

## **BILL ANALYSIS**

S.B. 2496  
By: Patrick, Dan  
Ways & Means  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Westchase District (district) was one of the first management districts created in Texas. As management districts continued to be created, the legislation for those districts included authority and clarifying provisions that were not included in the district's legislation. This bill updates the district's enabling legislation to include those provisions that other districts have that are important to the smooth functioning of the district and the ability of the district to compete with other management districts.

S.B. 2496 relates to the powers of the district.

### **RULEMAKING AUTHORITY**

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

### **ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 3802, Special District Local Laws Code, by adding Sections 3802.0045, 3802.0055, and 3802.008, as follows:

Sec. 3802.0045. **PARKING.** Provides that a parking improvement is considered to be a street or road improvement.

Sec. 3802.0055. **ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.** Provides that all or any part of the area of the Westchase District (district) is eligible to be included in a tax increment reinvestment zone created by a municipality under Chapter 311 (Tax Increment Financing Act), Tax Code; a tax increment reinvestment zone created by a municipality under Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code; or an enterprise zone created by a municipality under Chapter 2303 (Enterprise Zones), Government Code.

Sec. 3802.008. **TORT LIABILITY.** Provides that the district is a governmental unit under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, and the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

SECTION 2. Amends Section 3802.051, Special District Local Laws Code, as follows:

Sec. 3802.051. **BOARD OF DIRECTORS; TERMS.** (a) Creates this subsection from existing text.

(b) Authorizes the board of directors of the district (board) by resolution 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 nine or more than 30 voting directors.

SECTION 3. Amends Subchapter B, Chapter 3802, Special District Local Laws Code, by adding Section 3802.054, as follows:

Sec. 3802.054. QUORUM. Provides that for purposes of determining whether a quorum of the board is present, the following are not counted: 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.

SECTION 4. Amends Section 3802.103, Special District Local Laws Code, by adding Subsection (e), to provide that the implementation of a project is a governmental function or service for the purpose of Chapter 791 (Interlocal Cooperation Contracts), Government Code.

SECTION 5. Amends Subchapter C, Chapter 3802, Special District Local Laws Code, by adding Sections 3802.102 and 3802.1045, as follows:

Sec. 3802.102. 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 all purposes 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, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(d) Authorizes the nonprofit corporation to be dissolved as provided by Chapter 431, Transportation Code, for a corporation created under that chapter.

Sec. 3802.1045. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3), (4), or (6) of that code and that performs a service or provides an activity consistent with the furtherance of a district purpose.

SECTION 6. Amends Section 3802.106, Special District Local Laws Code, as added by Chapter 728 (H.B. 2018), Acts of the 79th Legislature, Regular Session, 2005, to redesignate Section 3802.106 as Section 3802.107.

SECTION 7. Amends Subchapter D, Chapter 3802, Special District Local Laws Code, by adding Section 3802.1575, as follows:

Sec. 3802.1575. USE OF ELECTRICAL OR OPTICAL LINES. (a) Authorizes the district to impose an assessment to pay the cost of burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line; removing poles and any elevated lines using the poles; and reconnecting the lines described by Subdivision (2) (relating to an assessment to pay the cost of removing poles and any elevated lines) to the buildings or other improvements to which the lines were connected.

(b) Prohibits the assessment under Subsection (a) from being imposed on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of a telecommunications provider as defined by Section 51.002 (Definitions), Utilities Code, or a cable service provider or video service provider as defined by Section 66.002 (Definitions), Utilities Code, unless the property is used as office space.

(c) Authorizes the district to acquire, operate, or charge fees for the use of the district conduits for another person's telecommunications network, fiber-optic cable, or electronic transmission line, or any other type of transmission line or supporting facility.

(d) Prohibits the district from requiring a person to use a district conduit.

SECTION 8. Effective date: upon passage or September 1, 2009.

**EFFECTIVE DATE**

Effective immediately if it receives two-thirds vote from both houses or September 1, 2009.