

By: Eissler

H.B. No. 4103

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the Town Center Improvement District of Montgomery
3 County, Texas, including the district's authority to impose taxes
4 and issue bonds.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 ARTICLE 1. DISTRICT CHANGES NOT SUBJECT TO ELECTION RESULT

7 SECTION 1.01. Section 1(d), Chapter 289, Acts of the 73rd
8 Legislature, Regular Session, 1993, is amended to read as follows:

9 (d) The creation and operation of the district are [~~is~~
10 ~~declared to be~~] essential to the accomplishment of the purposes of
11 Article III, Sections 52 and 52-a [~~Section 52~~], and Article XVI,
12 Section 59, of the Texas Constitution and to the accomplishment of
13 the several other public purposes stated in this Act.

14 SECTION 1.02. Section 5(a), Chapter 289, Acts of the 73rd
15 Legislature, Regular Session, 1993, is amended to read as follows:

16 (a) The legislature finds that [~~all of the land and other~~
17 ~~property included within the boundaries of the district will be~~
18 ~~benefited by~~] the works, projects, improvements, and services that
19 are to be promoted, facilitated, and accomplished by the district
20 under powers conferred by Article III, Sections 52 and 52-a
21 [~~Section 52~~], and Article XVI, Section 59, of the Texas
22 Constitution and other powers granted under this Act provide a
23 continuing substantial [~~and that the district is created to serve~~
24 ~~a~~] public use and benefit in the district, in areas adjacent to the

1 district, and throughout this state by:

2 (1) promoting and stimulating business activity,
3 commerce, tourism, travel, and economic development and
4 diversification in this state;

5 (2) promoting and facilitating public safety and
6 health, mobility of people, traffic circulation, and mass
7 transportation in this state;

8 (3) preserving and promoting scenic beauty in this
9 state;

10 (4) promoting and advancing employment and business
11 relocation and retention in this state;

12 (5) reducing or eliminating unemployment and
13 underemployment in this state; and

14 (6) protecting and securing the general welfare of
15 this state and of all its citizens.

16 SECTION 1.03. Chapter 289, Acts of the 73rd Legislature,
17 Regular Session, 1993, is amended by adding Section 6A to read as
18 follows:

19 Sec. 6A. CERTAIN RESIDENTIAL PROPERTY NOT EXEMPT. Section
20 375.161, Local Government Code, does not apply to the district.

21 SECTION 1.04. Chapter 289, Acts of the 73rd Legislature,
22 Regular Session, 1993, is amended by adding Section 7F to read as
23 follows:

24 Sec. 7F. LOCAL GOVERNMENT CORPORATIONS. The district may
25 sponsor, create, use, administer, or contract with a local
26 government corporation under Subchapter D, Chapter 431,
27 Transportation Code, in the same manner as a local government may

1 under that subchapter.

2 SECTION 1.05. Section 11C(d), Chapter 289, Acts of the 73rd
3 Legislature, Regular Session, 1993, is amended to read as follows:

4 (d) Before designating a development zone on its own motion
5 or, if ad valorem taxes are to be used, in whole or in part, for the
6 payment of improvement project costs in a development zone to be
7 designated in response to a landowner petition, the board shall
8 call and hold a public hearing on the creation of the zone in the
9 manner provided by Sections 311.003(c) and (d) [~~Section 311.003~~],
10 Tax Code, for reinvestment zones designated by a municipality.

11 SECTION 1.06. The following are repealed:

12 (1) Sections 9(a) and (b), Chapter 289, Acts of the
13 73rd Legislature, Regular Session, 1993; and

14 (2) Section 11B(b), Chapter 289, Acts of the 73rd
15 Legislature, Regular Session, 1993.

16 ARTICLE 2. ADDITION OF TERRITORY; CONFIRMATION ELECTION;

17 EFFECTIVE DATE OF ARTICLE 3

18 SECTION 2.01. Chapter 289, Acts of the 73rd Legislature,
19 Regular Session, 1993, is amended by adding Section 7G to read as
20 follows:

21 Sec. 7G. ORDER ADDING TERRITORY SUBJECT TO CONFIRMATION
22 ELECTION. (a) Except as provided by Subsection (d), the board, on
23 its own motion and without a petition, after notice and hearing in
24 the manner provided by Subchapter J, Chapter 49, Water Code, by
25 order may propose that certain territory be added to the district.
26 The proposal is subject to approval of the voters voting at a
27 confirmation election held under this section.

