

BILL ANALYSIS

C.S.H.B. 4738
By: Alonzo
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The primary purpose of this bill is to create and establish a municipal management district to facilitate the development and redevelopment of property within its boundaries; the territory of which will be wholly within the corporate limits of both the City of Dallas, and within Dallas County. The district will be created as a special district under and pursuant to the provisions of Section 59, Article XVI, of the Texas Constitution, as well as pursuant to the power of the Legislature to create special government agencies and districts for the purposes of constructing, financing and operating public infrastructure and improvements within and outside said district, and promoting the economic development of the State of Texas, Dallas County, the City of Dallas, and neighboring communities. The bill creating the North Oak Cliff Municipal Management District will provide for the District's administration, powers, duties, operation and financing and the appointment of the District's board of directors. The District will have the power to levy ad valorem taxes, to impose and levy assessments on property within its boundaries, to impose and collect other revenues for its public purposes, and to issue bonds and other obligations that are secured by such ad valorem taxes if such bonds are approved by the voters of the District at elections called for that purpose after receipt of required petitions.

The district will include a 455.938 acre tract of land situated generally in the northwest portion of Oak Cliff in the vicinity of the intersection of Davis Avenue and Zang Boulevard, and will include portions of Kidd Springs Park and Stevens Park.

All taxable property to be included in the District is wholly owned by parties who have consented to the inclusion of their property in the District.

The City of Dallas has consented to the creation of the district by resolution adopted by City Council On February 11, 2009.

The purpose of the district is to facilitate the development of the property within the district into a mixed use development project of commercial and multi-family residential property, and work in concert with a tax increment reinvestment zone created by the Dallas City Council to finance public infrastructure costs.

The district, once created, will provide a financing mechanism for the issuance of bonds to fund or refund costs for public infrastructure necessary to render the land developable. Currently there is no means by which the developer can issue tax exempt bonds to finance the development costs. A lower bond cost will enable the project to move forward sooner rather than later.

The district will finance costs associated with public infrastructure including water, sanitary sewer, drainage, roadway, public green space, lighting improvements, landscaping, public transit improvements.

RULEMAKING AUTHORITY

It is the Committee's opinion that the bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Section 1. Amends Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3884.

CHAPTER 3884. NORTH OAK CLIFF MUNICIPAL MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3884.001. DEFINITIONS. Defines “Board,” “City,” “District”, and “Improvement Project”

Sec. 3884.002. CREATION AND NATURE OF DISTRICT. Provides that the District is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 3884.003. PURPOSE; LEGISLATIVE FINDINGS. Provides that the creation of the district meets purposes set forth in Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas constitution.

Sec. 3884.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Provides that the District is created to serve a public purpose and benefit and that the district is created to accomplish the purposes of a municipal management district under Section 59, Article XVI, and Section 52 and 52-a, Article III, Texas Constitution.

Sec. 3884.005. DISTRICT TERRITORY. Provides that the District is composed of territory described by Section 2 of the Act and provides that a mistake in the field notes does not affect the District’s validity or powers.

Sections 3884.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or part of the district is eligible for inclusion in a tax increment reinvestment zone under chapter 311, Tax Code, a tax abatement reinvestment zone, under Chapter 312, Tax Code, or an enterprise zone under Chapter 2303 of the Government Code; provides that tax increment revenues are eligible to be used for purposes allowed by Section 380.002 (b), Local Government Code; and exempts the city from Section 311.006 (b), Tax Code, for reinvestment zones created within the district.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3884.051. GOVERNING BODY; TERMS. Sets forth the number and terms of directors of the Board.

Sec. 3884.052. APPOINTMENT OF DIRECTORS; BOARD MEETINGS. Provides for the appointment of Directors, sets forth eligibility criteria and board composition, provides that board meetings will be publically posted at City Hall; empowers the governing body of the city to remove directors, and provides that use of executive committees is not permitted.

Sec. 3884.053. QUALIFICATIONS OF DIRECTORS. Provides for the qualification of Directors to serve on the board, specifying age, residency, property ownership, ownership of stock in the company in a corporation that owns property in the district, service as an agent of a property owner; and provides that Section 49.052, Water Code, relating to Disqualification of Directors due to financial conflict, does not apply.

Sec. 3884.054. VACANCY. Provides that the governing body of the city fills vacancies on the board.

Sec. 3884.055. DIRECTOR’S OATH OF AFFIRMATION. Provides that Directors Oaths shall be maintained in the district records, with copies provided to city secretary.

Sec. 3884.056. OFFICERS. Provides for the board to elect officers including Chairman, Vice Chairman, Secretary, and provides that the Chair and Secretary may not be held concurrently by one Director.

