

## **BILL ANALYSIS**

C.S.S.B. 1688  
By: Watson  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

New transportation projects such as toll projects offer numerous potential benefits such as economic development for the areas those highways serve. However, these projects also present challenges to managing the provision of services to support the benefits provided by the projects. Current law does not provide a comprehensive tool for localities to ensure the orderly and efficient provision of infrastructure, including roads and water, wastewater, and drainage infrastructure, needed to support growth spurred by the new toll projects. This bill provides that tool for local communities to maximize all benefits and minimize any problems in ensuring safe, clean, and reliable infrastructure to support transportation-related development.

### **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.S.B. 1688 amends Subtitle I, Title 6, Transportation Code to add Chapter 432, Transportation Code, to authorize the creation of transportation infrastructure services districts. Districts are special districts and political subdivisions of this state under Section 59, Article XVI, Texas Constitution that are essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and certain other public purposes stated in Chapter 432, Transportation Code, including ensuring that necessary infrastructure services, including roads and water, wastewater, and drainage infrastructure, are provided to areas abutting toll projects. Certain terms used in the bill are defined.

The bill authorizes the most populous municipality in a county ("principal municipality") to create a district by ordinance after notice and hearing. A district may be created only in a certain defined area measured from the center line of a toll project located entirely in a county with a population of less than 1.3 million in which the principal municipality has a population of 600,000 or more. A district may include all or part of the eligible area, with certain exceptions, which is not required to be immediately adjacent to a toll project and may include certain other property at the request of the property owner. Multiple districts may be created. District residents may vote in the principal municipality's elections with certain exceptions, but may not run for or be elected to municipal office. A district must file certain information with the county clerk, and certain information must be provided to purchasers of land in a district and certain other persons.

Districts are created after a statutory notice and hearing process by an ordinance containing certain information adopted by the principal municipality's governing body. Mistakes in making or copying district boundary field notes does not void a district's creation or operation or its statutory powers and rights. A district is governed by a board of directors consisting of the presiding officer, municipal directors, and public directors. The presiding officer of the principal municipality's governing body is the board's presiding officer, who votes only in the case of a tie vote. Municipal directors are six members of the governing body other than the presiding officer selected by the governing body. Public directors are six other persons nominated by certain processes and appointed by the governing body. Provisions are made for board qualifications, removals, vacancies, conflicts of interest and use, compensation, and reimbursement of certain public entity employees as district officers and employees. The presiding officer and municipal directors serve without compensation or expense reimbursement. Public directors are entitled to

compensation determined by the board not to exceed \$7,200 annually and expense reimbursement. Board service is not subject to certain common-law restrictions.

The principal municipality may annex all or part of the territory in a district for full-purposes under Chapter 43, Local Government Code, and under certain statutory terms and conditions related to the assets and liabilities associated with the annexed territory. The principal municipality's annexation does not affect the district's operation in the remaining unannexed territory, except for certain changes to the imposition of taxes in the district and actions needed to maintain bonds' creditworthiness, the intent of the legislature being that district residents are not double-taxed upon annexation. The law governing pre-existing land uses for territory after annexation by a municipality apply to district territory annexed by the principal municipality.

The principal municipality cannot impose its planning and zoning ordinances in a district unless district voters approve at an election held to approve the initial bond or capital improvement program for the district. If voters approve planning and zoning, the principal municipality's land development code is the district's land development code. The principal municipality's governing body appoints an advisory committee composed of a district's public directors and 12 other members representing district commercial and residential interests to review and recommend all proposed ordinance changes; at least 75 percent of the committee members must own property in the district. If the advisory committee does not recommend the proposed changes, the principal municipality cannot impose the changes in the area without notice and a public hearing. The advisory committee also recommends a land use plan used as the basis for the board's land use plan to be adopted by the second anniversary of the district's creation. Certain provisions governing pre-existing land uses of territory in a district apply to planning and zoning in a district by the principal municipality.

Districts have certain statutory general and specific powers to accomplish district purposes, including the authority, under certain terms and conditions, to provide roads and other infrastructure and control drainage. Districts may reimburse developers for costs incurred in providing certain public infrastructure. Under certain statutory terms and conditions, districts have other specific powers relating to operate the district and carry out and effect the purpose of the chapter, including economic development powers under Chapter 380, Local Government Code. The principal municipality may exercise its Chapter 380 powers in a district. Districts do not have the power of eminent domain.