1 (b) After adopting an order under Subsection (a), the board
2 shall hold an election in the district to confirm the addition of
3 the territory as proposed by the board order and the assumption by
4 the added territory of its pro rata share of the bonds, taxes,
5 indebtedness, and contract obligations of the district. District
6 voters and voters in the territory proposed to be added are entitled
7 to vote in the election. The election must be held on the first
8 available uniform election date after the date the board adopts the
9 order that allows sufficient time for compliance with other
10 requirements of law.

11 (c) If a majority of the voters voting at the election favor
12 the proposal to add the territory to the district, the board's order
13 is effective and the proposed territory is added to the district.
14 If a majority of the voters voting at the election do not favor the
15 addition, the proposed territory may not be added under this
16 section.

17 (d) Territory added to the district as provided by this
18 section assumes the pro rata share of the bonds, taxes, or other
19 debt and contract obligations of the district.

20 (e) Not later than the seventh day after the date the
21 district boundaries change by the addition of territory under this
22 section, the district shall record a map or plat showing the
23 district boundaries in the real property records of each county in
24 which all or part of the district is located.

25 (f) The district may not add territory under this section
26 that is located in the corporate limits or extraterritorial
27 jurisdiction of a municipality with a population of less than 1.5

1 million unless the municipality consents by ordinance, resolution,
2 or a written agreement. The district and municipality may, in the
3 written agreement, agree to limit when the territory may be added.

4 SECTION 2.02. (a) In this section, "board" and "district"
5 have the meanings assigned by Section 2, Chapter 289, Acts of the
6 73rd Legislature, Regular Session, 1993.

7 (b) On the uniform election date in November 2007, the board
8 shall hold an election at which voters may vote for or against the
9 following propositions:

10 (1) the addition of territory to the district in
11 accordance with board action taken under Section 7G, Chapter 289,
12 Acts of the 73rd Legislature, Regular Session, 1993, as added by
13 this article; and

14 (2) the transition from an 11-member board serving
15 four-year terms, with six appointed and five elected members, to a
16 seven-member elected board serving two-year terms.

17 (c) The persons entitled to vote on both propositions under
18 Subsection (b) of this section are the district voters and the
19 voters in the territory proposed to be added.

20 (d) On the date on which the election results are officially
21 declared, if both propositions are approved by a majority of the
22 voters voting at the election, the board shall certify that result
23 to the secretary of state and Article 3 of this Act takes effect on
24 the date the results are officially declared. If the results are
25 not declared on the same date for both propositions, Article 3 takes
26 effect on the date of the later declaration.

27 (e) If the election is not held on the uniform election date

1 in November 2007 or if a majority of the voters voting at the
2 election do not approve both propositions:

3 (1) Section 7G, Chapter 289, Acts of the 73rd
4 Legislature, Regular Session, 1993, as added by this article,
5 expires:

6 (A) on the uniform election date in November
7 2007, if an election was not held on that date; or

8 (B) on the date the first election results were
9 officially declared that did not approve the proposition, if an
10 election was held on the uniform election date in November 2007; and

11 (2) Article 3 of this Act does not take effect.

12 ARTICLE 3. DISTRICT CHANGES SUBJECT TO ELECTION RESULT

13 SECTION 3.01. Sections 7(b), (h), and (k), Chapter 289,
14 Acts of the 73rd Legislature, Regular Session, 1993, are amended to
15 read as follows:

16 (b) The board may levy, assess, and apply the proceeds from
17 the [~~limited sales and use~~] taxes, fees, and charges authorized by
18 [~~Section 11 of~~] this Act for authorized district purposes,
19 including making, or funding debt service and other costs related
20 to the issuance of bonds for the purpose of making, any payments
21 required under a regional participation agreement, authorized by
22 this Act or by other law, with one or more governmental entities
23 relating to the financing of regional programs, improvements, and
24 facilities that mutually benefit the district and other
25 governmental entities [~~provided that, during each interval of three~~
26 ~~calendar years following the commencement of collection of such~~
27 ~~tax, the board shall, consistent with constitutional limitations~~

