

BILL ANALYSIS

C.S.H.B. 4085
By: Laubenberg
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 4085 creates the Triple Creek Municipal Management District (“district”) as a political subdivision of the State of Texas to administer and provide funding for improvement projects and services in the district, which is located in the corporate limits of the City of McLendon-Chisholm and in Rockwall and Kaufman Counties. The district will be a municipal management district similar to those operating under Chapter 375, Local Government Code, and Title 4, 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. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3851 to read as follows:

CHAPTER 3851. TRIPLE CREEK MUNICIPAL MANAGEMENT DISTRICT

Sets forth general provisions for the Triple Creek Municipal Management District, including definitions, creation and nature of district, purpose; legislative findings; findings of benefit and public purpose, district territory, and applicability of municipal management district law (Sections 3851.001-3851.006);

Sections 3851.007-3851.050 reserved for expansion.

Sets forth provisions for the district’s board of directors, including governing body; terms, election date, eligibility, vacancy, district confirmation election, and initial directors (Sections 3851.051-3851.056);

Sections 3851.057-3851.100 reserved for expansion.

Sets forth provisions for the district’s powers and duties, including powers of the general laws relating to: conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code; road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code; Subchapter A, Chapter 372, Local Government Code; Chapter 375, Local Government Code; and Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes); and also sets forth the authority of the district to provide and contract for improvement projects, the district’s general powers regarding contracts, rules and enforcement, authority to change the district's name, and adding or removing territory (Sections 3851.101-3851.106);

Sections 3851.107-3851.150 reserved for expansion.

Sets forth general financial provisions, including general powers regarding financial matters, impact fees and assessments; exemptions, maintenance and operation tax; election, bonds and other obligations; municipal approval; bond maturity; taxes for bonds and other obligations (Sections 3851.151-3851.156);

Section 3851.157-3851.200 reserved for expansion.

Sets forth dissolution provisions (Section 3851.201).

SECTION 2. Sets forth the initial boundaries of the district.

SECTIONS 3. Provides that all requirements of the constitution and the 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, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 4085 changes the caption as follows: relating to the creation of the Triple Creek Municipal Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

SECTION 1. C.S.H.B. 4085 specifies that the bill is amending Title 4, Special District Local Laws Code, by adding Chapter 3851, where as the original bill left the Chapter number blank.

Sec. 3851.001 “DEFINITIONS” is the same as the original bill, except that the definition of “City” is clarified to add what counties McLendon-Chisholm lies in and it narrows the definition of “improvement project” to only include programs or projects authorized by Section 3851.102 in the C.S.H.B. 4085. C.S.H.B. 4085 deletes the definition of "Territory".

Sec. 3851.002. “CREATION AND NATURE OF DISTRICT” was named “CREATION AND NAMING OF DISTRICT” in the original bill. Section 3851.002(a) of C.S.H.B. 4085 remains the same in substance; Section 3851.002(b), which states the method the board can change its name, is moved to Section 3851.105 in C.S.H.B. 4085; Section 3851.002(c) in the original bill is deleted, which said that the district was an unit of government under the Tort Claims Act; Section 3851.002(d) in the original bill regarding liberal construction of law is deleted in C.S.H.B. 4085; and Section 3851.002(e) in the original bill regarding conflict of general law is deleted in C.S.H.B. 4085.

Sec. 3851.003. “PURPOSE: LEGISLATIVE FINDINGS” in C.S.H.B. 4085 was Sec.XXXX.004 in the original bill and was called “PURPOSE, DECLARATION OF INTENT”. Section 3851.003(a), is the same as in the original bill, except C.S.H.B. 4085 adds that the district is also created to achieve the public purposes stated in Section 375.001. Local Government Code and Section 54.012, Water Code; Section 3851.003(b) is the same as Sec. XXXX.004(c) in the original bill; and Sec. XXXX.004(b) of the original bill regarding why the creation of the district is necessary was deleted in C.S.H.B. 4085.

Sec. 3851.004. “FINDINGS OF BENEFIT AND PUBLIC PURPOSE.” In C.S.H.B. 4085 is the same as in Sec. XXXX.005(a) and (b) of the original bill; C.S.H.B. 4085 deletes Sec. XXXX.005(c)-(f) of the original bill, which listed specific public interests that the district is created to serve and instead adds Sec. 3851.004(c) which incorporates by reference the public purposes of municipal management districts that are listed in Section 375.001, Local Government Code and Section 54.012, Water Code.

