

BILL ANALYSIS

C.S.H.B. 4092
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The proposed complete committee substitute for House Bill No. 4092 is local legislation that would create a unique municipal management district to redevelop the tract of land which had previously been the site of the Six Flags Amusement Park in the City of Houston.

The goal of the proposed Harris County Improvement District No. 8 is to contract with the City of Houston, with Harris County and with the Metropolitan Transit Authority of Harris County to provide a major mixed-use project with hotels, housing office buildings and retail facilities.

This development would generate hotel, sales and ad valorem taxes which would trigger the redevelopment of the area in the south part of Houston.

RULEMAKING AUTHORITY

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

SECTION-BY-SECTION ANALYSIS

SECTION 1. LEGISLATIVE FINDINGS. The Legislature finds that:

(a) the Harris County Improvement District No. 8 would be created under the authority to legislate for the public good;

(b-1) the area would develop into a major activity center with commercial, office, retail, and residential buildings;

(b-2) the area currently has an inadequate public transportation system and an inadequate system of streets and public parking facilities;

(b-3) the current reliance on motor vehicles to get to the area would result in severe congestion impairing the use of the area as a major economic and business center;

(b-4) the absence of adequate parking facilities, including park and ride facilities, further intensifies existing traffic congestion in the area;

(b-5) the pollution created by the motor vehicles result in a danger to public health and welfare;

(b-6) the proliferation of the use of motor vehicles is substantially due to the lack of an adequate public transportation system and an adequate system or network of public parking facilities;

(b-7) an adequate system of public parking facilities and transit facilities would stimulate transportation and commerce in the area, accomplishing the purposes of Section 52-a, Article III, Texas Constitution, while reducing pollution, thus reducing the threat to the public health and welfare and preserving and conserving the state's natural resources as mandated by, Section 59, Article XVI, Texas Constitution; and

(b-8) in order for the area to have an adequate public transit system and an adequate system of public parking, the district must be able to take advantage of all public and private funds and opportunities available and be empowered to contract with public and private entities.

SECTION 2. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 8. Would amend Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3848 as follows:

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 3848.001. DEFINITIONS. Sets the definition of (1) Board and (2) District.

Sec. 3848.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 8. The Harris County Improvement District No. 8 is created under Section 59, Article XVI, Texas Constitution.

Sec. 3848.003. PURPOSE; DECLARATION OF INTENT.

(a) Creating the district is vital to accomplishing the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in Chapter 3848, Special District Local Laws Code;

(b) the creation of the district is necessary to promote and develop the public welfare of the area; and

(c) the creation of this district is not to relieve Harris County or the City of Houston from providing services to the area.

Sec. 3848.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

(a) The district is created to serve a public use and benefit;

(b) all land and property in the district would benefit from the improvements and services provided;

(c-1) the district would promote the health, safety, and general welfare of district residents and the public;

(c-2) provides funding to improve the economic health and vitality of the area;

(c-3) promotes health, safety, welfare, and enjoyment of the public by providing walkways and landscaping;

(d) walkways, street lighting, landscaping, and street art, are considered to be street or road improvements; and

(e) the district would not act as an agent of any private interest.

Sec. 3848.005. DISTRICT TERRITORY. The district is composed of territory described by SECTION 3 of the Act as it may have been modified under Subchapter J, Chapter 49, Water Code, or other laws.

Sec. 3848.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Chapter 375, Local Government Code, applies to the district unless otherwise provided by this chapter.

Sec. 3848.007. LIBERAL CONSTRUCTION OF CHAPTER. This chapter should be liberally construed.

[Sec. 3848.008 - Sec. 3848.050 are reserved for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

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Sec. 3848.051. COMPOSITION; TERMS.

(a) The board consists of nine voting directors, serving staggered four year terms, with four or five directors' terms expiring June 1 of each odd-numbered year; and

(b) the board can increase or decrease the number of voting directors but cannot:

(1) increase the number of directors to more than nine; or

(2) decrease the number to fewer than five.

Sec. 3848.052. APPOINTMENT OF DIRECTORS. The mayor and members of the governing body appoint the voting directors, by a majority vote, from persons recommended by the board.

Sec. 3848.053. NONVOTING DIRECTORS.