1 ~~and the district's authorized powers and purposes, and in its sound~~
2 ~~discretion, endeavor to apply an annual average of not less than 10~~
3 ~~percent of the net proceeds of the taxes collected under Section 11~~
4 ~~of this Act, after deduction of the general and administrative~~
5 ~~costs and expenses of the district and the costs and expenses of~~
6 ~~levying, assessing, and collecting such taxes, toward mitigation of~~
7 ~~the net negative impact of development within the district on the~~
8 ~~impact area, including without limitation effects on public~~
9 ~~utilities and services, public transportation and traffic~~
10 ~~movement, and scenic and aesthetic beauty. Direct expenditures~~
11 ~~made for the district or the impact area are allocable to each area~~
12 ~~for which the expenditure was made. Expenditures for the general~~
13 ~~welfare, promotion, or benefit of the district and impact area are~~
14 ~~allocable between the district and the impact area in the amount, as~~
15 ~~determined by the board, that is proportionate to the benefit~~
16 ~~conferred on each area].~~

17 (h) The board may establish, revise, repeal, enforce,
18 collect, and apply the proceeds from user fees, concessions,
19 admissions, rentals, or other similar fees or charges for the
20 enjoyment, sale, rental, or other use of the district's facilities,
21 services, properties, or improvement projects; however, [~~because~~
22 ~~the district is created in an area that is devoted primarily to~~
23 ~~commercial and business activity,~~] the district may not impose an
24 impact fee or assessment on a single family residential property or
25 a residential duplex, triplex, quadruplex, or condominium.

26 (k) The district may not employ peace officers, but may
27 contract with:

1 (1) a county or municipality that has territory wholly
2 or partly in or contiguous to the district's territory [~~or impact~~
3 ~~area~~] for the county or municipality to provide law enforcement
4 services by any lawful means for the district, including a
5 warrantless arrest, to the same extent and with the same effect as
6 if the district were authorized to employ its own peace officers
7 directly; and

8 (2) off-duty peace officers directly to provide public
9 safety and security services in connection with a special event,
10 holiday, period with high traffic congestion, or similar
11 circumstance.

12 SECTION 3.02. Section 7C, Chapter 289, Acts of the 73rd
13 Legislature, Regular Session, 1993, is amended to read as follows:

14 Sec. 7C. CONFLICT BETWEEN DISTRICT RULE AND OTHER LOCAL
15 REGULATIONS. To the extent a district rule conflicts with a rule,
16 order, ordinance, or regulation of a county or municipality with
17 jurisdiction in the district's territory [~~or impact area~~], the
18 rule, order, ordinance, or regulation of the county or municipality
19 controls.

20 SECTION 3.03. Section 8, Chapter 289, Acts of the 73rd
21 Legislature, Regular Session, 1993, is amended by amending
22 Subsections (a), (e), and (j) and adding Subsections (a-1) and
23 (a-2) to read as follows:

24 (a) The district is governed by a board composed of seven
25 [~~11~~] directors elected [~~or appointed~~] as provided by Subsection
26 (a-1) [~~(e)~~] of this section. Directors serve staggered terms of two
27 [~~four~~] years, with three directors' terms expiring in odd-numbered

1 years and four directors' terms expiring in even-numbered years.

2 (a-1) The board shall hold an election on the uniform
3 election date in May of each year to elect directors.

4 (a-2) To serve as a director, a person must be:

5 (1) at least 18 years of age; and

6 (2) a district resident.

7 (e) A vacancy in the office of director shall be filled by
8 appointment of a qualified individual by a majority vote of the
9 remaining directors, except that if the number of directors for any
10 reason is less than four [~~six~~], on petition of a resident of or
11 owner of real property in the district, the commission shall
12 appoint the required number of qualified individuals to fill the
13 vacancies. [~~The board may remove a director for misconduct or~~
14 ~~failure to carry out the director's duties by unanimous vote of all~~
15 ~~of the remaining directors.]~~

16 (j) Except as provided by [~~in~~] Subsection (e) of this
17 section, four [~~five~~] directors constitute a quorum for the
18 consideration of all matters [~~pertaining to the purposes of the~~
19 ~~district~~], and a concurrence of a majority of a quorum of directors
20 is [~~shall be~~] required for any official action of the district.