Sec. 3851.005. “DISTRICT TERRITORY” in C.S.H.B. 4085 is substantively the same. Sec. XXXX.003(a) and (b) of the original bill was called “INITIAL DISTRICT TERRITORY.”

C.S.H.B. 4085 80(R)

Sec. 3851.006. "APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW." in C.S.H.B. 4085 is added to state that except as otherwise provided by the bill, Chapter 375, Local Government Code, applies to the district.

SUBCHAPTER B. in C.S.H.B. 4085 is "BOARD OF DIRECTORS," which was SUBCHAPTER C "SELECTION AND QUALIFICATIONS OF BOARD OF DIRECTORS: CONFIRMATION ELECTION" in the original bill, and is substantively the same, although renumbered and organized as follows:

Sec. 3851.051. "GOVERNING BODY; TERMS" in C.S.H.B. 4085 states the board has five directors that serve staggered four year terms, with two or three directors' terms expiring November 30 of each even-numbered year.

Sec. 3851.052. "ELECTION DATE" in C.S.H.B. 4085 states the board shall hold elections for directors on the uniform election date in November in even-numbered years.

Sec. 3851.053. "ELIGIBILITY" lists the substantively the same qualifications to serve as a director as in the original bill in Sec. XXXX.010(b).

Sec. 3851.054 "VACANCY" is substantively the same as in the original bill in Sec. XXXX.010(c).

Sec. XXXX.010(d)-(h) of the original bill regarding the directors was deleted.

Sec. 3851.055. "DISTRICT CONFIRMATION ELECTION" in C.S.H.B. 4085 was Sec. XXXX.011 in the original bill. Sec. 3851.055(a)-(c) in the C.S.H.B. 4085 is substantively the same as in the original bill's Sec. XXXX.011, but is reorganized. Sec. 3851.055(d) adds the following:

(d) If the creation of the district is not confirmed at a confirmation election held before September 1, 2010:

- (1) the district is dissolved on September 1, 2010, except that the district shall:
 - (A) pay any debts incurred;
 - (B) transfer to the city any assets that remain after the payment of debts; and
 - (C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and
- (2) this chapter expires September 1, 2010.

Sec. 3851.056 "INITIAL DIRECTORS" is added by C.S.H.B. 4085, which states:

(a) The initial board consists of the following directors:

Pos. No.	Name of Director
1	David Owen Butler
2	Harry Allen Starkweather
3	Stephen Wilson Griffin
4	Andrew E. Kidd
5	R. Edward Noble

(b) Of the initial directors, the terms of directors appointed for positions 1 and 2 expire November 30, 2008, and the terms of directors appointed for positions 3 through 5 expire November 30, 2010.

(c) Section 49.052(a), Water Code, does not apply to an initial director.

(d) This section expires September 1, 2011.

SUBCHAPTER C in C.S.H.B. 4085 is "POWERS AND DUTIES," which was SUBSECTION B "GENERAL POWERS AND DUTIES" in the original bill.

Sec. 3851.101. "GENERAL POWERS AND DUTIES" in C.S.H.B. 4085 was Sec. XXXX.006 in the original bill "APPLICABLE RIGHTS AND LAWS." Sec. 3851.101(1) is the same as Sec. XXXX.006(a)(1) in the original bill, except that C.S.H.B. 4085 deletes the statement regarding the inapplicability of Chapter 49, Water Code, or other law, requiring commission jurisdiction or supervision over district bonds and securities. Sec. 3851.101(2) in C.S.H.B. 4085 is the same as Sec. XXXX.006(a)(2) in the original bill regarding road powers. Sec. 3851.101(3)

C.S.H.B. 4085 80(R)

in C.S.H.B. 4085 is substantively the same as Sec. XXXX.006(a)(4) in the original bill regarding Subchapter A, Chapter 372, Local Government Code, powers. Sec. 3851.101(4) in C.S.H.B. 4085 replaces Sec. XXXX.006(a)(3) in the original bill, applying all powers of Chapter 375, Local Government Code, to the district. Sec. 3851.101(5) in C.S.H.B. 4085 is substantively the same as Sec. XXXX.006(a)(5) in the original bill regarding powers of Section 4B, Development Corporation Act of 1979. C.S.H.B. 4085 deletes Sec. XXXX.006(c)-(h) of the original bill.

