

BILL ANALYSIS

C.S.H.B. 4093
By: Otto
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 1925, the Legislature enacted its first law to authorize the creation of water control and improvement districts. Article 16, Section 59, of the Texas Constitution authorized such entities to have unlimited property taxing authority and to issue debt secured by such taxes in order to construct public infrastructure to control and use water beneficially. The Water Code now authorizes approximately 13 different types of water districts to deal with surface water supply.

The Texas Constitution was further amended to add Sections 52 and 52-a, to Article 3, to allow the loan or grant of public money for economic development purposes. Special districts may be created under the authority of these Constitutional provisions and be authorized to issue bonds secured by taxes and to make loans and grants of public money for economic development purposes

C.S.H.B. 4093 proposes the legislative creation of an improvement district to be located partially in Chambers County and partially in Liberty County, in an area desirable for commercial and industrial development. The bill 4093 proposes to combine the traditional powers and duties of a MUD governed by Chapter 49 and 54, Water Code, and the powers of a municipal management district governed by Chapter 375, Local Government 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

C.S.H.B. 4093 adds Chapter 3857 to the Special District Local Laws Code, which shall be titled Chambers-Liberty Counties Improvement District.

The bill defines the general provisions that will apply to the new District. Definitions are provided. The bill provides that creation of the District is essential to accomplish the purposes of Article III, Sections 52 and 52-a, and Article XVI, Section 59 of the Constitution. The bill states that the District serves a public use and benefit. Creation of the District allows the District to contract with Chambers and Liberty counties and other political subdivisions. Creation of the District establishes a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution. The creation of the District is necessary to promote and maintain automobile transportation, housing, recreation, the arts, safety and the public welfare in the district.

The creation of the District shall not relieve Chambers and Liberty Counties from providing the level of services provided as of the effective date of the Act to the area within the District. The District is created to supplement and not supplant the county services provided in the area. 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. The land to be included in the District is described in the bill.

The bill states provisions relating to the Board of Directors. There shall be five directors who serve staggered four-year terms. The Board by resolution may change the number of directors on the board, if in the best interests of the District. The Board may not consist of fewer than five nor more than 15 members. The County Judge of Liberty County shall appoint directors for positions

1, 2, and 3, and the County Judge of Chambers County shall appoint directors for 4 and 5, selected from a list of persons recommended by the Board.

The bill provides that Chapter 171, Local Government Code, governs conflicts of interest for directors, except Section 171.004 does not apply. A director with a substantial interest in a business or charitable entity receiving a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. Under certain circumstances set forth in the Act, a director with an interest may participate in Board actions. In regard to compensation, because water districts and management districts have conflicting policies, the Act provides that the Water Code provision shall control. Directors of the District are eligible for compensation for their official work on behalf of the district in the manner provided for directors of water districts governed by Chapter 49, Water Code. The initial directors are named, and their terms are specified, notwithstanding other provisions of the Act. This transitional provision expires September 1, 2012.

The bill sets forth the District's powers and duties that are bestowed. In addition to the powers and duties the District shall acquire by virtue of creation as a municipal utility district, the District has the powers of a road district created under Chapter 257 and Chapter 441, Transportation Code, and is authorized to finance arterials, including form-to-market roads, state highways and county roads. The District may construct, acquire, improve, maintain, or operate streets and roads or improvements in aid of such, inside or outside the District. This District does not lie within the extraterritorial jurisdiction of any municipality. If the District is not located within the extraterritorial jurisdiction of a municipality, the construction standards of the county in which the District is located shall be applied to such projects of the District. That county must consent to the District undertaking road projects outside the District. If the District is located within the extraterritorial jurisdiction of a municipality, District roads must be built to city standards, and municipal consent must be obtained before roads outside the district are undertaken.

The Board by resolution may create a non profit corporation governed by Chapter 431, Transportation Code to assist the District in implementing a project authorized by this act. The Board may appoint the Board in the manner set forth in Chapter 441, Transportation Code. The implementation of a program is a governmental function for purposes of Chapter 791, Government Code. The District may contract with, or accept a loan, or grant from, any person. The District may contract with Chambers or Liberty Counties for law enforcement in the District and may pay for such services by payment of a fee. The District may exercise the power of eminent domain in the manner authorized for water districts under Section 49.222, Water Code.

The bill states the Board may establish a procedure for disbursing the District's funds. The Board may not finance a service or improvement project with assessments unless a written petition so requesting has been filed, signed by the owners of a majority of the assessed value of land in the District that is subject to assessment, or at least 50 persons owning land in the District, if more than 50 persons own land therein.

Also, the bill states that if authorized at an election, the District may impose an annual ad valorem maintenance tax. The Board will determine the tax rate. The Board by resolution may impose an assessment for any purpose authorized in the Act in all or any part of the District. Terms related to assessments are included in the Act. The District may issue by competitive bid or negotiated sale bonds, notes or other obligations payable wholly or partly from ad valorem taxes and any other revenues. The District may not issue bonds to finance water, sewage or drainage facilities without approval from the Texas Commission on Environmental Quality. Counties are not required to pay a bond or other obligation except as provided by Section 375.263, the provision concerning dissolution of the District.

The bill states Section 375.221, Local Government Code, applies to the District's bidding process only on contracts greater than \$25,000. The Act specifies that the District must hold an election to authorize a maintenance tax, and to issue bonds secured by ad valorem taxes or assessments. A petition is not required prior to issuance of bonds. The bill also contains provisions related to dissolution. The bill sets forth the metes and bounds of the land initially to be within the District, encompassing approximately 3,244.229 acres. The bill also contains provisions relating to Notice required by the Constitution for Local Laws; confirming all such acts fulfilled.

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

In Section 1 of the bill, “and rail” is deleted.

In Section 3857.102, relating to road powers, a new subsection (c) is added to require that road projects meet all applicable construction standards of the counties of which the district is located, or the municipality in whose extraterritorial jurisdiction the District is located. A new subsection (d) is added requiring that the county must consent to the District undertaking road projects outside of the District. If the District is located in the extraterritorial jurisdiction of a municipality, the municipality must consent to a Districts’ proposal to undertake road projects outside the District.