Sec. 3842.155. **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 are a first and prior lien. Sets forth the characteristics of said liens.

(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. 3842.156. **AD VALOREM TAX.** (a) Authorizes the district, if authorized at an election held in accordance with Section 3842.160, 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.

Sec. 3842.157. **UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR 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. 3842.158. **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. 3842.159. **TAXES FOR BONDS AND OTHER OBLIGATIONS.** Requires the board, at the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued, to take certain actions. Requires the district, at the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued, to take certain actions.

Sec. 3842.160. **TAX AND BOND ELECTIONS.** (a) Requires the district to hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem 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.

(b) Provides that Section 375.243, Local Government Code, does not apply to the district.

Sec. 3842.161. CITIES NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

Sec. 3842.162. 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.

Sec. 3842.163. TAX AND ASSESSMENT ABATEMENTS. Authorizes the district to grant in the manner authorized by Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, an abatement for a tax or assessment for a tax or assessment owed to the district.

[Reserves Sections 3842.164-3842.200 for expansion.]

Sec. 3835.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) Authorizes the board to vote 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 limited purpose of discharging its debts. Sets forth that the dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. Sets forth the boundaries of the territory contained in the district.

SECTION 3. LEGISLATIVE FINDINGS. Provides 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 4. DATE OF PETITION. Authorizes a petition filed under Section 3842.153, Special District Local Laws Code, as added by this Act, to be dated before the effective date of this Act.

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