

## **BILL ANALYSIS**

Senate Research Center

H.B. 4109  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Town Center Improvement District (district) of Montgomery County is a special purpose district created by Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended, with municipal management district and other special district powers. The district has functioned over the past 14 years as an economic development agency and municipal services providers within The Woodlands Town Center and its immediate impact area. Recently, The Woodlands community and the City of Houston announced that an informal agreement had been reached pursuant to which those entities would seek legislative authority to jointly participate in the funding of regional improvement projects which are of mutual benefit to the Houston and The Woodlands.

H.B. 4109 authorizes regional participation agreements by certain large municipalities and certain large planned communities. This Act revises the current powers and authority of the district, subject to a confirmation election November of 2007, in order that the district may expand its current boundaries to include all of The Woodlands community and, on behalf of that community, may enter into and perform a regional participation agreement with the City of Houston.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. AMENDMENTS EFFECTIVE IMMEDIATELY

SECTION 1.01. Amends Section 1(d), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to provide that the creation and continued operations of the Town Center Improvement District of Montgomery County (district) are declared to be essential to accomplish the purposes of certain articles of the Texas Constitution and to accomplish several other public purposes stated in this Act.

SECTION 1.02. Amends Section 5(a), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, setting forth legislative findings related to the creation and operation of the district.

SECTION 1.03. Amends Section 6, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, by adding Subsection (a), to provide that Sections 375.161 (Certain Residential Property Exempt), 375.207 (Municipal Approval), and 375.208 (Commission Approval), Local Government Code, do not apply to the district.

SECTION 1.04. Amends Section 7, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, by adding Subsection (r), to authorize the district to sponsor, create, establish, utilize, administer, and contract with a local government corporation under Subchapter D, Chapter 431, Transportation Code.

SECTION 1.05. Amends Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 7-a, as follows:

Sec. 7-a. ADDING TERRITORY BY ELECTION. (a) Authorizes the board of directors of the district (board), except as provided by Subsections (d) and (e) of this section, to also add territory as provided by Section 7(d) of this Act on its own motion and without petitions and after notice and hearing given and conducted in a certain manner, but subject to a confirmation election.

(b) Requires the board to order a confirmation election to be held on the next lawfully available uniform election date following the conclusion of any appeals from the order adding land. Requires the confirmation election to be held within the district, as enlarged by reason of any addition of territory under this subsection, to confirm such addition of territory and the assumption by the added territory of its pro rata share of the district's bonds, taxes, indebtedness, and contract obligations.

(c) Requires a map or plat showing the boundaries of the district, as adjusted from time to time, to be recorded in the real property records of each county in which all or part of the district is situated not later than the seventh day after the date of each such boundary adjustment.

(d) Prohibits territory within the corporate limits or extraterritorial jurisdiction of a municipality with a population of less than 1.5 million from being added to the district under this section without the express, written consent of the municipality given by ordinance, resolution, or written agreement, notwithstanding Section 7(d) of this Act.

(e) Authorizes the district and a municipality to enter into a written agreement for a specified term consenting to the addition of territory by the district as provided by Subsection (d) or limiting the territory that may be added by the district under this section or Section 7(d) of this Act.

(f) Provides that this section expires on the date the results of the election are canvassed if either the proposition submitted to confirm the initial addition of territory or the proposition submitted under Section 9(g) of this Act fails to pass by a majority vote.

SECTION 1.06. Amends the heading to Section 9, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to read as follows:

Sec. 9. ELECTIONS.

SECTION 1.07. Amends Section 9, Chapter 289, Acts of the 73rd Legislature, Regular Session, 2003 [sic], by adding Subsections (e) through (k), as follows:

(e) Requires the board to order that a confirmation election be held in conjunction with the initial election required under Section 7-a(b) of this Act to determine whether the proposed changes in the composition of the board under Subsection (g) of this section are to be confirmed and implemented. Requires both propositions to be deemed to have failed if either proposition submitted at the confirmation election fails to pass by a majority vote.

(f) Provides that all registered and qualified voters within the district, as enlarged by the addition of territory to the district under Section 7-a of this Act, are eligible to vote in any confirmation election called under Subsection (e) of this section or Section 7-a of this Act. Provides that, otherwise, only registered and qualified voters within the district are eligible to vote in all other district elections.

(g) Sets forth the election requirements and term limits for the board of directors of the district.

(h) Authorizes the board to call and conduct elections from time to time on a uniform election date for certain purposes.

(i) Requires the passage of all confirmation, contract, tax, or other propositions or measures at an election to require a favorable vote by a majority of the eligible voters voting in the election.

(j) Requires the passage at an election of a proposition to confirm the addition of territory to the district under Section 7-a of this Act to be deemed an election to assume the added territory's pro rata share of the bonds, taxes, indebtedness, and contract obligations of the district.