Sec. 3884.057. COMPENSATION; EXPENSES; LIABILITY INSURANCE FOR DIRECTORS. Provides for limit on compensation to Directors to \$50 per meeting, with a maximum annual cap of \$2000, compensation for reasonable expenses; and provides that the district may obtain liability and general insurance coverage for Directors.

Sec. 3884.058. CONFLICTS OF INTEREST. Provides that a Director with a financial interest in a matter before the Board of Directors may participate in the discussion and vote providing the Director files a disclosure affidavit as required by Section 171.004, Local Government Code.

Sec. 3884.059. INITIAL DIRECTORS. Provides for the composition of the Initial Board of Directors, allowing for four individuals who are owners of property in the District, two individuals who reside within a defined radius of the District, and three individuals who are city employees to serve as Initial Directors; and sets forth the term of the initial appointment of each director.

[Sections 3884.060-3884.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3884.101. GENERAL POWERS AND DUTIES. Provides that the District has the powers and duties necessary to accomplish the purposes for which the District is created, including conservation and reclamation under Section 59, Article XVI, Texas Constitution, provides powers prescribed in Chapters 49 and 54, Water Code; exempts District Bonds from chapter 49, Water Code; provides road district and road utility district powers prescribed under Section 52 (b), Article III, Texas Constitution, and Chapter 441 Transportation Code; provides public improvement district powers provided by Subchapter (A) Chapter 372, Local Government Code; provides for incurring obligations as provided for under Chapter 1371, Government Code; provides powers authorized under Chapter 375, Local Government Code; and powers authorized by Chapter 311, Tax Code.

Sec. 3884.102. IMPROVEMENT PROJECTS. Provides that the District has the powers to contract with a governmental entity or private company to construct water supply and distribution systems, road projects, landscaping, right of way acquisition, lighting, sidewalks hiking and biking trailing systems, pedestrian walkways, parks, lakes, gardens, recreation facilities, open spaces, docks, wharfs, sports facilities, fountains, plazas, drainage and storm water detention facilities; the planning, designing and construction of water or sewer facilities, parking facilities, public art and exhibition facilities, conference centers, convention facilities; removal and razing and clearing of land, demolition of improvements in connection with improvement projects, acquisition of land and property for mitigation of environmental effects of an improvement project, providing such projects funding are conditioned on an agreement for vertical development in the District; any project authorized under Chapter 372, Local Government Code; and provides that district may not undertake any projects unless the project complies with applicable municipal ordinances, and requires municipal consent where projects are undertaken on infrastructure or facilities owned by the city.

Sec. 3884.103. GENERAL POWERS REGARDING CONTRACTS. Provides that the District has the power to enter into a contract with any person or entity to accomplish any district purpose.

Sec. 3884.104. RULES; ENFORCEMENT. Provides that the district may adopt rules to administer the district and implement the district plan; provides a requirement that the District notify the City 30 days in advance of any proposed adoption of a rule affecting a Municipally-owned asset.

Sec. 3884.105. NAME CHANGE. Provides that the district Board, by resolution, may change the name of the District; notice of the name change must be provided to the City.

Sec. 3884.106. **ADDING OR REMOVING TERRITORY.** Provides that the Board may add or remove territory under Subchapter J, Chapter 49, Water Code, requiring petitions and a hearing process, and Section 54.016, Water Code, requiring consent of the City.

Sec. 3884.107. **ECONOMIC DEVELOPMENT.** Provides the District may create economic development and other programs under Section 52-a, Article III, Texas Constitution, and may impose and collect an ad valorem tax for that purpose; and provides that the District has economic development powers under Chapter 380, Local Government Code; economic development programs must receive consent of the City.

Sec. 3884.108. **NO EMINENT DOMAIN.** Provides that the district does not have the power of eminent domain.

Sec. 3884.109. **TERMS OF EMPLOYMENT; COMPENSATION.** Provides that the district may establish terms of employment and compensation of an executive director; compensation is capped at \$150,000 annually.

Sec.3884.110. **NOTICE TO PROPERTY OWNERS.** Provides for an annual notification to owners of real property in the district, by first class mail, or any proposed changes to the tax rate of the district.

[Sections 3884.1111-3884.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3884.151. **GENERAL POWERS REGARDING FINANCIAL MATTERS.** Authorizes the district to impose an ad valorem tax on all taxable industrial and commercial property in the district to pay for any improvement project as authorized by Section 52 (b), Article III and Section 59, Article XVI, Texas Constitution; authorizes an assessment on property in the district to pay for the cost of any authorized improvement, including the cost for maintenance of the project, as authorized by Chapter 375, Local Government Code, and Chapter 372, Local Government Code, and to allow for a pledge of that revenue for debt service, thru imposition of a tax, tax increments, user charges for non-potable water for irrigation; provides that the district may contract with the city of county to undertake improvement projects, including public safety, fire protection, emergency medical services, and law enforcement services in or adjacent to the district, enter into tax abatement agreements; and provides that imposition of a tax requires voter approval, with the call for the election based on receipt of a petition of 65% of record owners of property in the district.

