

BILL ANALYSIS

Senate Research Center
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H.B. 4798
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4798 creates the League City Improvement District (district) as a political subdivision of the State of Texas to administer and provide funding for economic development projects and services in the district. The district is currently located in the corporate limits of the City of League City in Galveston and Harris Counties. The district will be a municipal management district similar to those operating pursuant to Chapter 375 (Municipal Management Districts in General), Local Government Code, and Title 4 (Development and Improvement), Special District Local Laws Code. This bill prohibits the district from exercising the power of eminent domain.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3855, as follows:

CHAPTER 3855. LEAGUE CITY IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3855.001. DEFINITIONS. Defines "board," "city," "director," and "district."

Sec. 3855.002. NATURE OF DISTRICT. Provides that the League City Improvement District (district) is a special district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 3855.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purposes of Sections 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds) and 52-a (Loan or Grant of Public Money for Economic Development), Article III (Legislative Department), and Section 59, Article XVI, Texas Constitution. Provides that by creating the district and in authorizing the city of League City (city), Galveston County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article XVI, Texas Constitution.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve the city or Galveston County from providing the level of services provided, as of the effective date of the Act creating this chapter, to the area in the

district. Provides that the district is created to supplement and not to supplant the city or county services provided in the area of the district.

Sec. 3855.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that the creation of the district is in the public interest and is essential to further the public purposes of developing and diversifying the economy of the state, eliminate unemployment and underemployment, and develop or expand transportation and commerce.

(d) Provides that the district will promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public; provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Provides that pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3855.005. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not affect the district's organization, existence, or validity; the right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on the bond; the right to impose or collect an assessment or sales and use tax; or legality or operation.

Sec. 3855.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) Provides that all or any part of the area of the district is eligible to be included in:

(1) a tax increment or reinvestment zone created under Chapter 311 (Tax Increment Financing Act), Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code;

(3) an enterprise zone created under Chapter 2303 (Enterprise Zones), Government Code; or

(4) another district with the same or similar powers, duties, and authority.

(b) Authorizes the district to enter into agreements with other districts described by Subsection (a)(4) to coordinate services and improvements and to allocate assessments.

Sec. 3855.007. **APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW.** Provides that except as otherwise provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district.

Sec. 3855.008. **LIBERAL CONSTRUCTION OF CHAPTER.** Requires that this chapter be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3855.009-3855.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3855.051. **GOVERNING BODY; TERMS.** (a) Provides that the district is governed by a board of seven voting directors who serve staggered terms of four years, with three or four directors' terms expiring June 1 of each odd-numbered year.

(b) Authorizes the board by resolution or the governing body of the city by resolution or ordinance to change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district. Prohibits the board from consisting of fewer than five or more than 15 voting directors.

Sec. 3855.052. **APPOINTMENT OF DIRECTORS.** (a) Requires the mayor and members of the governing body of the city to appoint voting directors from persons recommended by the board. Provides that a person is appointed if a majority of the members of the governing body, including the mayor in case of a tie, vote to appoint that person.

(b) Provides that Section 375.063(3) (relating to certain qualifications of a director, including requiring being an owner of stock of a corporate owner of property in the district), Local Government Code, does not apply to the district.

Sec. 3855.053. **INITIAL VOTING DIRECTORS.** (a) Sets forth the voting directors of the initial board.

(b) Provides that of the initial voting directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2011, and the terms of directors appointed for positions 4 through 7 expire June 1, 2013.

(c) Provides that Section 3855.052 does not apply to this section.

(d) Provides that this section expires September 1, 2014.

Sec. 3855.054. **NONVOTING DIRECTORS.** Authorizes the governing body of the city or the board to appoint nonvoting directors.

Sec. 3855.055. **QUORUM.** Provides that for purposes of determining the requirements for a quorum of the board, a board position vacant for any reason, including death, resignation, or disqualification; a director who is abstaining from participation in a vote because of a conflict of interest; or a nonvoting director are not counted.

[Reserves Sections 3855.056-3855.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3855.101. **ADDITIONAL POWERS.** Authorizes the district to exercise the powers given to a development corporation under Chapter 505 (Type B Corporations), Local

Government Code, and a municipal development district under Chapter 377 (Municipal Development Districts), Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project described by those chapters.

Sec. 3855.102. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) Provides that the nonprofit corporation has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code, and is authorized to implement any project and provide any service authorized by this chapter.

(c) Requires the board to appoint the board of directors of the nonprofit corporation. Requires the board of directors of the nonprofit corporation to serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation code, except that a board member is not required to reside in the district.

Sec. 3855.103. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept a gift, grant, or loan from any person.

(b) Provides that the implementation of a project is a governmental function or service for the purposes of Chapter 791 (Interlocal Corporation Contracts), Government Code.