(k) Provides that this subsection and Subsections (e)-(j) of this section expire if either the proposition submitted to confirm the initial addition of territory under Section 7-a of this Act or the proposition submitted under Subsection (e) of this section fails to pass by a majority vote.

SECTION 1.08. Amends Section 11C(d), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to make a conforming change.

SECTION 1.09. Repealer: Sections 9(a) and (b) (relating to the establishment of the district and the initial board of directors), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

Repealer: Section 11B(b) (relating the applicability of other laws on the district's limited sales and use tax), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

## ARTICLE 2. AMENDMENTS EFFECTIVE WITH CONFIRMATION ELECTION

SECTION 2.01. Amends Sections 7(b), (h), and (k), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(b) Authorizes the board to levy, assess, and apply the proceeds from the taxes, fees, and charges, rather than from the limited sales and use taxes, authorized by this Act for any authorized district purposes, including certain purposes. Deletes existing text requiring the board to apply for a percentage of certain taxes collected and providing for the distribution of those funds.

(h) Deletes existing text providing that the district is devoted primarily to commercial and business activity.

(k) Deletes existing text authorizing the district to contract with a county or municipality that has territory wholly or partly in or contiguous to the district's impact area for certain purposes.

SECTION 2.02. Amends Section 7C, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to make a conforming change.

SECTION 2.03. Amends Sections 8(a), (e), and (j), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Makes conforming changes. Requires a person to be at least 18 years of age and be a resident of the district to be qualified to serve as a director.

(e) Makes a conforming change. Deletes existing text authorizing the board to remove a director for misconduct or failure to carry out the director's duties for certain reasons.

(j) Makes conforming changes.

SECTION 2.04. Amends Section 11C, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, by adding Subsections (q) and (r), as follows:

(q) Provides that the existing development zones are dissolved and abolished and that all assets, properties, indebtedness, obligations, and liabilities of the existing development zones transfer to and are assumed by the newly created and organized development zone upon the creation and organization of the new zone over one or more existing zones and upon the imposition or assessment by the governing body of an ad valorem tax or limited sales and use tax for the new zone.

(r) Provides that the board and the governing body need not specify or include a duration or date of termination of the development zone created to facilitate a continuing improvement project in certain documents.

SECTION 2.05. Amends Sections 12A(a) and (c), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(a) Authorizes the board to issue bonds of the district for any district purpose or improvement project, including the payment of any amounts due or to become due from the district under a regional participation agreement authorized by this Act or other law, which shall be deemed to be in furtherance of a program authorized pursuant to Section 52-a (Loan or Grant of Public Money for Economic Development), Article III, Texas Constitution.

(c) Sets forth certain sources by which bonds of the district may be secured and made payable, wholly or partly, by a pledge of any part of the net proceeds received by the district from those sources.

SECTION 2.06. Amends Section 13(b), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to make a conforming change.

SECTION 2.07. Amends Section 14, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

Sec. 14. DISSOLUTION. (a) Deletes existing text requiring the board to dissolve the district on written petition of the owners of 75 percent, in terms of acreage, of the real property in the district. Prohibits the district from being dissolved by the board if the district has any outstanding indebtedness or contractual obligations, including obligations under a regional participation agreement authorized by this Act or other law, until such indebtedness or contractual obligations have been repaid or discharged unless the indebtedness or contractual obligations have been assumed by another governmental entity with the power and authority to repay or discharge them.

(b) Makes no changes to this subsection.

(c) Makes conforming changes.

(d) Prohibits the district from being dissolved by a municipality annexing all or part the district.

SECTION 2.08. Repealer: Subdivision (4) (unknown), Section 2, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

Repealer: Sections 8(b) (relating to the qualification requirements for the board of directors of this district), (c) (relating to the membership of the initial board of directors), and (k) (relating to the qualification requirements for a director), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

Repealer: Section 9(d) (relating to the election of the directors), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

Repealer: Section 11C(e) (relating to the election date for the directors), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993.

### ARTICLE 3. PROCEDURAL MATTERS AND EFFECTIVE DATES

SECTION 3.01. Provides that all requirement 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 3.02. (a) Provides that Article 2 of this Act takes effect only if a majority of the voters, at an initial confirmation election held under Section 7-a and Subsection (e), Section 9, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as added by Article 1 of this Act, approve the propositions; and that if no election is held under or if the election is held but the voters do not approve the propositions or the propositions are deemed not to have been passed, Article 2 of this Act has no effect.

(b) Provides that if Article 2 of this Act takes effect under Subsection (a) of this section, the effective date of Article 2 of this Act is the date the results of the election are officially declared.

SECTION 3.03. Effective date: upon passage or September 1, 2007, except as otherwise provided by this Act.