

BILL ANALYSIS

S.B. 2479
By: Jackson, Mike
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In 2012, the City of Pearland will dissolve Brazoria County Municipal Utility District No. 4 (MUD) and annex all of the property within the MUD into its corporate limits. Upon the dissolution of the MUD, both the city and residents wish to have a district in place to continue to provide public services for the Country Place subdivision above the level of municipal services.

As proposed, S.B. 2479 creates the Country Place Management District (district) to assume the services that the current MUD provides. The bill authorizes the district to have standard municipal management district powers and ad valorem taxation power (for all property in the district) if approved by voters.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3875, as follows:

CHAPTER 3875. COUNTRY PLACE MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3875.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 3875.002. NATURE OF DISTRICT. Provides that the Country Place Management 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. 3875.003. 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, and other public purposes stated in this chapter. Provides that, by creating the district and in authorizing the City of Pearland, Brazoria 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 III, 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 of Pearland and Brazoria County from providing the level of

services provided, as of the effective date of the Act enacting 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 in the area in the district.

Sec. 3875.004. 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 Section 52 and 52-a, Article III, Texas Constitution, 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) Sets forth certain responsibilities of the district.

(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, walls and sound barriers, 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. 3875.005. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) Provides that the boundary description contained in Section 2 of the Act enacting this chapter forms a closure. Provides that a mistake in the boundary description 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 the bond; right to impose or collect an assessment or tax; or legality or operation.

Sec. 3875.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in a tax increment reinvestment zone created under Chapter 311 (Tax Increment Financing Act), Tax Code; a tax abatement reinvestment zone created under Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code; or an enterprise zone created under Chapter 2303 (Enterprise Zones), Government Code.

Sec. 3875.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district, except as otherwise provided by this chapter.

Sec. 3875.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with finding and purposes stated in this chapter.

[Reserves Sections 3875.009-3875.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3875.051. GOVERNING BODY; TERMS. (a) Provides that the district is governed by a board of five directors (directors) who serve staggered terms of four years. Requires two or three directors to be elected each even-numbered year on the uniform election date in May established by the Election Code.

(b) Provides that Section 49.052 (Disqualification of Directors), Water Code, applies to the district and directors.

(c) Authorizes a director to also serve as a director of Brazoria County Municipal Utility District No. 4. Provides that the director is not entitled to remuneration from the district while serving in both positions.

Sec. 3875.052. CONFIRMATION ELECTION REQUIRED. (a) Requires the initial directors to hold an election to confirm the creation of the district. Authorizes the initial directors, if an election to confirm the creation of the district does not pass, to call subsequent elections to confirm the creation of the district without further approval.

(b) Provides that Subchapter D (Election Provisions), Chapter 49 (Provisions Applicable to All Districts), Water Code, applies to the district and directors.

(c) Provides that Section 375.063 (Qualifications of Director), Local Government Code, does not apply to the district.

Sec. 3875.053. INITIAL DIRECTORS. (a) Sets forth the directors of the initial board.

(b) Provides that, of the initial directors, the terms of directors appointed for positions one through three expire May 2010, and the terms of directors appointed for positions four and five expire May 2012.

(c) Provides that Section 3875.052 does not apply to this section.

(d) Provides that this section expires September 1, 2013.

Sec. 3875.054. QUORUM. Provides that, for the purposes of determining the requirements for a quorum of the board, a board position vacant for any reason, including death, resignation, or disqualification; or a director who is abstaining from participating in a vote because of a conflict of interest, are not counted.

Sec. 3875.055. COMPENSATION. Entitles a director, except as provided by Section 3875.051(c), to receive fees of office and reimbursement for actual expenses as provided by Section 49.060 (Fees of Office; Reimbursement), Water Code. Provides that Sections 375.069 (Board Position Not Civil Office of Emolument) and 375.070 (Compensation of Directors; Reimbursement of Expenses), Local Government Code, do not apply to the board.

[Reserves Sections 3875.056-3875.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3875.101. DEVELOPMENT CORPORATION POWERS. Authorizes the district to exercise the powers given to a development corporation under Chapter 505 (Type B Corporations), Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project described by that chapter.

Sec. 3875.102. 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 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. 3875.103 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 Cooperation Contracts), Government Code.

Sec. 3875.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with a qualified party, including Brazoria County or the City of Pearland, for the provision of law enforcement services in the district for a fee.

Sec. 3875.105. 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. 3875.106. 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 to provide district personnel and services.

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

Sec. 3875.107. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 3875.108. ANNEXATION OR EXCLUSION OF LAND. (a) Authorizes the district to annex land as provided by Subchapter J (Annexation or Exclusion of Land), Chapter 49, Water Code.

