

BILL ANALYSIS

S.B. 1866
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Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 1866 creates the Dickinson 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 Dickinson (city) and Galveston County (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

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 3853, as follows:

CHAPTER 3853. DICKINSON MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3853.001. DEFINITIONS. Defines "board" and "district."

Sec. 3853.002. DICKINSON MANAGEMENT DISTRICT NO. 1. Provides that the Dickinson Management District No. 1 (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3853.003. 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 Dickinson (city), Galveston 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 of 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 the 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. 3853.004. 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. 3853.005. 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. 3853.006. 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. 3853.007. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

Sec. 3853.008. 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.

[Reserves Sections 3853.009-3853.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3853.051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five voting directors (board) who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) Authorizes the governing body of the city to change the number of voting directors on the board. Prohibits the board from consisting of fewer than five or more than 15 voting directors.

Sec. 3853.052. APPOINTMENT OF DIRECTORS. Requires the governing body of the city to appoint voting directors. Provides that a person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person. Provides that Section 375.063 (Qualifications of Director), Local Government Code, does not apply to the district.

Sec. 3853.053. NONVOTING DIRECTORS. Authorizes the board to appoint non-voting directors.

Sec. 3853.054. QUORUM. Provides that certain director positions are not counted for the purposes of establishing a board quorum.

Sec. 3853.055. INITIAL VOTING DIRECTORS. (a) Requires the mayor and members of the governing body of the city to appoint the five initial directors by position.

(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 this section expires September 1, 2010.

[Reserves Sections 3853.056-3853.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3853.101. 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, and of a housing finance corporation under Chapter 394 (Housing Finance Corporations in Municipalities and Counties), Local Government Code

Sec. 3853.102. 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 member of the board is not required to reside in the district.

Sec. 3853.103. 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. 3853.104. 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, to provide law enforcement services in the district for a fee.

Sec. 3853.105. APPROVAL BY CITY OF DICKINSON. (a) Requires the district, except as provided by Subsection (c), 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 and the imposition of a sales and use tax 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.

(d) Authorizes the city and the district to agree on conditions for obtaining the approval of the city under this section, including an agreement for the approval of a sales and use tax that requires the district to abolish or decrease the rate of the tax if the rate, when combined with other local sales and use taxes, results in a combined tax rate of more than two percent in any location in the district.

Sec. 3853.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to certain organizations.

Sec. 3853.107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER POWERS RELATED TO PLANNING AND DEVELOPMENT. (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 has all the powers and authority of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

Sec. 3853.108. ANNEXATION. Authorizes the district, in addition to the authority to annex territory under Subchapter J (Annexation or Exclusion of Land), Chapter 49, Water Code, to annex territory by board resolution if the city's governing body votes in favor of annexation.

Sec. 3853.109. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3853.110-3853.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3853.151. 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. 3853.152. 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. 3853.153. 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 filed under Subsection (a).

Sec. 3853.154. METHOD OF NOTICE FOR HEARING. Authorizes the district to mail the notice required by Section 375.115(c) (Notice of Hearing), Local Government Code, by certified mail or an equivalent service that can provide a record of mailing or other delivery.

Sec. 3853.155. 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 against the property assessed. Sets forth certain 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. 3853.156. 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 utilities and service providers.

Sec. 3853.157. 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, 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.

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

Sec. 3853.158. CITY 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. 3853.159. 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.

Sec. 3853.160. 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 3853.161-3853.200 for expansion.]

SUBCHAPTER E. SALES AND USE TAX

Sec. 3853.201. 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 those chapters.

Sec. 3853.202. 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.

(d) Provides the Section 321.203(1), Tax Code, as added by Chapter 1155, Acts of the 78th Legislature, Regular Session, 2003, does not apply to a tax imposed in the district boundaries.

Sec. 3853.203. AUTHORIZATION. Authorizes the district to adopt a sales and use tax for the benefit of the district. Provides that the board is not required to call an election to adopt the tax

Sec. 3853.204. ABOLISHING SALES AND USE TAX. (a) Authorizes the board, except as provided in Subsection (b), with the consent of the governing body of the city, 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. 3853.205. 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.

[Reserves Sections 3853.206-3853.250 for expansion.]

SUBCHAPTER F. DISSOLUTION

Sec. 3853.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) Authorizes the board to vote to dissolve a 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. Sets forth the boundaries of the territory contained in the district.

SECTION 3. 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. 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.