21 SECTION 3.04. The heading to Section 9, Chapter 289, Acts of
22 the 73rd Legislature, Regular Session, 1993, is amended to read as
23 follows:

24 Sec. 9. ELECTION DATE TO DISCONTINUE ASSESSMENT OR TAX
25 [~~CONFIRMATION AND DIRECTORS ELECTIONS~~].

26 SECTION 3.05. Chapter 289, Acts of the 73rd Legislature,
27 Regular Session, 1993, is amended by adding Section 9A to read as

1 follows:

2 Sec. 9A. ELECTIONS GENERALLY. (a) The board may hold an
3 election in the district to authorize:

4 (1) the release of all or part of the district
5 territory from the extraterritorial jurisdiction of a municipality
6 under a regional participation agreement authorized by this Act or
7 other law;

8 (2) all or part of the district territory to:

9 (A) incorporate as a municipality; or

10 (B) adopt another form of local government;

11 (3) the imposition of an ad valorem tax;

12 (4) debt payable wholly or partly from ad valorem
13 taxes; or

14 (5) any other bonds, contracts, indebtedness,
15 measures, or other propositions authorized by law.

16 (b) A measure under Subsection (a) is approved only if a
17 majority of the district voters voting at the election vote in favor
18 of the authorization.

19 SECTION 3.06. Section 11C, Chapter 289, Acts of the 73rd
20 Legislature, Regular Session, 1993, is amended by adding
21 Subsections (q) and (r) to read as follows:

22 (q) On the creation and organization of a new development
23 zone that overlaps the territory of an existing development zone,
24 and the imposition or assessment by the governing body of an ad
25 valorem tax or limited sales and use tax for the new development
26 zone, the existing development zone is dissolved, and all assets,
27 including property, and all liabilities, including debt and other

1 obligations, of the existing development zones transfer to and are
2 assumed by the new development zone.

3 (r) For a development zone created to facilitate a
4 continuing improvement project, the board and the governing body
5 are not required to specify a duration or date of termination of the
6 development zone in:

7 (1) a preliminary financing plan;

8 (2) the resolution creating the development zone; or

9 (3) the project plan or financing plan of the
10 development zone.

11 SECTION 3.07. Section 12A, Chapter 289, Acts of the 73rd
12 Legislature, Regular Session, 1993, is amended by adding Subsection
13 (a-1) and amending Subsection (c) to read as follows:

14 (a-1) The bonds may be issued for any district purpose,
15 including:

16 (1) for an improvement project; and

17 (2) for payment of an amount under a regional
18 participation agreement authorized by this Act or other law.

19 (c) In addition to the sources of money described by
20 Subchapter J, Chapter 375, Local Government Code, the bonds of the
21 district may be secured and made payable, wholly or partly, by a
22 pledge of any part of the net proceeds the district receives from:

23 (1) a specified portion, but not more than one-half of
24 one percent, of the sales and use tax authorized by Section 11 of
25 this Act; ~~and~~

26 (2) the hotel occupancy tax authorized by Section 11A
27 of this Act;

1 (3) an ad valorem tax approved by the district voters
2 at an election held for that purpose;

3 (4) revenue or proceeds received or to be received by
4 the district from a contract or other agreement, including a
5 contract with a development zone to facilitate an improvement
6 project or project plan of the district or the development zone;

7 (5) any other revenue from any source allowed under
8 this Act or other law; or

9 (6) any combination of revenue, taxes, or proceeds
10 described by this subsection.

11 SECTION 3.08. Section 13(b), Chapter 289, Acts of the 73rd
12 Legislature, Regular Session, 1993, is amended to read as follows:

13 (b) The district and a municipality any part of which is
14 located in the boundaries of the district [~~or impact area~~] may enter
15 into and carry out an interlocal agreement for the accomplishment
16 of an improvement project or the provision of a facility, a service,
17 or equipment by the district in or for the benefit of the
18 municipality. Notwithstanding any other law, payment for the
19 improvement project, facility, service, or equipment may be made or
20 pledged by the municipality to the district out of any money the
21 municipality collects under Chapter 351, Tax Code, or out of any
22 other available money.

