

BILL ANALYSIS

Senate Research Center

S.B. 1877
By: Whitmire
Intergovernmental Relations
5/5/2005
Committee Report (Amended)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

S.B. 1877 creates Harris County Municipal Utility District No. 406 (district) as a political subdivision of the State of Texas to finance and develop water, sewer, drainage, road and other facilities to serve the property in the district, which is located entirely within the extraterritorial jurisdiction of the City of Houston and Harris County. The district will be a municipal utility district pursuant to Chapters 49 and 54, Water 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. Amends Subtitle F, Title 6, Special District Local Laws Code, by adding Chapter____ [N.B.: Bill as drafted does not contain chapter number], as follows:

CHAPTER [sic]. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT
NO. 406.

SUBCHAPTER A. GENERAL PROVISIONS

Sec.____.001. [N.B.: Bill as drafted does not contain Section numbers] DEFINITIONS. Defines "board," "city," and "district."

Sec.____.002. CREATION OF DISTRICT. Provides that the Harris County Municipal Utility District No. 406 (district) is created as a special district under Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. _____.003. DECLARATION OF INTENT. Provides that the creation of the district is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act.

Sec. _____.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes of the district 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 the district's organization, existence, or validity, certain right to take action, or legality or operation.

Sec. _____.005. APPLICABILITY OF OTHER LAW. (a) Provides that Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipality Utility Districts), Water Code, apply to the district, except as otherwise provided by this chapter.

(b) Provides that Chapter 311, Government Code (Code Construction Act), applies to this Act.

(c) Provides that Chapter 1471 (Bonds for County Roads), Government Code, does not apply to the district.

Sec. ____006. CONSTRUCTION OF ACT. (a) Requires this Act to be liberally construed in conformity with the findings and purposes set forth in this Act.

(b) Provides that this Act prevails if any provision of the general law conflicts with this Act.

(c) Provide that Chapters 49 and 54, Water Code, prevail, if any provision of the general law conflicts with Chapters 49 and 54, Water Code.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. ____051. BOARD OF DIRECTORS; TERMS. Sets forth the number and terms of the directors on the board of directors of the district (board).

Sec. ____052. INITIAL DIRECTORS. (a) Provides that the initial board consists of certain persons.

(b) Provides that of the initial directors, the terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2007, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2009.

(c) Requires the board to hold an election for the directors whose terms expire on the uniform election date in May 2007. Requires the board to hold an election for the directors whose terms expire on the uniform election date in May 2009.

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

Sec. ____053. CONFIRMATION ELECTION. Requires the board to hold an election to confirm the creation of the district as provided by Section 49.102 (Confirmation and Director Information), Water Code.

SUBCHAPTER C. POWERS AND DUTIES

Sec. ____101. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) 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, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this Act.

(b) Provides that the district is created for certain purposes.

Sec. ____102. POWERS OF DISTRICT. (a) Requires the district to have the functions, powers, authority, rights and duties which will permit accomplishment of the purposes for which it was created.

(b) Sets forth specific powers of the district, including but not limited to, levying taxes, issuing bonds, imposing standby fees, and exercising the power of eminent domain.

Sec. ____103. SPECIFIC ROAD POWERS OF DISTRICT. (a) Authorizes the district to purchase, construct, acquire, own, operate, maintain, improve, or extend inside and outside its boundaries roads and road facilities as defined in Chapter 441 (Road Utility Districts), Transportation Code, as authorized by Section 52, Article III, of the Texas Constitution.

(b) Provides that in accordance with Section 52, Article III, Texas Constitution, the district has the power and authority to issue bonds, notes, and other obligations or otherwise lend its credit and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof for the construction, purchase, maintenance and operation of roads and road facilities. Provides that the total amount of bonds issued for such purpose may not exceed one-fourth of the assessed market value of real property of the district as determined by the chief appraiser of the appraisal district that appraises property for the district.

(c) Authorizes the roads and road facilities to include certain services and lights, signs, or signals that are incidental thereto and their construction, maintenance, or operation.

(d) Requires the roads and road facilities authorized by this section to meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the City of Houston (city) .

(e) Authorizes the district, on completion of a road or road facility authorized by this section, with the consent of the city, to convey that road or road facility to the city, provided the conveyance is free of all indebtedness of the district. Provides that the city is responsible for all future maintenance and upkeep, and the district has no further responsibility for the road or road facility or its maintenance or upkeep, unless otherwise agreed to by the district and the city, if the city becomes the owner of a road or road facility.

(f) Authorizes a district to contract with a state agency, political subdivision, or corporation created under Chapter 431 (Texas Transportation Act), Transportation Code, for a joint road or road facility. Authorizes the district to issue bonds to pay all or part of the costs of the road or road facility and any other payments required pursuant to the contract. Authorizes a contract to be a contract under Section 49.108 (Contract Elections), Water Code. Authorizes the contract to provide for certain services

(g) Authorizes the district to agree certain reimbursements and purchases.

