

BILL ANALYSIS

C.S.H.B. 4768
By: Hunter
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 4768 creates the Padre Island Gateway Municipal Management District, located wholly within the corporate limits of the City of Corpus Christi. This district is being formed to facilitate infrastructure for unimproved land that is in the direct growth pathway for the City of Corpus Christi.

C.S.H.B. 4768 authorizes the financing and development of public infrastructure improvements that are needed to accommodate residential and commercial growth and development that is expected to occur on North Padre Island within the corporate limits of the City of Corpus Christi.

C.S.H.B. 4768 enables the financing of necessary public improvements, such as streets, water, drainage, beach, park, and recreational facilities, by permitting the levy of taxes and assessments solely on property located within the district and without imposing any of the capital costs on the taxpayers of the city who are located outside the boundaries of the district. The bill provides that no project may be undertaken, taxes imposed, or financing implemented by the district unless it is approved by the City of Corpus Christi through the development agreement.

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. 4768 amends the Special District Local Laws Code to set forth standard language for the creation of the Padre Island Gateway Municipal Management District in Nueces County. The bill sets forth general provisions for the nature of the district, the district's public purpose and benefit, initial district territory, use of the term "ad valorem tax," and eligibility for inclusion in tax increment, tax abatement, and enterprise zones. The bill sets forth general provisions for the board of directors of the district including the number of members and terms of directors; appointment of certain directors and the eligibility of such directors, ex officio directors, required filing of an oath or affirmation, compensation, expenses, liability insurance, and conflicts of interest for directors. The bill names the initial board of directors and provides that an action of the district or the board does not create a liability against the City of Corpus Christi or any other political subdivision.

C.S.H.B. 4768 grants the district the powers provided to a conservation and reclamation district, a road district, a municipal management district, a Type B corporation, and an issuer as defined and provided under provisions in the Government Code related to obligations for certain public improvements. The bill sets forth general provisions for the district or board to: provide or enter into contracts to provide certain improvement projects or activities incidental to those projects; enter into a contract with any person to accomplish any district purpose; adopt rules for certain district purposes and enforce those rules by injunctive relief; change the name of the district by resolution; add or remove territory subject to the approval of the municipality and the owners of

the territory being added or removed; regulate the private use of certain public areas and roadways; and create an economic development program and exercise certain economic development powers. The bill authorizes the board to employ and establish the terms of employment and compensation of an executive director or general manager and any other necessary employees, and prohibits the district from exercising the power of eminent domain.

C.S.H.B. 4768 sets forth general financial provisions authorizing the district to impose a property tax on all taxable property in the district; impose an assessment on property in the district; provide or secure the payment or repayment of any bond, note, or other temporary or permanent obligation or reimbursement or other contract, and certain associated costs; establish user charges related to the operation of storm-water facilities; establish user charges for the use of nonpotable water for irrigation purposes, subject to approval of the governing body of the city; undertake all or part of the cost of an improvement project; and enter into a tax abatement agreement. The bill authorizes the district to borrow money for a district purpose by issuing or executing bonds, notes, credit agreements, or other appropriate obligations, and requires the bond, note, credit agreement, or other obligation to be secured by and payable from property taxes, assessments, or any combination thereof or from other district revenue. The bill sets forth general provisions for the board to impose an assessment on property in the district with limited exception and establishes the limited purposes of the assessment. The bill establishes that a provision exempting certain residential property from an impact fee, tax, assessment, or other requirement does not apply to the district.

C.S.H.B. 4768 authorizes the district to impose a tax for maintenance and operation purposes and establishes the purposes of the tax. The bill prohibits the district from imposing a maintenance and operation tax unless the tax is approved by a majority of the district voters voting at an election held for that purpose. The bill authorizes any surplus maintenance and operation tax money that is not needed for the purposes for which it was collected to be used for any authorized purpose. The bill establishes the authority of the district to issue bonds, notes, or other obligations payable from property taxes, assessments, or any other source. The bill prohibits a bond from maturing not more than 40 years from its date of issue. The bill requires the board, on bonds payable wholly or partly from property taxes, to provide for the annual imposition of a continuing direct property tax while all or part of the bonds are outstanding, and the district to annually impose a property tax in an amount sufficient to pay the interest on the bonds and obligations, create a sinking fund for the payment of the principal, and pay the expenses of imposing the taxes.

C.S.H.B. 4768 requires the district and the municipality, before the district undertakes projects, issues bonds, imposes taxes, or borrows money, to negotiate and execute a mutually approved and accepted project development agreement regarding the development plans and rules for the development and operation of the district and the financing of improvement projects.

C.S.H.B. 4768 sets forth general provisions for the division and dissolution of the district, and establishes in detail the district's initial boundaries. The bill defines the terms "board," "city," "district," and "improvement project."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4768 removes language in the original referring to public beaches and public beaches along the Gulf of Mexico in provisions describing the district's public purpose and authorized improvement projects and instead refers simply to beaches. The substitute differs from the original by authorizing the district to adopt rules regulating or prohibiting travel in certain

limited access areas, rather than on public beaches as in the original.

C.S.H.B 4768 adds a provision not in the original specifying that for the purposes of the bill the term "ad valorem tax" refers to an ad valorem tax imposed by the district and not by the City of Corpus Christi. The substitute adds a provision not in the original specifying that an action of the district or the board does not create a liability against the city or any other political subdivision.

C.S.H.B. 4768 differs from the original by prohibiting the district from compensating an ex officio director and specifying such a director is not entitled to reimbursement, whereas the original provided for both compensation and reimbursement of ex officio directors.

C.S.H.B. 4768 requires the district to execute a project development agreement with the City of Corpus Christi before undertaking projects, whereas the original required such an agreement only for the district to impose taxes or borrow money. The substitute adds a provision not in the original requiring a project development agreement to describe each intended district project, include a financing plan for each project, and provide a procedure and rules for amending the agreement. The substitute adds provisions not in the original basing the district's authorization to undertake improvement projects, add or remove territory, impose taxes or assessments, borrow money, and issue bonds on the extent to which these activities are in accordance with a project development agreement.

C.S.H.B. 4768 requires the district to transfer to the city, according to a project development agreement, the title to all or any portion of an improvement project, whereas the original requires the transfer to be made at the request of the city.

C.S.H.B. 4768 makes a clarification to the original that any permit for a public event or activity required by the board is in addition to any permit required by the city. The substitute differs from the original by authorizing the city by ordinance to dissolve the district on its own volition or at the request of the board, whereas the original authorizes the city only by ordinance to dissolve the district and any additional districts created by division of the district. The substitute differs from the original by requiring a new district created by division of the district to be at least 10 acres, rather than 50 as in the original.