(c) Authorizes the board to enter into a contract with the board of directors of a tax increment reinvestment zone created under Chapter 311, Tax Code, and the governing body of the municipality or county that created the zone to manage the zone or implement the project plan and reinvestment zone financing plan.

Sec. 3855.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with a qualified party, including Galveston County or the city, for the provision of law enforcement services in the district for a fee.

Sec. 3855.105. APPROVAL BY CITY. (a) Requires the district, except as provided by Subsection (c), to obtain the approval of the city for:

(1) the issuance of bonds;

(2) calling an election to authorize a sales and use tax; and

(3) the plans and specifications of an improvement project related to the use of land owned by the city, an easement granted to the city, or a right-of-way of a street, road, or highway.

(b) Requires the governing body of the city to provide the approval required by Subsection (a)(1) or (2) by adoption of a resolution or ordinance. Authorizes the approval required by Subsection (a)(3) to be provided by an administrative process that does not involve the city's governing body.

(c) Authorizes the district, if the district obtains the approval of the city's governing body of a capital improvements budget for a period not to exceed 10 years, to finance the capital improvements and issue bonds specified in the budget without further approval from the city.

Sec. 3855.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3855.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) Authorizes the district to establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to make loans and grants of public money and provide district personnel and services.

(b) Provides that the district has all of the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

Sec. 3855.108. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 3855.109. ANNEXATION OR EXCLUSION OF LAND. (a) Authorizes the district to annex land as provided by Subchapter J (Annexation or Exclusion of Land), Chapter 49 (Provisions Applicable to All Districts), Water Code.

(b) Authorizes the district by board resolution, in addition to the authority to annex provided by Subsection (a), to annex territory if the city's governing body by ordinance or resolution consents to the annexation, the board holds a hearing to consider the annexation, and the board determines that the annexation is feasible, practicable, and to the district's advantage.

(c) Prohibits the district from annexing under Subsection (b) single-family residential property described by Section 375.161 (Certain Residential Property Exempt), Local Government Code.

(d) Provides that for an annexation authorized by Subsection (b) or Section 49.302 (Adding Land by Petition of Less Than All the Landowners), Water Code, an election is not required.

(e) Authorizes the district to exclude land as provided by Subchapter J, Chapter 49, Water Code. Provides that Section 375.044(b) (relating to the requirement that the board call a hearing on the exclusion of land or other property from the district if a landowner or property owner in the district takes certain actions), Local Government Code, does not apply to the district.

[Reserves Sections 3855.110-3855.150 for expansion.]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3855.151. PUBLIC TRANSIT SYSTEM. Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

Sec. 3855.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets; and equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in parking vehicles.

(b) Authorizes a parking facility of the district to be leased to, or operated for the district by, an entity other than the district.

(c) Provides that the district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution.

(d) Provides that the district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of 27 years.

Sec. 3855.153. RULES. Authorizes the district to adopt rules covering its public transit system or its public parking system.

Sec. 3855.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) Authorizes the district to use any of its resources, including revenue, assessments, sales and use taxes, or grant or contract proceeds, to pay the cost of acquiring or operating a public transit system or public parking facilities.

(b) Authorizes the district to set, charge, impose, and collect fees, charges, or tolls for the use of the public transit system or the public parking facilities and issue bonds or notes to finance the cost of these facilities.

[Reserves Sections 3855.155-3855.200 for expansion.]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 3855.201. DISBURSEMENTS AND TRANSFERS OF MONEY. Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec 3855.202. MONEY USED FOR IMPROVEMENTS OR SERVICES. Authorizes the district to acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3855.203. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) Prohibits the board from financing a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) Requires that a petition filed under Subsection (a) be signed by the owners of a majority of the assessed value of real property subject to assessment in the area to be assessed according to the most recent certified tax appraisal roll for Galveston County.

Sec. 3855.204. METHOD OF NOTICE FOR HEARING. Authorizes the district to mail the notice required by Section 375.115(c) (relating to the requirement that written notice of a hearing be mailed in a certain manner and by a certain time), Local Government Code, by certified or first class United States mail. Requires the board to determine the method of notice.

Sec. 3855.205. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) Provides that an assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district are a first and prior lien against the property assessed; are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) Provides that the lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. Authorizes the

board to enforce the lien in the same manner that the board is authorized to enforce an ad valorem tax lien against real property.

(d) Authorizes the board to make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3855.206. **UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS.** Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements of an electric utility or a power generation company as defined by Section 31.002 (Definitions), Utilities Code; a gas utility as defined by Section 101.003 (Definitions) or 121.001 (Definition of Gas Utility), Utilities Code; a telecommunications provider as defined by Section 51.002 (Definitions), Utilities Code; or a person who provides to the public cable television or advanced telecommunications services.

Sec. 3855.207. **NO AD VALOREM TAXES.** Prohibits the district from imposing ad valorem taxes.