(h) Provides that the amount paid for the reimbursement or purchase of a road or road facility may include certain costs, may not exceed a certain price, and may be paid by a certain method.

(i) Authorizes the district to enter into an agreement to use the proceeds of a subsequent bond sale for reimbursing all construction costs, engineering and other expenses, and financing costs incident to construction or acquisition of a road or an interest in a road to a private person who constructs or acquires a road or road facility that benefits the district pursuant to the agreement. Authorizes the agreement to provide the terms and conditions under which the road or road facility will be dedicated or transferred for the benefit of the public and to pay or reimburse the cost of constructing or acquiring the road.

Sec. ____104. TAX INCREMENT REINVESTMENT ZONE. (a) Provides that all or any part of the area of the district is eligible, regardless of other statutory criteria, to be included in a tax increment reinvestment zone created pursuant to Chapter 311 (Tax Increment Financing Act), Tax Code.

(b) Authorizes the district to enter into a contract with the board of directors of a reinvestment zone created pursuant to Chapter 311, Tax Code, and the governing body of the city for the district to manage or assist in managing the reinvestment zone or implement or assist in implementing the reinvestment zone's project plan and reinvestment zone financing plan for the term of the contract in the same manner as a local government corporation pursuant to Section 311.010(f) [unknown due to lack of chapter title]. Authorizes the contract to provide that the

district shall issue bonds, notes or other obligations and pledge the contract revenues to the payment thereof. Authorizes the district to issue bonds payable in whole or in part from the revenue of the contract to pay for the implementation of the reinvestment zone's project plan and reinvestment zone financing plan. Provides that such bonds and the projects financed by the bonds are not subject to Sections 49.181 (Authority of Commission Over Issuance of District Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water Code.

Sec. ____105. EMINENT DOMAIN. (a) Authorizes the district to exercise the power of eminent domain in accordance with Section 49.222 (Eminent Domain), Water Code.

(b) Requires the district to obtain the written consent of the city prior to exercising its power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. ____151. ELECTIONS REGARDING TAXES OR BONDS. (b) [sic] Authorizes the district to issue bonds, notes, and other obligations secured by revenues or contract payments from any lawful sources other than ad valorem taxation without an election.

(b) 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 may impose a maintenance tax or issue bonds payable from ad valorem taxes.

(c) Authorizes the district to issue bonds, notes, and other obligations to finance roads and road facilities under Section 52(b)(3), Article III, of the Texas Constitution, secured in whole or in part by ad valorem taxation and impose ad valorem taxes to pay the principal of and interest on those obligations and provide a sinking fund for the redemption thereof only if the issuance is approved by a two-thirds majority of the voters of the district voting at an election called and held for that purpose.

Sec. ____152. AD VALOREM TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section ____151, to impose an annual ad valorem tax on taxable property in the district for the acquisition, construction, financing, maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services.

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

SUBCHAPTER E. BONDS OR OTHER OBLIGATIONS

Sec. ____201. OBLIGATIONS. (a) Authorizes the district to issue bonds, notes, or other obligations payable in whole or in part from ad valorem taxes, 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, in exercising the district's borrowing power, 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) Requires the board, at the time bonds payable in whole or in part from ad valorem taxes are issued, to levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the district in sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting taxes.

Sec. ____202. AUTHORITY OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY OVER ISSUANCE OF DISTRICT BONDS. (a) Provides that Sections 49.181 and 49.182, Water Code, apply to all water, wastewater, drainage and recreational facility projects of the district and bonds issued therefor.

(b) Provides that Section 49.181, Water Code, applies to all road and road facility projects and navigation projects and bonds issued therefor; however, the review of the Texas Commission on Environmental Quality of such projects are required to be limited to the financial feasibility of such projects and bonds, and to not include the review or approval of the design and construction of such projects or the engineering feasibility of such projects, and the requirements of written applications for investigation of feasibility shall be adjusted accordingly.

(c) Provides that Section 49.182, Water Code, does not apply to any road and road facility projects and navigation projects and bonds issued therefor.

(d) Provides that projects and bonds of the district are not subject to the review and approval of the Texas Transportation Commission or the rules promulgated by the Texas Transportation Commission.

(e) Provides that to the extent that the district issues bonds secured solely by revenues provided under a contract described in Section ____104(b), Sections 49.181, 49.182, and 49.4645, Water Code, shall not apply to the issuance of such bonds and shall not restrict the types of facilities or improvements that may be financed with such bonds.

SECTION 2. Sets forth the initial boundaries of the Harris County Municipal Utility District No. 406.

SECTION 3. Provides that all requirements of the constitution and laws of this state and the rules and the 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.

AMENDMENTS

Committee Amendment No. 1

Amends S.B. 1877, in the recital to SECTION 1 of the bill (Introduced version page 1, line 7), by striking "Chapter ____" and substituting "Chapter 8149" and adding "8149" for chapter and section numbering where required throughout the bill.