

BILL ANALYSIS

C.S.H.B. 1391
By: Strama
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many Texans have shown a heightened interest in generating energy for their homes and businesses using renewable sources. The potential savings from energy efficiency improvements or renewable energy projects has not induced widespread market participation at the residential or commercial level. The high upfront cost of renewable energy projects remains a prohibitive barrier to the adoption of these technologies. The bill offers homeowners and businesses a set of financing mechanisms that will alleviate the burden of a large, upfront investment traditionally associated with renewable energy or energy efficiency projects.

C.S.H.B. 1391 authorizes the governing body of a local governmental entity to establish emissions management districts modeled after public improvement districts. The bill authorizes each governing body to designate the geographical boundaries of each district, the types of emissions management projects that are eligible for local government financing, and the time and date of a public hearing on the creation of any districts.

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.H.B. 1391 amends the Health and Safety Code to authorize the creation of emissions management districts. The bill authorizes a governing body of a local government by ordinance or order to establish one or more districts and sets out the requirements for the ordinance or order.

C.S.H.B. 1391 provides for the district's management and discrete boundaries, sets forth a local government's powers and duties in establishing a district, and sets out the requirements for contractual assessment agreements, the levy of assessments, interest on assessments and liens against property, and supplemental assessments.

C.S.H.B. 1391 requires the state energy conservation office to establish guidelines to assist local governments in compiling lists of eligible emissions project vendors and installers, establishes local government liability for such projects, sets forth the requirements for participation in a project by a property owner, and requires a vendor to provide to the purchasing property owner an estimate of savings. The bill establishes financing options and requirements for local governments creating a district, including the authority to issue certain revenue and refunding bonds.

C.S.H.B. 1391 defines "district," "emissions management project," "energy efficiency improvement," "local government," and "renewable energy system," and makes conforming changes to the Local Government Code.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1391 removes provisions included in the original including emissions management districts in the Texas emissions reduction plan and the Texas emissions reduction plan fund and defining "board" and "director." The substitute differs from the original by authorizing the governing body of a local government by ordinance or order to establish one or more emissions management districts, rather than an emissions management district as in the original, and removes a provision in the original requiring the ordinance or order to designate five individuals to be the initial directors of a district. The substitute differs from the original by vesting the powers and duties in the governing body of the local government that establishes the district, rather than in the district as in the original, and the substitute makes conforming changes.

C.S.H.B. 1391 removes provisions in the original specifying that a district is a special district and a political subdivision of the state, setting forth provisions for governance of a district by a board of directors, and authorizing the board to adopt rules to administer and operate the district. The substitute adds provisions not in the original setting forth prohibitions and limitations relating to a district's discrete boundaries, authorizing a local government's governing body to appoint a manager, administrator or board to oversee and manage an emissions management project financing in the district, and providing that a meeting of such administrative body is subject to open meetings laws.

C.S.H.B. 1391 removes provisions included in the original authorizing a district to guarantee or otherwise secure loans for the purchase and installation of an emissions management project and to apply for grants or other funding under the Texas emissions reduction plan, and differs from the original by clarifying that the emissions management projects being financed are for commercial and residential buildings.

C.S.H.B. 1391 adds provisions not in the original requiring the property assessment amount to be in the amount necessary to pay for the amount of the contract for the improvement, the interest on the amount of the contract at the rate adopted in the district-creating ordinance or order, and apportioned administrative costs associated with operating the district. The substitute also adds a provision not in the original requiring the local government's governing body to make reasonable efforts to collect assessment payments in the same manner as the local government collects property taxes.

C.S.H.B. 1391 adds a provision not in the original requiring an assessment roll to be made available to the county tax assessor-collector. The substitute differs from the original by prohibiting the interest rate on assessments from exceeding a rate that is one-half of one percent higher than the actual interest rate paid on the public debt used to finance the improvement, rather than the rate permitted under Government Code provisions on the interest for public securities, as in the original. The substitute adds provisions not in the original authorizing an assessment to be enforced by the governing body in the same manner that a property tax lien against real property may be enforced by the governing body and requiring delinquent assessment installments to incur liability for interest, penalties, and attorney's fees in the same manner as delinquent property taxes. The substitute removes a provision included in the original prohibiting the district from exercising eminent domain.

C.S.H.B. 1391 adds provisions not in the original requiring the state energy conservation office to establish guidelines to assist local governments in compiling lists of eligible emissions project vendors and installers, establishing local government liability for such projects, setting forth the requirements for participation in a project by a property owner, and requiring a vendor to provide to the purchasing property owner an estimate of savings. The substitute removes a provision

included in the original that included special supplemental services for energy efficiency and the acquisition, installation, or improvement of energy efficiency improvements in the public improvement projects a municipality or county is authorized to undertake. The substitute differs from the original by specifying that the acquisition, installation, or improvement of renewable energy improvements are of public renewable energy improvements. The substitute also removes a provision included in the original including energy efficiency improvements in an improvement project or services provided by a municipal management district.

C.S.H.B. 1391 differs from the original by applying certain drafting conventions reflective of the means by which the district is created and the manner in which it operates in each version of the bill.