Sec. 3855.208. **AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS.** (a) Authorizes the district to borrow money on terms and conditions as determined by the board. Provides that Section 375.205 (Approval by Attorney General; Registration), Local Government Code, does not apply to a loan, line of credit, or other borrowing from a bank or financial institution.

(b) Authorizes the district to issue by competitive bid or negotiated sale bonds, notes, or other obligations payable wholly or partly from sales and use taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money, to pay for any authorized district purpose.

(c) Provides that the limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645 (District in Certain Counties: Bonds for Recreational Facilities), Water Code, does not apply to the district.

Sec. 3855.209. **CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS.** Provides that except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

Sec. 3855.210. **COMPETITIVE BIDDING.** Provides that Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code, applies to the district. Provides that Sections 375.221 (Competitive Bidding on Certain Public Works Contracts) and 375.233 (Supersedes Other Law), Local Government Code, do not apply to the district.

Sec. 3855.211. **ASSESSMENT ABATEMENTS.** Authorizes the district to grant in the manner that Chapter 312, Tax Code, authorizes for taxes an abatement for assessment owed to the district.

Sec. 3855.212. **ASSESSMENTS IN OTHER DISTRICTS.** Requires the board to obtain approval of the governing body of another district created under Section 59, Article XVI, Texas Constitution, before imposing an assessment on property in the boundaries of that district.

Sec. 3855.213. **AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY.** Authorizes the district to define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole.

[Reserves Sections 3855.214-3855.250 for expansion.]

SUBCHAPTER F. SALES AND USE TAX

Sec. 3855.251. MEANINGS OF WORDS AND PHRASES. Provides that words and phrases used in this subchapter that are defined by Chapters 151 (Limited Sales, Excise, and Use Tax) and 321 (Municipal Sales and Use Tax Act), Tax Code, have the meanings assigned by Chapters 151 and 321, Tax Code.

Sec. 3855.252. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Provides that except as otherwise provided by this subchapter, Subtitles A (General Provisions) and B (Enforcement and Collection), Title 2 (State Taxation), Tax Code, and Chapter 151, Tax Code, apply to taxes imposed under this subchapter and to the administration and enforcement of those taxes in the same manner that those laws apply to state taxes.

(b) Provides that Chapter 321, Tax Code, relating to municipal sales and use taxes, applies to the application, collection, change, and administration of a sales and use tax imposed under this subchapter to the extent consistent with this chapter, as if references in Chapter 321, Tax Code, to a municipality referred to the district and references to a governing body referred to the board.

(c) Provides that Sections 321.106 (Fire Control District Tax), 321.401 (Calling of Election), 321.402 (Deadlines After Petition), 321.403 (Time of Election), 321.404 (Ballot Wording), 321.406 (Frequency of Election), 321.409 (Combined Municipal Sales Tax Ballot Propositions), 321.506 (Use of Tax Revenue by Municipality), 321.507 (Use of Additional Municipal Sales and Use Tax), and 321.508 (Pledge of Tax Revenue), Tax Code, do not apply to a tax imposed under this subchapter.

Sec. 3855.253. AUTHORIZATION; ELECTION. (a) Authorizes the district to adopt a sales and use tax to serve the purposes of the district after an election in which a majority of the voters of the city voting in the election authorize the adoption of the tax.

(b) Authorizes the board by order, notwithstanding any other law, to call an election to authorize a sales and use tax. Authorizes the election to be held with any other district or city election.

(c) Requires the that the district provide notice of the election and to hold the election in the manner prescribed by Subchapter L (Elections), Chapter 375, Local Government Code, except that all qualified voters of the city are authorized to vote in the election to authorize a sales and use tax.

(d) Provides that Section 375.243 (Petition Required for Bond Election), Local Government Code, does not apply to the district.

(e) Requires that the ballots be printed to provide for voting for or against the proposition and sets forth the language of the ballot.

Sec. 3855.254. ABOLISHING SALES AND USE TAX. (a) Authorizes the board, except as provided by Subsection (b), to abolish the sales and use tax without an election.

(b) Prohibits the board from abolishing the sales and use tax if the district has outstanding debt secured by the tax.

Sec. 3855.255. SALES AND USE TAX RATE. (a) Provides that on adoption of the tax authorized by this subchapter, there is imposed a tax on the receipts from the sale at retail of taxable items within the district, and an excise tax on the use, storage, or other consumption within the district of taxable items purchased, leased, or rented from a retailer within the district during the period that the tax is in effect.

(b) Requires the board to determine the rate of the tax, which may be in one-eighth of one percent increments not to exceed the maximum rate authorized by the district voters at the election. Authorizes the board to lower the tax rate to the extent it does not impair any outstanding debt or obligations payable from the tax.

(c) Provides that the rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the taxable item.

SECTION 2. Sets forth the initial boundaries of the district.

SECTION 3. Provides that all requirements of the constitution and the laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. Effective date: upon passage or September 1, 2009.