

BILL ANALYSIS

H.B. 4134
By: Miles
Urban Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

District 146 in southeast Houston is growing at a tremendous rate. New home construction and population are skyrocketing. With these increases comes the need for renovations, services and beautification. And while the City is doing its part, with the aid of the management district, much more can be done.

Texas law allows management districts to collect funds for community development projects through municipal bonds, imposition of assessment(s), impact fees, and/or imposition of a maintenance tax.

House Bill No. 4134 creates a management district along the boundaries of Loop 610, Orem, Martin Luther King, and Almeda.

RULEMAKING AUTHORITY

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

SECTION-BY-SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3860 as follows:

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 3860.001. DEFINITIONS. Defines:

(1) Board and

(2) District.

Sec. 3860.002. NATURE OF DISTRICT. The Harris County Improvement District No. 10 is created under Article XVI, Section 59, of the Texas Constitution.

Sec. 3860.003. PURPOSE; DECLARATION OF INTENT.

(a) Creating the district is vital to accomplishing the purposes of Article III, Sections 52 and 52-a, as well as Article XVI, Section 59, of the Texas Constitution and other public purposes stated in that Chapter.

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

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

Sec. 3860.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

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

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(b) All land and property in the district will benefit from the improvements and services provided.

(c) Each improvement project or service is essential to carry out a public purpose.

(d) The creation of this district is essential to:

(1) develop and diversify the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare residents, employers, employees, visitors, and consumers in the district;

(2) provide needed funding for the economic health of the area;

(3) provide pedestrian walkways and landscaping;

(4) promote and benefit commercial areas and development; and

(5) promote and develop public transportation and pedestrian facilities.

(A) address the problem of traffic congestion; and

(B) benefit the land, residents, employers, employees, visitors and consumers.

(f) Walkways, street lighting, landscaping, and street art are considered to be street or road improvements.

(g) The district will not act as an agent of any private interest.

Sec. 3860.005. DISTRICT TERRITORY.

(a) The district is composed of territory described by Section 2 of the Act as it may have been modified under (1) Subchapter J, Chapter 49, Water Code, or other laws.

(b) A mistake in the field notes or copying the field notes in the legislative process does not affect:

(1) the district's organization, existence or validity;

(2) the district's right to issue bonds;

(3) the district's right to impose and collect an assessment or tax; and

(4) the legality or operation of the district or the board.

(c) A description of the boundaries will be filed with the Texas Commission on Environmental Quality which may correct a mistake in the description of the boundaries.

Sec. 3860.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Chapter 375, Local Government Code, applies to the district unless otherwise provided by this chapter.

Sec. 3860.007. LIBERAL CONSTRUCTION OF CHAPTER. This chapter should be liberally construed.

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[Sec. 3860.008 - Sec. 3860.050 are reserved for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3860.051. COMPOSITION; TERMS.

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

(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. 3860.052. 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. 3860.053. 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.

(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. 3860.054. QUORUM. A quorum is a majority of voting directors.

Sec. 3860.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

(a) Except as provided by this section:

- (1) a director can participate in all board votes and decisions; and
- (2) Chapter 171, Local Government Code, governs conflicts of interest for directors

(b) Section 171.004, Local Government Code, does not apply. A director with a substantial interest in a business or charity who will receive a pecuniary benefit from a board action needs to file a one time affidavit declaring the interest. An additional affidavit is not required if the interest changes. After filed the board secretary, the director may participate in a discussion or vote on that action if:

- (1) a majority of the directors have a similar interest in the same entity; and
- (2) all other similar business or charities in the district will receive the same benefit.

(c) A director who is also an officer or employee of a public entity may not participate on the discussion or vote on a contract with that entity.

(d) A director has a substantial interest in a charity in the same way as in a business under Section 171.002, Local Government Code.

Sec. 3860.056. COMPENSATION OF VOTING DIRECTORS. Voting directors can receive fees of office and reimbursements of expenses provided by Section 49.060, Water Code.

Sec. 3860.057. INITIAL VOTING DIRECTORS. The initial board consists of nine 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 3860.052 does not apply to this section and this section expires September 1, 2011.

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[Sec. 3860.058 - Sec. 3860.100 are reserved for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3860.101. GENERAL DISTRICT POWERS. The district has all powers necessary to accomplish the purposes it was created for.