(a) Nonvoting directors include, directors or a person designated by that director of parks and recreation, planning and development, public works, the City of Houston's chief of police; and

(b) if the departments described above are changed or abolished, the board may appoint another nonvoting director of the changed department or another department that performs comparable duties.

Sec. 3848.054. QUORUM. A quorum is a majority of voting directors.

Sec. 3848.055. COMPENSATION OF VOTING DIRECTORS. Voting directors may receive fees of office and reimbursements of expenses provided by Section 49.060, Water Code.

Sec. 3848.056. INITIAL VOTING DIRECTORS. The initial board consists of nine specifically-named voting directors with the terms of directors appointed 1 through 5 to expire June 1, 2009 and positions 6 through 9 to expire June 1, 2011. Section 3848.052 does not apply to this section and this section expires September 1, 2011.

[Sec. 3848.057 - Sec. 3848.100 are reserved for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3848.101. DEVELOPMENT CORPORATION AND HOUSING CORPORATION POWERS OF DISTRICT. The district may exercise powers given to a corporation, under Section 4B, Development Corporation Act of 1979, and powers given to a housing finance corporation, under Chapter 394, Local Government Code.

Sec. 3848.102. NONPROFIT CORPORATION.

(a) The board by resolution may create a nonprofit corporation to assist and act in implementing a project of providing a service with the following stipulations:

(b-1) the nonprofit corporation is considered to be a local government corporation;

(b-2) the nonprofit corporation may implement any project and provide an service authorized by this chapter; and

(c) the board appoints the board of directors of the nonprofit corporation who serve in the same manner of a board of directors of a local government corporation.

Sec. 3848.103. AGREEMENTS; GRANTS.

(a) The district may make an agreement or accept a gift, grant, or loan from any person; and

(b) the implementation of a project is a governmental function.

Sec. 3848.104. CONTRACT FOR LAW ENFORCEMENT SERVICES. The district may contract with Harris County or the City of Houston for law enforcement services for a fee.

Sec. 3848.105. APPROVAL BY CITY OF HOUSTON. The district must obtain approval by the City of Houston for:

- (1) issuing a bond for each improvement project;
 - (2) the plans and specifications for the project financed by the bond;
 - (3) the plans and specifications of any district improvement project related to the use of land owned by the city or a easement, right-of-way of a street, road or highway; and
- (3-b) if the city approves a capital improvement budget not exceeding five years, the district may finance capital improvements and issue bonds specified in the budget without further approval.

Sec. 3848.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

- (1) enjoys tax-exempt status; and
- (2) performs or provides an activity to further a district purpose.

Sec. 3848.107. ROAD POWERS. The district may exercise powers given to a road district or a road utility district, and the district does not need the approval of the Texas Department of Transportation or the Texas Transportation Commission to construct a road or street if approved by the director of public works of the City of Houston.

Sec. 3848.108. AIR RIGHTS; CONSTRUCTION. The district may acquire air rights and may construct improvements on property which it only owns air rights.

Sec. 3848.109. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. The district may construct improvements on property which it only has a leasehold interest and may own undivided interests in buildings and other improvements.

Sec. 3848.110. NO EMINENT DOMAIN POWER. The district does not have eminent domain power.

[Sec. 3848.111- Sec. 3848.150 are reserved for expansion.]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3848.151. PUBLIC TRANSIT SYSTEM. The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

Sec. 3848.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY; TAX EXEMPTION.

- (a) The district may acquire, lease, construct, develop, own, operate, and maintain parking facilities including : lots, garages, parking terminals, other structures for parking, equipment, entrances, exits, fencing and other accessories necessary for parking;
- (b) a parking facility of the district must be leased or operated by a private entity or an entity other than the district on the behalf of the district; and
- (c) the district's parking facilities and any lease to a private entity are exempt from ad valorem taxes and state and local sales and use taxes.

Sec. 3848.153. RULES. The district may adopt rules covering its public transit system or its public parking facilities except a rule relating to or affecting the use of the public right-of-way or

a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3848.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES.

(a) The district may use any of its resources to pay the cost of acquiring and operating a public transit system or public parking facilities; and

(b) the district may set and impose fees for the use of the public transit system or the parking facilities and may issue bonds or notes to pay for these facilities.

Sec. 3848.155 - Sec. 3848.200 are reserved for expansion.

