

BILL ANALYSIS

Senate Research Center
81R22920 GCB-D

C.S.S.B. 2470
By: Estes
Intergovernmental Relations
4/17/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 2470 creates the Maverick Improvement District of Palo Pinto County; provides the authority to impose a tax and issue bonds; and grants a limited 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 3870, as follows:

CHAPTER 3870. MAVERICK IMPROVEMENT DISTRICT OF PALO PINTO COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3870.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 3870.002. NATURE OF DISTRICT. Provides that the 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), and 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, Texas Constitution.

Sec. 3870.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. Requires the temporary directors to hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 3870.004. CONSENT OF MUNICIPALITY REQUIRED. Prohibits the temporary directors from holding an election under Section 3870.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of the land in the district.

Sec. 3870.005. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public purpose and benefit. Provides that by creating the district and in authorizing the county of Palo Pinto 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 III, Texas Constitution.

(b) Provides that the district is created to accomplish the purposes of promoting, developing, encouraging, and maintaining employment, commerce, transportation, housing, tourism, recreation, economic development, safety, and the public welfare in the district, and to accomplish the purposes of: a municipal utility district as provided by general law and Section 59, Article XVI, Texas

Constitution; a county development district as provided by general law and Section 52-a, Article III, Texas Constitution; Section 52, Article III, Texas Constitution, related to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads; and Section 52-a, Article III, Texas Constitution, related to the provision of public recreational facilities, including docks and boat access facilities, pedestrian ways and street lighting and parking, and the installation of signage and landscaping and the development of certain areas in the district that are necessary for the restoration, preservation, and enhancement of scenic beauty.

Sec. 3870.006. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by 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 made in the field notes or in copying the field notes in the legislative process does not affect the district's organization, existence, or validity; 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 a bond; right to impose a tax; or legality or operation.

[Reserves Sections 3870.007-3870.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3870.051. GOVERNING BODY; TERMS. (a) Provides that the district is governed by a board of five elected directors.

(b) Provides that except as provided by Section 3870.052, directors serve staggered four-year terms.

Sec. 3870.052. TEMPORARY DIRECTORS. (a) Authorizes the owner or owners of a majority of the assessed value of the real property in the district to submit a petition to the Texas Commission on Environmental Quality (TCEQ) requesting that TCEQ appoint as temporary directors the five persons named in the petition. Requires TCEQ to appoint as temporary directors the five persons named in the petition.

(b) Provides that temporary directors serve until the earlier of the date permanent directors are elected under Section 3870.003 or September 1, 2013.

(c) Requires that successor temporary directors be appointed or reappointed as provided by Subsection (d), if permanent directors have not been elected under Section 3870.003 and the terms of temporary directors have expired, to serve terms that expire on the earlier of the date permanent directors are elected under Section 3870.003 or the fourth anniversary of the date of the appointment or reappointment.

(d) Authorizes the owner or owners of a majority of the assessed value of the real property in the district, if Subsection (c) applies, to submit a petition to TCEQ requesting that TCEQ appoint as successor temporary directors the five persons named in the petition. Requires TCEQ to appoint as successor temporary directors the five persons named in the petition.

[Reserves Sections 3870.053-3870.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3870.101. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3870.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provides that the district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 3870.103. ROAD PROJECTS. Authorizes the district, under Section 52, Article III, Texas Constitution, to design, acquire, construct, finance, improve, operate, and maintain macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads and to convey those roads or improvements to this state, a county, or a municipality to operate and maintain.

Sec. 3870.104. ROAD STANDARDS AND REQUIREMENTS. (a) Provides that a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of a municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) Provides that if a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, zoning and subdivision requirements, and orders of a county in which the road project is located.

(c) Provides that if the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 3870.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Requires the district to comply with all applicable requirements of any ordinance or resolution adopted by the governing body of a municipality under Section 54.016 (Consent of City) or 54.0165 (Addition to District of Land in Extraterritorial Jurisdiction of Municipality), Water Code, that consents to the creation of the district of inclusion of land in the district.

Sec. 3870.106. LIMITATION ON USE OF EMINENT DOMAIN. Authorizes the district to exercise the power of eminent domain only inside the district's boundaries.

Sec. 3870.107. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept a gift, grant, or loan from any person.

(b) Authorizes the board to enter into a contract with another political subdivision or the state to share the costs of construction, acquisition, operation, or maintenance of a transportation improvement, including a road, a bridge, a culvert, a parking facility, or another public improvement.

