

By: Williams

S.B. No. 2022

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the administration, powers, including taxing powers and
3 the authority to issue bonds, boundaries, operations, financing,
4 and dissolution of the Town Center Improvement District of
5 Montgomery County, Texas.

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

7 ARTICLE 1. AMENDMENTS EFFECTIVE IMMEDIATELY

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

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

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

20 (a) The legislature finds that the creation and operation of
21 the district and [~~all of the land and other property included within~~
22 ~~the boundaries of the district will be benefited by~~] the works,
23 projects, improvements, and services that are to be promoted,
24 facilitated, and accomplished by the district under powers

1 conferred by Article III, Sections [~~Section~~] 52 and 52-a, and
2 Article XVI, Section 59, of the Texas Constitution and other powers
3 granted under this Act will provide a substantial and continuing
4 ~~[and that the district is created to serve a]~~ public use and benefit
5 not only within and adjacent to the boundaries of the district, but
6 throughout the state, by promoting and stimulating business
7 activity, commerce, tourism, travel, and economic development and
8 diversification in the state; promoting and facilitating public
9 safety and health, the mobility of people, traffic circulation, and
10 mass transportation in the state; preserving and promoting scenic
11 and aesthetic beauty in the state; promoting and advancing
12 employment and business relocation and retention in the state;
13 reducing or eliminating unemployment and underemployment in the
14 state; and protecting and securing the general welfare of the state
15 and all of its citizens.

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

19 (c) Sections 375.161, 375.207, and 375.208, Local
20 Government Code, do not apply to the district.

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

24 (r) The district may sponsor, create, establish, utilize,
25 administer, and contract with a local government corporation under
26 Subchapter D, Chapter 431, Transportation Code.

27 SECTION 1.05. Chapter 289, Acts of the 73rd Legislature,

1 Regular Session, 1993, is amended by adding Section 7-a to read as
2 follows:

3 Sec. 7-a. ADDING TERRITORY BY ELECTION. (a) Except as
4 provided by Subsections (d) and (e) of this section, the board may
5 also add territory as provided by Section 7(d) of this Act on its
6 own motion and without petitions and after notice and hearing given
7 and conducted in the manner provided by Subchapter J, Chapter 49,
8 Water Code, but subject to a confirmation election.

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

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

22 (d) Notwithstanding Section 7(d) of this Act, territory
23 within the corporate limits or extraterritorial jurisdiction of a
24 municipality with a population of less than 1.5 million may not be
25 added to the district under this section without the express,
26 written consent of the municipality given by ordinance, resolution,
27 or written agreement.

1 (e) The district and a municipality may enter into a written
2 agreement consenting to the addition of territory by the district
3 as provided by Subsection (d) of this section or limiting the
4 territory that may be added by the district under this section for a
5 specified term.

6 (f) If either the proposition submitted to confirm the
7 initial addition of territory or the proposition submitted under
8 Section 9(g) of this Act fails to pass by a majority vote, this
9 section expires on the date the results of the election are
10 canvassed.

11 SECTION 1.06. The heading to Section 9, Chapter 289, Acts of
12 the 73rd Legislature, Regular Session, 1993, is amended to read as
13 follows:

14 Sec. 9. [~~CONFIRMATION AND DIRECTORS~~] ELECTIONS.

15 SECTION 1.07. Section 9, Chapter 289, Acts of the 73rd
16 Legislature, Regular Session, 2003, is amended by adding
17 Subsections (e) through (k) to read as follows:

18 (e) The board shall order that a confirmation election be
19 held in conjunction with the initial election required under
20 Section 7-a(b) of this Act to determine whether the proposed
21 changes in the composition of the board under Subsection (g) of this
22 section shall be confirmed and implemented. If either proposition
23 submitted at the confirmation election fails to pass by a majority
24 vote, both propositions shall be deemed to have failed.

25 (f) All registered and qualified voters within the
26 district, as enlarged by the addition of territory to the district
27 under Section 7-a of this Act, are eligible to vote in any

1 confirmation election called under Subsection (e) of this section
2 or Section 7-a of this Act. Otherwise, only registered and
3 qualified voters within the district are eligible to vote in all
4 other district elections.