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3848.201. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution must establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3848.202. MAINTENANCE TAX. The district may impose an annual ad valorem tax on taxable property in the district , if authorized at an election, to: administer the district, maintain and operate the district, construct or acquire improvements, or provide a service. The board determines the tax rate with the owner of the real property in the district liable for the payment of the taxes.

Sec. 3848.203. ASSESSMENTS; LIENS FOR ASSESSMENTS.

(a) The board, by resolution, may impose and collect an assessment for any purpose authorized by this chapter;

(b) 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

(1) a first and prior lien against the property assessed;

(2) superior to any other lien or claim other than one for county, school district, or municipal ad valorem taxes; and

(3) the personal liability of the owner of the property;

(c) the lien is effective until the assessment is paid and the board can enforce the lien the same way it can enforce an ad valorem tax lien; and

(d) the board may 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. 3848.204. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district cannot impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements of

(1) electric utility or power generating company

(2) gas utility

(3) telecommunications provider

(4) a person who provides to the public cable television or advanced telecommunications service

Sec. 3848.205 BONDS AND OTHER OBLIGATIONS.

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(a) The district may issue bonds or other obligations payable in whole or in part from assessments, impact fees, revenue, grants, or other money or any combination of the source to pay for purposes of the district; and

(b) in exercising the power to borrow the district may issue a bond or obligation in the form of the bond, note, certificate of participation that are evidence interest in payments made by the district.

Sec. 3848.206 LIMITS ON PARKS AND RECREATION BONDS. Bonds issued to finance parks and recreational facilities may not exceed one percent of the assessed value of the real property in the district according to the recent tax appraisal for Harris County.

Sec. 3848.207 TAX AND BOND ELECTIONS. The district shall hold an election to obtain voter before it imposes a tax or issues bonds payable from ad valorem taxes. In doing so, the board may not include more than one purpose in a single proposition at that election.

Sec. 3848.208 MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. In this section, a municipality is not required to pay a bond, note, or other obligation of the district.

[Sections 3848.209 - 3848.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3848.251 DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT.

(a) The board may dissolve the district regardless of whether it has debt; and

(b) If the district does have debt when dissolved, the district shall remain in existence solely for the purpose of discharging debts . The dissolution is effective when all debts have been discharged.

SECTION 3. BOUNDARIES. This section defines the boundaries that encompass the district.

SECTION 4. REIMBURSEMENT FOR COST OF CREATION. The Harris County Improvement District No. 8 may reimburse the cost of creating the district from assessments and other revenues created by the district.

SECTION 5. ADDITIONAL LEGISLATIVE FINDINGS. The Legislature finds that:

(1) The proper and legal notice of the intention to introduce this Act has been met;

(2) the Texas Commission on Environmental Quality has filed its recommendations with the necessary people;

(3) the general law relating to consent by political subdivisions has been complied with; and

(4) all requirements of the constitution and laws of this state respect to the notice, introduction, and passage of this Act have been meet and accomplished.

SECTION 6. EFFECTIVE DATE. Provides that the Act would take effect 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. If this Act were to receive less than the vote necessary for immediate effect, then this Act would take effect on the default date of September 1, 2007.

EFFECTIVE DATE

Immediately upon passage or on the default date of September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

In the proposed complete committee substitute, SUBCHAPTER B. BOARD OF DIRECTORS is different from the original bill.

In Section 3848.051, the board was composed of seven members and the substitute increases that number to nine.

Section 3848.056 of the original bill does not name initial voting directors while the substitute does name the voting directors.

The Substitute removes language from the original bill in Section 3848.202 under SUBCHAPTER E. FINANCIAL PROVISIONS and adds language in Section 3848.202 that allows the district to impose an ad valorem tax on taxable property.

The substitute adds Section 3848.205 which allows for the issuance of bonds to pay financial obligations.

The substitute adds Section 3848.206 which puts a limit of 17 on any assessed value for bonds issued to finance parks.

The substitute adds Section 3848.207 which requires an election before the district imposes a maintenance tax or bonds payable from ad valorem tax.

The substitute adds language in Section 3848.208 that a municipality is not required to pay district obligations.

The substitute adds SUBCHAPTER F. DISSOLUTION which adds language and Section 3848.251 which allows the board to dissolve the district regardless of debt.