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

Sec. 3870.108. DIVISION OF DISTRICT. (a) Authorizes the district to be divided into two or more new districts only if the district has no outstanding bonded debt and is not imposing ad valorem taxes.

(b) Provides that this chapter applies to any new district created by the division of the district, and provides that a new district has all the powers and duties of the district.

(c) Provides that any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter.

(d) Authorizes the board, on its own motion or on receipt of a petition signed by the owners of a majority of the assessed value of real property in the district

according to the most recent certified appraisal roll for the county in which the district is located, to adopt an order dividing the district. Authorizes an order dividing the district to be adopted before or after an election to confirm the district as required by Section 3870.003.

(e) Authorizes the board to adopt an order dividing the district before or after the date the board holds an election under Section 3870.003 to confirm the district's creation.

(f) Requires an order dividing the district to name each new district, include the metes and bounds of each new district, appoint temporary directors for each new district, and provide for the division of assets and liabilities between each new district.

(g) Requires the district to file the order dividing the district with TCEQ and record the order in the real property records of the county in which the district is located, on or before the 30th day after the adoption of an order dividing the district.

(h) Requires any new district created by the division of the district to hold a confirmation and directors' election as required by Section 49.102, Water Code.

(i) Provides that municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 3870.004 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

(j) Provides that any new district created by the division of the district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

[Reserves Sections 3870.109-3870.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3870.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Authorizes the district to issue, without an election, bonds and other obligations secured by revenue other than ad valorem taxes or contract payments described by Section 3870.153.

(b) Requires the district to hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Prohibits the district from issuing bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 3870.152. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held under Section 3870.151, to impose an operation and maintenance tax on taxable property in the district as provided by Section 49.107 (Operation and Maintenance Tax), Water Code.

(b) Requires the board to determine the tax rate. Provides that the tax rate may not exceed the rate approved at the election.

Sec. 3870.153. CONTRACT TAXES. (a) Authorizes the district, as provided by Section 49.108 (Contract Elections), Water Code, to impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) Authorizes a contract approved by the district voters to contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 3870.154. POWERS OF COUNTY DEVELOPMENT DISTRICT. Provides that the district has the powers of a county development district provided by Chapter 383 (County Development Districts), Local Government Code.

Sec. 3870.155. SALES AND USE TAX; ELECTION. (a) Authorizes a district to adopt a sales and use tax as provided by Chapter 383, Local Government Code, after an election in which the majority of the voters of the district voting in the election authorize the adoption of the tax.

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

(c) Requires the district to provide notice of the election and to hold the election in the manner prescribed by Section 3870.151.

Sec. 3870.156. SALES AND USE TAX RATE. (a) Provides that on adoption of the tax authorized by Section 3870.155, 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 in the district of taxable items purchased, leased, or rented from a retailer in the district during the period after 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.

Sec. 3870.157. HOTEL OCCUPANCY TAX. (a) Defines "hotel."

(b) Provides that for purposes of this section, a reference in Subchapter A (Imposition and Collection of Tax), Chapter 352 (County Hotel Occupancy Taxes), Tax Code, to a county is a reference to the district and a reference in Subchapter A, Chapter 352, Tax Code, to the county's officers or governing body is a reference to the board.

(c) Provides that except as inconsistent with this section, Subchapter A, Chapter 352, Tax Code, governs a hotel occupancy tax authorized by this section, including the collection of the tax, subject to the limitations prescribed by Sections 352.002(b) (providing that the price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession) and (c) (providing that the tax does not apply to a person who is a permanent resident), Tax Code.

(d) Authorizes the district to impose a hotel occupancy tax for any district purpose, including to maintain and operate the district, construct or acquire improvements, and provide a service.

(e) Authorizes the district to examine and receive information related to the imposition of hotel occupancy taxes to the same extent as if the district were a county.

[Reserves Sections 3870.158-3870.200 for expansion.]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 3870.201. **AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.** Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 3870.202. **TAXES FOR BONDS.** Requires the board to provide, at the time the district issues bonds payable wholly or partly from ad valorem taxes, for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 (Tax Levy for Bonds) and 54.602 (Establishment of Tax Rate in Each Year), Water Code.

Sec. 3870.203. **BONDS FOR ROAD PROJECTS.** Provides that, at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

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: September 1, 2009.