5 (g) After passage of the propositions in the confirmation
6 election, as required by Subsection (e) of this section and Section
7 7-a of this Act:

8 (1) an election shall be called for the uniform
9 election date in May of the next even-numbered year for the election
10 of five directors at large. The three candidates receiving the
11 highest number of votes shall be elected for a term of three years,
12 and the two candidates receiving the next highest number of votes
13 shall be elected for a term of two years;

14 (2) an election shall be called for the uniform
15 election date in May of the next succeeding even-numbered year
16 after the election held under Subdivision (1) of this subsection,
17 for the election of four directors at large. The four candidates
18 receiving the highest number of votes shall be elected for a term of
19 two years; and

20 (3) an election shall be called annually thereafter
21 for the uniform election date in May of each year for the election
22 of either three or four directors, as appropriate, to serve
23 two-year terms.

24 (h) The board may call and conduct elections from time to
25 time on a uniform election date for the purposes of:

26 (1) determining whether, according to a regional
27 participation agreement authorized by this Act or other law, all or

1 part of the territory of the district should be released from the
2 extraterritorial jurisdiction of a municipality;

3 (2) determining whether all or part of the territory
4 of the district should be incorporated as a municipality or should
5 adopt another form of local government;

6 (3) authorizing the levy and assessment of ad valorem
7 taxes for district purposes on a uniform basis throughout the
8 district;

9 (4) authorizing the issuance of indebtedness payable
10 in whole or in part from ad valorem taxes; and

11 (5) submitting to the qualified voters of the district
12 any other bonds, contracts, indebtedness, measures, or
13 propositions authorized by law.

14 (i) Passage of all confirmation, contract, tax, or other
15 propositions or measures at an election shall require a favorable
16 vote by a majority of the eligible voters voting in the election.

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

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

27 SECTION 1.08. Subsection (d), Section 11C, Chapter 289,

1 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
2 read as follows:

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

10 SECTION 1.09. The following provisions of Chapter 289, Acts
11 of the 73rd Legislature, Regular Session, 1993, are repealed:

- 12 (1) Subsections (a) and (b), Section 9; and
- 13 (2) Subsection (b), Section 11B.

14 ARTICLE 2. AMENDMENTS EFFECTIVE WITH CONFIRMATION ELECTION

15 SECTION 2.01. Subsections (b), (h), and (k), Section 7,
16 Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993,
17 are amended to read as follows:

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

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

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

1 (k) The district may not employ peace officers, but may
2 contract with:

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

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

14 SECTION 2.02. Section 7C, Chapter 289, Acts of the 73rd
15 Legislature, Regular Session, 1993, is amended to read as follows:

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

22 SECTION 2.03. Subsections (a), (e), and (j), Section 8,
23 Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993,
24 are amended to read as follows:

25 (a) The district is governed by a board [~~composed~~] of [~~11~~]
26 directors elected [~~or appointed~~] as provided by Section 9(g) of
27 this Act to [~~Subsection (c) of this section. Directors~~] serve

1 staggered terms as described by that section [~~of four years~~]. To be
2 qualified to serve as a director, a person must be at least 18 years
3 of age and be a resident of the district.

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

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

19 SECTION 2.04. 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) Upon the creation and organization of a development zone
23 over the territory of one or more existing development zones, and
24 upon the imposition or assessment by the governing body of an ad
25 valorem tax or limited sales and use tax for the development zone,
26 the existing development zones are dissolved and abolished and all
27 assets, properties, indebtedness, obligations, and liabilities of

1 the existing development zones transfer to and are assumed by the
2 newly created and organized development zone.

3 (r) For a development zone created to facilitate a
4 continuing improvement project, the board and the governing body
5 need not specify or include in a preliminary financing plan, in the
6 resolution creating the development zone, or in the project plan or
7 financing plan of the development zone a duration or date of
8 termination of the development zone.

9 SECTION 2.05. Subsections (a) and (c), Section 12A, Chapter
10 289, Acts of the 73rd Legislature, Regular Session, 1993, are
11 amended to read as follows:

12 (a) The board may issue bonds of the district for any
13 district purpose or improvement project, including for the purpose
14 of making or providing for payment of any amounts due or to become
15 due from the district under a regional participation agreement
16 authorized by this Act or other law, in the manner provided by
17 Subchapter J, Chapter 375, Local Government Code. Sections 375.207
18 and 375.208, Local Government Code, do not apply to bonds issued by
19 the district under this Act.