Sec. 3851.102. “IMPROVEMENT PROJECTS” in C.S.H.B. 4085 was Sec. XXXX.007 “POWER TO PROVIDE IMPROVEMENT PROJECTS” in the original bill. Sec. 3851.102(a) replaces the lists of authorized improvement projects in Sec. XXXX.007(a) of the original bill, by incorporating by reference the improvement projects authorized under Sec. 3851.101 of C.S.H.B. 4085. Sec. 3851.102(b) and (c) in C.S.H.B. 4085 is substantively the same as Sec. XXXX.007(b) in the original bill. Sec. 3851.102(d) in C.S.H.B. 4085 is substantively the same as Sec. XXXX.007(c) in the original bill. Sec. XXXX.007(d) in the original bill was deleted in C.S.H.B. 4085.

Sec. 3851.103. “GENERAL POWERS REGARDING CONTRACTS” in C.S.H.B. 4085 was Sec. XXXX.008 “POWERS RELATED GENERALLY TO CONTRACTS AND FINANCIAL MATTERS” in the original bill. Sec. 3851.103 in C.S.H.B. 4085 replaces Sec. XXXX.008 discusses the district’s financial authority and contracting authority and is replaced with Sec. 3851.103 that only discusses contracting authority, as the district’s financial authority in C.S.H.B. 4085 is addressed in Subchapter D. “GENERAL FINANCIAL PROVISIONS.” The replaces contracting provisions for the district in C.S.H.B. 4085 is as follows:

(a) The district may:

(1) contract with a state agency, municipality, county, other political subdivision, corporation, individual, or other entity to carry out the purposes of the district, including a contract for:

(A) the payment, repayment, or reimbursement of costs incurred on behalf of the district, including all or part of the costs of an improvement project and interest on the reimbursed cost; or

(B) the use, occupancy, lease, rental, operation, maintenance, or management of all or part of a proposed or existing improvement project; and

(2) apply for and contract with a state agency, municipality, county, other political subdivision, corporation, individual, or other entity to receive, administer, and perform a duty or obligation of the district under a federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project.

(b) A contract payable from ad valorem taxes for a period longer than one year must be approved by the governing body of the city.

Sec. 3851.104. “RULES; ENFORCEMENT” in C.S.H.B. 4085 replaces Sec. XXXX.009 in the original bill titled “RULES AND REGULATIONS; ZONING; AND SECURITY.” Sec. 3851.104(a) of C.S.H.B. 4085 is substantively the same as Sec. XXXX.009(a) in the original bill. C.S.H.B. 4085 deletes Sec. XXXX.009(b)-(d) in the original bill, regarding the district’s regulation of private use of public roadways, parades, vendors, etc.

Sec. 3851.105 “NAME CHANGE” in C.S.H.B. 4085 is substantively the same as in the original bill’s Sec. XXXX.002(b).

Sec. 3851.106 “ADDING OR REMOVING TERRITORY” in C.S.H.B. 4085 is substantively the same as Sec. XXXX.003(c)(1)(2) and (4) of the original bill. C.S.H.B. 4085 deletes Sec. XXXX.003(c)(3) of the original bill regarding the inapplicability of Section 54.016, Water Code, and Section 42.042, Local Government Code, if the district’s annexation of land is restricted primarily to commercial or business use.

SUBCHPATER D of C.S.H.B. 4085 is titled “GENERAL FINANCIAL PROVISIONS.”

Sec. 3851.151 “GENERAL POWERS REGARDING FINANCIAL MATTERS” in C.S.H.B. 4085 is substantively the same as the original bill’s Sec. XXXX.008(a)(1)-(3),(6)-(9), except that Sec. 3851.151(1) applied the applicability of only Chapter 375, Local Government Code, to the imposition of an ad valorem tax and that Sec. 3851.151(2) adds that the district may “impose an assessment or impact fee in the manner provided for a municipality or county under Subchapter A, Chapter 372, Local Government Code, on all industrial, commercial, and residential property in the district to pay for an improvement project.” C.S.H.B. 4085 deletes Sec. XXXX.008(a)(10) of the original bill regarding tax abatement agreements.