(b) Authorizes the district to exclude land as provided by Subchapter J, Chapter 49, Water Code. Provides that Section 375.044 (b) (relating to a hearing on the exclusion of land or other property from the district), Local Government Code, does not apply to the district.

[Reserves Sections 3875.109-3875.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3875.151. 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. 3875.152. 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 (Municipal Management Districts in General), Local Government Code, using any money available to the district.

Sec. 3875.153. 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 in the district subject to the assessment according to the most recent certified tax appraisal roll for Brazoria County.

Sec. 3875.154. METHOD OF NOTICE FOR HEARING. Authorizes the district to mail the notice required by Section 375.115 (c) (relating to written notice of a hearing), Local Government Code, by certified or first class United States mail. Requires the board to determine the method of notice.

Sec. 3875.155. 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. Provides that Section 375.114 (Petition Required), Local Government Code, does not apply to 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. 3875.156. 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 a certain utilities, providers, or persons.

Sec. 3875.157. RESIDENTIAL PROPERTY. Provides that Section 375.161 (Certain Residential Property Exempt), Local Government Code, does not apply to a tax imposed by the district or a requirement for payments for a service provided by the district.

Sec. 3875.158. AD VALOREM TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 3875.162, to impose an ad valorem tax on taxable property in the district in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, for any district purpose, including to maintain and operate the district, construct or acquire improvements, or provide a service.

(b) Requires the board to determine the tax rate. Prohibits the rate from exceeding the rate approved at the election.

(c) Provides that Section 49.107(h) (relating to prohibiting a maintenance and operation tax that exceeds 10 cents per \$100 of assessed valuation) does not apply to the district.

Sec. 3875. 159. CONTRACT TAXES. (a) Authorizes the district, in accordance with Section 49.108 (Contract Elections), Water Code, to impose a tax other than an operation and maintenance tax and to 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. 3875.160 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 375.025 (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 secured by revenue other than ad valorem taxes.

(b) Authorizes the district to issue by competitive bid or negotiated sale bonds, notes, or other obligations payable wholly or partly from ad valorem 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. 3875.161. TAXES FOR BONDS. Requires the board, at the time the district issues bonds payable wholly or partly from ad valorem taxes, to provide for the imposition of a continuing direct annual 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 as provided by Sections 54.601 (Tax Levy For Bonds) and 54.602 (Establishment of Tax Rate in Each Year), Water Code.

Sec. 3875.162. ELECTIONS REGARDING TAXES AND BONDS. (a) Authorizes the district to issue, without an election, bonds, notes, and other obligations secured by revenue other than ad valorem taxes or contract payments described by Section 3875.159.

(b) Requires the district to hold an election in the manner provided by Subchapter L (Elections), Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds from ad valorem taxes.

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

(d) Authorizes all or any part of any facilities or improvements that the district is authorized to acquire by the issuance of its bonds to be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3875.163. CITY APPROVAL. (a) Requires the district to obtain the approval of the City of Pearland's governing body for the issuance of bonds for each improvement project, except as provided by Subsection (c).

(b) Requires the governing body of the City of Pearland to provide the approval required for the issuance of bonds under Subsection (a) by adoption of an ordinance or resolution.

(c) Authorizes the district to obtain any other city approval required by this chapter by permit or other city administrative process that does not involve the City of Pearland's governing body.

Sec. 3875.164. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that the City of Pearland, except as provided by Section 375.263 (Dissolution By Municipal Ordinance), Local Government Code, is not required to pay a bond note, or other obligation of the district.

Sec. 3875.165. COMPETITIVE BIDDING. Provides that Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code, applies to the district. Provides that Subchapter K (Competitive Bidding; Disadvantaged Businesses), Chapter 375, Local Government Code, does not apply to the district.

Sec. 3875.166. TAX ASSESSMENT ABATEMENTS. Authorizes the district to grant in the manner authorized by Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, an abatement for a tax or assessment owned to the district.

Sec. 3875.167. USAGE FEES. Authorizes the board of directors to set, charge, impose, and collect fees, charges, or tolls, for the use of any district facilities.

[Reserves Sections 3875.168-3875.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3875.201. DISSOLUTION OF DISTRICT. (a) Authorizes the board of directors to vote to dissolve the district regardless of the district's outstanding debt. Provides that Section 375.264 (Limitation) does not apply to the district.

(b) Requires the district, if the district has outstanding debt when it is dissolved, to remain in existence solely for the purpose of discharging its debts. Provides that the dissolution is effective when all debts of the district have been discharged.

SECTION 2. Provides that the Country Place Management District initially includes all territory contained in the boundaries of the Brazoria County Municipal Utility District No. 4, as those boundaries existed on January 1, 2009.

SECTION 3. Provides that all requirements of the constitution and 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.

EFFECTIVE DATE

Effective date: upon passage or September 1, 2009.