23 SECTION 3.09. Sections 14(a), (c), and (d), Chapter 289,
24 Acts of the 73rd Legislature, Regular Session, 1993, are amended to
25 read as follows:

26 (a) The board may elect by majority vote to dissolve the
27 district at any time [~~, and the board shall dissolve the district on~~

1 ~~written petition of the owners of 75 percent, in terms of acreage,~~
2 ~~of the real property in the district];~~ however, the district may not
3 be dissolved by the board if the district has any outstanding
4 indebtedness or contractual obligations, including obligations
5 under a regional participation agreement authorized by this Act or
6 other law, until:

7 (1) the ~~[such]~~ indebtedness or contractual
8 obligations have been repaid or discharged; or

9 (2) the indebtedness and contractual obligations have
10 been assumed by another governmental entity with the power to repay
11 or discharge the indebtedness and contractual obligations.

12 (c) If on the date of the vote to dissolve the district more
13 than 50 percent of the territory of ~~[within]~~ the district is inside
14 ~~[within]~~ the boundaries of another governmental entity that has
15 assumed the district's indebtedness and contractual obligations
16 under Subsection (a) [corporate limits of a municipality], the
17 board shall transfer ownership of the district's property and
18 assets to that governmental entity ~~[municipality]~~.

19 (d) The district may not be dissolved by a municipality
20 annexing all or part of ~~[in which]~~ the district territory ~~[is~~
21 ~~located]~~.

22 SECTION 3.10. The following sections of Chapter 289, Acts
23 of the 73rd Legislature, Regular Session, 1993, are repealed:

- 24 (1) Section 2(4);
25 (2) Sections 8(b), (c), (d), and (k);
26 (3) Section 9(d); and
27 (4) Section 11C(e).

1 SECTION 3.11. (a) In this section, "board" and "district"
2 have the meanings assigned by Section 2, Chapter 289, Acts of the
3 73rd Legislature, Regular Session, 1993.

4 (b) The board shall hold an election on the uniform election
5 date in May 2008 to elect five directors at large. Each of the three
6 candidates receiving the highest number of votes is elected to
7 serve a three-year term, and each of the two candidates receiving
8 the next highest number of votes is elected to serve a two-year
9 term.

10 (c) The board shall hold an election on the uniform election
11 date in May 2010 to elect four directors at large. Each of the four
12 candidates receiving the highest number of votes is elected to
13 serve a two-year term.

14 (d) To the extent of any conflict, this section controls
15 over:

16 (1) Section 8(a), Chapter 289, Acts of the 73rd
17 Legislature, Regular Session, 1993, as amended by this article; or

18 (2) Section 8(a-1) or (a-2), Chapter 289, Acts of the
19 73rd Legislature, Regular Session, 1993, as added by this article.

20 SECTION 3.12. This article takes effect as provided by
21 Section 2.02 of this Act.

22 ARTICLE 4. LEGISLATIVE FINDING ON NOTICE OF ACT;

23 EFFECTIVE DATE OF ACT

24 SECTION 4.01. The legislature finds that:

25 (1) proper and legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished by
3 the constitution and laws of this state, including the governor,
4 who has submitted the notice and Act to the Texas Commission on
5 Environmental Quality;

6 (2) the Texas Commission on Environmental Quality has
7 filed its recommendations relating to this Act with the governor,
8 lieutenant governor, and speaker of the house of representatives
9 within the required time;

10 (3) the general law relating to consent by political
11 subdivisions to the creation of districts with conservation,
12 reclamation, and road powers and the inclusion of land in those
13 districts has been complied with; and

14 (4) all requirements of the constitution and laws of
15 this state and the rules and procedures of the legislature with
16 respect to the notice, introduction, and passage of this Act have
17 been fulfilled and accomplished.

18 SECTION 4.02. Except as provided by Sections 2.02 and 3.12,
19 this Act takes effect immediately if it receives a vote of
20 two-thirds of all the members elected to each house, as provided by
21 Section 39, Article III, Texas Constitution. If this Act does not
22 receive the vote necessary for immediate effect, this Act takes
23 effect September 1, 2007.