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

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

27 (2) the hotel occupancy tax authorized by Section 11A

1 of this Act;

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

4 (4) any revenues or proceeds received or to be
5 received by the district from contracts, agreements, or other
6 lawful sources, including a contract with a development zone to
7 facilitate an improvement project or project plan of the district
8 or the development zone;

9 (5) any other revenues, income, or proceeds that in
10 accordance with this Act or other law may be pledged or used for
11 purposes described by Subdivision (4) of this subsection; or

12 (6) any combination of revenues, taxes, or proceeds
13 from one or more of the sources described by Subdivisions (1)-(5) of
14 this subsection.

15 SECTION 2.06. Subsection (b), Section 13, Chapter 289, Acts
16 of the 73rd Legislature, Regular Session, 1993, is amended to read
17 as follows:

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

1 SECTION 2.07. Section 14, Chapter 289, Acts of the 73rd
2 Legislature, Regular Session, 1993, is amended to read as follows:

3 Sec. 14. DISSOLUTION. (a) The board may elect by majority
4 vote to dissolve the district at any time~~[, and the board shall~~
5 ~~dissolve the district on written petition of the owners of 75~~
6 ~~percent, in terms of acreage, of the real property in the district]~~;
7 however, the district may not be dissolved by the board if the
8 district has any outstanding indebtedness or contractual
9 obligations, including obligations under a regional participation
10 agreement authorized by this Act or other law, until such
11 indebtedness or contractual obligations have been repaid or
12 discharged, unless the indebtedness or contractual obligations
13 have been assumed by another governmental entity with the power and
14 authority to repay or discharge them.

15 (b) After the board elects to dissolve the district, the
16 board shall transfer ownership of all property and assets of the
17 district to Montgomery County, except as provided by Subsection (c)
18 of this section.

19 (c) If on the date of the vote to dissolve the district more
20 than 50 percent of the territory within the district is within the
21 boundaries ~~[corporate limits]~~ of another governmental entity that
22 has assumed the indebtedness and contractual obligations of the
23 district under Subsection (a) of this section ~~[a municipality]~~, the
24 board shall transfer ownership of the district's property and
25 assets to that governmental entity ~~[municipality]~~.

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

1 SECTION 2.08. The following provisions of Chapter 289, Acts
2 of the 73rd Legislature, Regular Session, 1993, are repealed:

3 (1) Subdivision (4), Section 2;

4 (2) Subsections (b), (c), and (k), Section 8;

5 (3) Subsection (d), Section 9; and

6 (4) Subsection (e), Section 11C.

7 ARTICLE 3. PROCEDURAL MATTERS AND EFFECTIVE DATES

8 SECTION 3.01. The legislature finds that proper and legal
9 notice of the intention to introduce this Act, setting forth the
10 general substance of this Act, has been published as provided by
11 law, that the notice and a copy of this Act have been furnished to
12 all persons, agencies, officials, or entities to which they are
13 required to be furnished by the constitution and laws of this state,
14 including the governor, who has submitted the notice and Act to the
15 Texas Commission on Environmental Quality, that the Texas
16 Commission on Environmental Quality has filed its recommendations
17 relating to this Act with the governor, lieutenant governor, and
18 speaker of the house of representatives within the required time,
19 and that all requirements of the constitution and laws of this state
20 and the rules and procedures of the legislature with respect to the
21 notice, introduction, and passage of this Act have been fulfilled
22 and accomplished.

23 SECTION 3.02. (a) Article 2 of this Act takes effect only
24 if a majority of the voters, at an initial confirmation election
25 held under Section 7-a and Subsection (e), Section 9, Chapter 289,
26 Acts of the 73rd Legislature, Regular Session, 1993, as added by
27 Article 1 of this Act, approve the propositions. If no election is

1 held under Section 7-a or Subsection (e), Section 9, Chapter 289,
2 Acts of the 73rd Legislature, Regular Session, 1993, as added by
3 Article 1 of this Act, or if the election is held but the voters do
4 not approve the propositions or the propositions are deemed not to
5 have been passed, Article 2 of this Act has no effect.

6 (b) If Article 2 of this Act takes effect under Subsection
7 (a) of this section, the effective date of Article 2 of this Act is
8 the date the results of the election are officially declared.

9 SECTION 3.03. Except as otherwise provided by this Act,
10 this Act takes effect immediately if it receives a vote of
11 two-thirds of all the members elected to each house, as provided by
12 Section 39, Article III, Texas Constitution. If this Act does not
13 receive the vote necessary for immediate effect, this Act takes
14 effect September 1, 2007.