Sec. 3860.102. 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. 3860.103. NONPROFIT CORPORATION.

(a) The board, by resolution, can 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, and

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

(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. 3860.104. AGREEMENTS; GRANTS.

(a) The district can 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. 3860.105. CONTRACT FOR LAW ENFORCEMENT SERVICES.

(1) The district may contract with Harris County or the City of Houston for law enforcement services for a fee.

(2) The district may also contract with a private entity to provide supplemental security services.

Sec. 3860.106. APPROVAL BY CITY OF HOUSTON.

(a) 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; and

(3) the plans and specifications of any project related to the use of land owned by the City or an easement, right-of-way of a street, road or highway, and

(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. 3860.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district can 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. 3860.108. ROAD POWERS. The district may exercise powers given to a road district, 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. 3860.109. AIR RIGHTS; CONSTRUCTION. The district can acquire air rights and may construct improvements on property which it only owns air rights.

Sec. 3860.110. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. The district can construct improvements on property which it only has a leasehold interest and may own undivided interests in buildings and other improvements.

Sec. 3860.111. NO EMINENT DOMAIN POWER. The district does not have eminent domain power.

[Sec. 3860.112- Sec. 3860.150 are reserved for expansion.]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3860.151. 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. 3860.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY; TAX EXEMPTION.

(a) The district can 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.

(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. 3860.153. 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. 3860.154. 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.

(b) The district can 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.

(c) If the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

Sec. 3860.155. AGREEMENT WITH RAPID TRANSIT AUTHORITY.

(a) Defines authority.

(b) The district and authority can jointly construct, own, operate, and maintain a transit facility or parking facility.

(c) The agreement allows the district and authority to trade or exchange land for fair market value and the authority is not to offer any property to sale to the public or abutting property owner.

[Sec. 3860.156 - Sec. 3860.200 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. 3860.202. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS.

(a) The board cannot finance a service or improvement project with assessments unless a written petition has been filed with the board.

(b) The petition must be signed by the owners of the majority of the assessed value of real property subject to assessment and at least 25 owners of real property in the district subject to the assessment, if more than 25 persons own real property.

Sec. 3860.203. 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. 3860.204. ASSESSMENTS; LIENS FOR ASSESSMENTS.

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

(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:

(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.

(d) The board does not have to provide notice when revising the assessment roll that does not increase the amount of assessment.

Sec. 3860.205. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district cannot impose an impact fee or assessment on utility property.

Sec. 3860.206 BONDS AND OTHER OBLIGATIONS

(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.

(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. 3860.207 LIMITS ON PARKS AND RECREATION BOND. 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. 3860.208 TAX AND BOND ELECTIONS.

(a) The district shall hold an election to obtain voter before it imposes a tax or issues bonds payable from ad valorem taxes;

(b) The board may not include more than one purpose in a single proposition at an election; and

(c) Section 375.243, Local Government Code, does not apply.

Sec. 3860.209. 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.

Sec. 3860.210. COMPETITIVE BIDDING. Section 375.221, Local Government Code, only applies to district for a contract with a value greater than \$25,000.

[Sec. 3860.211 - Sec. 3860.250 are reserved for expansion.]

SUBCHAPTER F. DISSOLUTION

Sec.3860.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT.

(a) The board may dissolve the district whether it has debt.

(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 2. BOUNDARIES. This SECTION defines the boundaries which encompass the district.

SECTION 3. REIMBURSEMENT FOR COST OF CREATION. The Harris County Improvement District No. 10 may reimburse the cost of creating the district from assessments and other revenues created by the district.

SECTION 4. 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 compiled; and

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

SECTION 5. INAPPLICABILITY OR NOTICE LAW. Section 313.006, Government Code, does not apply to this Act.

SECTION 6. EFFECTIVE DATE. This Act would take effect immediately were it to receive a vote of two-thirds of all of the members elected to each house of the Legislature, as provided by Article III, Section 39, of the Texas Constitution. If this Act does not receive the vote necessary

for immediate effect, then this Act would take effect instead on the default date of September 1, 2007.

EFFECTIVE DATE

Upon passage or September 1, 2007, depending upon whether the bill receives a vote of two-thirds or greater.