Sec. 3884.152. **BORROWING MONEY.** Authorizes the district to borrow money for a district purpose, using notes, credit facilities, bonds, or other obligation secured by the taxes and assessments, with final approval of terms of any borrowing by the city. The district must also file annual audits with the city.

Sec. 3884.153. **ASSESSMENTS; EXEMPTION.** Allows the District to impose an assessment on property in the district, in the manner provided for by Chapter 372, Local Government Code, or Chapter 375, Local Government Code, to fund public water, waste water facilities, drainage and storm water facilities, streets, alleys, an any authorized purpose under Chapter 372, Local Government Code; assessments are subject to penalties and interest for delinquent collection; corrections to the roles can be made by the board; notice of an adopted assessment will be delivered to the county clerk for Dallas County.

Sec. 3884.154. **RESIDENTIAL PROPERTY EXEMPT.** Provides that the district may not impose taxes, assessments, fees or any other requirement for payment on single family detached residential property, residential condominiums, duplexes, triplexes, and quadruplexes.

Sec. 3884.155. **MAINTENANCE AND OPERATION TAX; ELECTION.** Provides that the district may impose a tax for maintenance and operation purpose of the district, subject to the same requirements set forth in Sec. 151.

Sec. 3884.156. USE OF SURPLUS MAINTENANCE AND OPERATION MONEY. Provides that the district may use surplus revenue for any authorized district purpose.

Sec.3884.157. BONDS AND OTHER OBLIGATIONS. Provides that the district may issue public or private bonds, notes, or other obligations, payable wholly or partly from ad valorem taxes or assessments, or any other source of revenues received by the district from system or improvement project revenue or from any other source.

Sec. 3884.158. BOND MATURITY. Limits the bond term to 40 years.

Sec. 3884.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. Provides that when bonds are sold, the district shall impose a continuing direct annual ad valorem tax for each year that bonds are outstanding, in sufficient amount to cover the debt service.

Sec. 3884.160. DEVELOPMENT AND OPERATING AGREEMENT. Provides that the board may not undertake any project, incur debt of any kind, or impose any tax or assessment until a development agreement is approved between the district and the city that sets forth details of the operation of the district, including plans for development, exercise of power by the district, projects to be undertaken, terms and type of financings contemplated, and amounts and methods of reimbursement for project costs.

[Sections 3884.161-3884.250 reserved for expansion]

SUBCHAPTER E. DISSOLUTION.

Sec. 3884.251. DISSOLUTION BY CITY ORDINANCE. Provides that the city may by ordinance dissolve the district; the district may not be dissolved if there are any outstanding obligations, unless they are assumed by the city. The district may not be dissolved until an agreement under Sec. 160 has been executed, and costs payable to a developer have been repaid.

Sec. 3884.252. COLLECTION OF ASSESSMENT OR OTHER REVENUE. Provides that upon dissolution, if there are outstanding obligations, the city succeeds in rights and obligations of the district to enforce collection of assessments and other revenues.

Sec. 3884.253. CONCURRENCE ON ADDITIONAL POWERS. Provides that if the legislature grants powers to the district that were not included in initial resolution approved by the governing body of the city, the board of the district may not exercise those powers until and unless the governing body of the city consents to the additional powers.

Sec. 3884.254. ASSUMPTION OF ASSETS AND LIABILITIES. Provides that upon dissolution by the city, the city assumes district obligations, including bonds, notes, and other indebtedness; the district also transfers ownership of assets to the city.

SECTION 2. Sets forth the geographical boundaries of the District.

SECTION 3. Sets forth legislative findings regarding the fulfillment of procedural requirements with respect to the notice, introduction, and passage of the Act.

SECTION 4. Provides the effective date of this Act.

EFFECTIVE DATE

This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Following is a synopsis of the changes:

1. Section 3884.002...adding language relating to the use of the district for generation of scholarships for higher education.
2. Section 3884.052...adding language citing a new provision in .059 , enabling the designation of directors by the Senator and State Representative.
3. Section 3884.053 (6) Adding the directors appointed by the State Senator and Representatives to the list of “qualified directors”.
4. Section 3884.059 revising (5) and (6) to be the director slots appointed by the State Representative and State Senator.
5. Section 3884.101 (1)...deleting the exemption from TCEQ review on bond sales.
6. Section 3884.101 (2) deleting the toll road powers
7. Section 3884.102 (12) adding scholarship funding as an “improvement project”.
8. Section 3884.103 (d) adding a new subsection to address the HUB/Minority contracting concern and linking it to the city of Dallas resolution/program.