With the written petition of 100 percent of the property owners to be assessed, districts may impose assessments, under certain statutory terms and conditions, on district property owners to pay all or part of the costs of improvement projects and services that confer special benefits on all or a definable part of the district, or, if the board determines there is a net benefit to the district, on an area outside the district. Certain entities may contract to pay assessments. Districts may impose ad valorem taxes under certain statutory terms and conditions; any district ad valorem tax rate cannot be greater than the principal municipality's adopted ad valorem tax rate. Taxes are not imposed until the district's voters approve the initial bond or capital improvement program and planning and zoning by the principal municipality in the district; voters must approve both bonds and zoning at the same election. The initial bond election cannot be called without a petition from non-resident property owners holding 50 percent of the assessed value held by non-resident property owners in a district. Bond or capital improvement programs must be approved by the board and based on a program recommended by a bond committee. The bond committee is appointed by the board consisting of the public directors and other persons; 75 percent of the bond committee must own property in the district. Among other provisions related to bond elections, a district may call subsequent elections to approve the first bond or capital improvement program and planning and zoning and notice must be given to district residents of any election.

Upon creation of a district, a sales and use tax is imposed in the district under certain statutory terms and conditions that is constantly equal to the principal municipality's sales and use tax rate; the district's tax rate is abolished if, upon annexation of any part of the district's territory by the principal municipality, the district's tax rate when combined with other sales and use tax rates in the territory exceeds two percent.

Districts may issue tax-exempt general obligation and revenue bonds under certain statutory terms and conditions that also make them lawful investments for certain public entities and enter into credit and other agreements. Chapter 2007, Government Code, does not apply to district taxes. Except upon the statutory terms and conditions for district dissolution or annexation, the principal municipality is not obligated to pay district bonds, notes, or other obligations.

After publishing notice and holding a hearing on a district's proposed dissolution, the principal municipality may dissolve the district by resolution. When a district is dissolved, the principal municipality assumes all of the district's assets, debts and other obligations and may use any sources of revenue that were available to the district to issue general obligation bonds to pay the assumed debt or other obligations. A district is automatically dissolved on the sixth anniversary of the date of its creation if the district voters do not approve both the initial bond or capital improvement program and planning and zoning by the principal municipality by that date. A district is automatically dissolved when the principal municipality full purpose annexed all territory in a district

The principal municipality may exercise its planning and zoning authority under certain provisions of the Local Government Code in the transportation infrastructure impact zone, which is defined in the bill as certain territory surrounding the toll project. Certain regulations, programs, and fees of the principal municipality outside a district apply equally inside a district.

The bill makes a conforming change in the Local Government Code to the law governing annexations not required to be made under a municipal annexation plan. The bill makes a conforming change to the heading of Subtitle I, Title 6, Transportation Code.

#### **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**

The original's provisions related to non-resident property owners voting in district elections were removed and replaced with the provisions related to the petition from non-resident property owners before an initial bond election is called. Language clarifying the terms and conditions of elections held under the chapter was added.

The original's provision related to exclusion of certain homestead territory was expanded to include certain replacement dwellings and to permit an owner to request inclusion in a district in writing, a provision was inserted related to exclusion of certain platted territory and to permit an owner to request inclusion in a district in writing, and a provision was inserted to permit certain limited-purpose annexed territory to be included in a district upon written request. The original's definition of the eligible area was modified to reduce the size of the eligible area. Provisions related to notice to purchasers, and preparation, filing, and availability of certain district information were added.

The original's provisions related to the principal municipality's ability to impose its planning and zoning authority in certain territory surrounding the toll project were modified to make clear the authority is independent of other actions for and in a district and to provide for appropriate initial zoning. Provisions were added to require the board to publish a land use plan by the second anniversary of the date the district is created based on a recommendation from the planning and zoning advisory committee. The provisions related to continuation of pre-existing land uses in a district upon annexation by the principal municipality were modified to make those provisions more clear, and provisions were added related to continuation of pre-existing land uses in a district.

The original's provisions related to the assumption of all debt upon partial annexation of district territory were modified in the substitute to permit partial annexations with a pro rata assumption of debt on certain terms and conditions. Language requiring dissolution by resolution was modified to require dissolution by ordinance.

Provisions related to public director compensation were added and the original's provisions related to director conflict of interest were modified. Provisions requiring certain regulations, programs, and fees of the principal municipality outside the district apply equally inside a district were added. Provisions were added clarifying the scope of services and projects to be provided by a district, including certain services that may not be provided, and addressing certain rights of retail public utilities. Language clarifying the application of Chapter 2003, Government Code, was added.

Provisions related to stating the intent of the legislature that districts residents not be subject to double taxation upon annexation and actions to maintain district bonds' creditworthiness were added. Provisions related to the purposes for issuing bonds, refunding bonds, and attorney approval and registration of bonds were added. Provisions related to explicitly authorizing conveyances of district property to other governmental entities were added.

The original's provisions requiring a petition of 75 percent of the property owners before assessments may be assessed was increased to 100 percent of the owners of assessed value. The substitute removes certain projects and services from the list of projects and services eligible for assessment support. Provisions related to contracts for payment of assessments by utilities were added.

The purpose and findings sections were amended to include certain language related to the district's purposes. Certain additional terms used in the bill are defined. Certain other conforming changes related to nomenclature and cross-referencing were made.