Sec. 3851.152 “IMPACT FEES AND ASSESSMENTS; EXEMPTION”. Sec. 3851.152(a) and (b) in C.S.H.B. 4085 replaces Sec. XXXX.006(h) in the original bill by stating:

(a) The district may impose an impact fee or assessment on property in the district, including an impact fee or assessment on residential or commercial property, only in the manner provided by Subchapter A, Chapter 372 or Subchapter F, Chapter 375, Local Government Code, for a municipality, county, or public improvement district, according to the benefit received by the property.

(b) An impact fee for residential property must be for the limited purpose of providing capital funding for:

- (1) public water and wastewater facilities;
- (2) drainage and storm-water facilities; and
- (3) streets and alleys.

Sec. 3851.152(c) in C.S.H.B. 4085 is substantively the same as Sec. XXXX.016(b) of the original bill and Sec. 3851.152(d) in C.S.H.B. 4085 is substantively the same as Sec. XXXX.016(d) of the original bill. Sec. XXXX.016(c) of the original bill was deleted in C.S.H.B. 4085. Sec. 3851.152(e) in C.S.H.B. 4085 adds: “The district may not impose an impact fee on the property, including equipment and facilities, of a public utility provider in the district.” Sec. 3851.152(f) in C.S.H.B. 4085 adds: “Section 375.161, Local Government Code does not apply to the district.”

Sec. 3851.153 “MAINTENANCE AND OPERATION TAX; ELECTION” in C.S.H.B. 4085 replaces and is substantively the same as Sec. XXXX.012 of the original bill titled “OPERATION AND MAINTENANCE TAX,” except in Sec. 3851.153(d) the ballot proposition in a maintenance and operation tax election may only be for a specific maximum rate; and Sec. XXXX.012(e) and (f) of the original bill are deleted in C.S.H.B. 4085, regarding the district’s surplus operation and maintenance tax funds and the inapplicability of certain tax code provisions.

Sec. 3851.154. “BONDS AND OTHER OBLIGATIONS; MUNICIPAL APPROVAL” in C.S.H.B. 4085 replaces Sec. XXXX.013 in the original bill titled “AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS,” as follows:

(a) The district may issue by competitive bid or negotiated sale bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372 or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district’s borrowing power, the district may 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) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable, wholly or partly, by a pledge of any part of the net proceeds the district receives from any other district revenue.

(d) District bonds payable by ad valorem taxes may not be issued unless the bonds and the taxes are approved by:

- (1) the governing body of the city; and
- (2) a majority of the district voters voting in an election called for that purpose.

(e) The city is not obligated to pay, repay, or guarantee any bonds, notes, or other obligations of the district unless the city dissolves the district under Subchapter E.

C.S.H.B. 4085 deletes the provision in Sec. XXXX.013(a) of the original bill regarding the inapplicability of Section 375.207 and 375.208 of Chapter 375, Local Government Code, to applicable district bonds.

C.S.H.B. 4085 80(R)

Sec. 3851.155. ‘BOND MATURITY’ specifies the same term as Sec. XXXX.013(f) in the original bill.

Sec. 3851.156. TAXES FOR BONDS AND OTHER OBLIGATIONS” in C.S.H.B. 4085 is substantively the same as Sec. XXXX.014 of the original bill titled “BOND ELECTIONS; TAXES AND; ASSESSMENTS,” except that C.S.H.B. 4085 in Sec. 3851.156(c) requires the district to hold the related election as provided by Subchapter L, Chapter 375 Local Government Code, instead of Chapter 54, Water Code, as stated in the original bill in Sec. XXXX.014(c).

C.S.H.B. 4085 deletes Sec. XXXX.015 “HOTEL OCCUPANCY TAX” language from the original bill.

SUBCHAPTER E. DISSOLUTION

Sec. 3851.201 “DISSOLUTION” in C.S.H.B. 4085 is substantively the same as Sec. XXXX.017 of the original bill.

SECTION 2 sets forth the initial boundaries of the district and is the same in C.S.H.B. 4085 as in the original bill.