

BILL ANALYSIS

S.B. 2552
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County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Created in 1987, Harris County Improvement District No. 1 (district) was the first municipal management district in the state. Since its creation, over 40 such districts have been created by special law in Houston alone. Over time, the enabling legislation for these predecessor districts has addressed certain attorney general opinions issued over the years to clarify ambiguous language which is still contained in the district's enabling statute.

This bill is designed to clear up ambiguities and clarify the law as announced by the attorney general and by more recently created districts. The bill brings the district's operating regulations into conformity with Chapter 375, Local Government Code, which is the chapter that generally regulates municipal management districts.

S.B. 2552 relates to the powers and duties of Harris County Improvement District No. 1 and provides authority to impose a tax and issue bonds.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Section 3818.002, Special District Local Laws Code, to provide that a special district known as the "Harris County Improvement District No. 1" (district) is a political subdivision of this state 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.

SECTION 2. Amends Section 3818.051, Special District Local Laws Code, by amending Subsection (d) and adding Subsection (e), as follows:

(d) Requires the Texas Commission on Environmental Quality (TCEQ) to appoint directors from persons recommended by the board of directors of the district (board). Deletes existing text requiring TCEQ to attempt to appoint directors to represent all geographical areas and business interests in the district and to solicit input from the existing board concerning persons who would be eligible to represent the various interests in the district.

(e) Authorizes the board by resolution to change the number of 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 15 directors.

SECTION 3. Amends Sections 3818.052(a) and (d), Special District Local Laws Code, as follows:

(a) Requires a director to meet the requirements provided by Section 375.063 (Qualifications of Director), Local Government Code, rather than requiring a director, except as provided by Subsection (b) (relating to a tenant of a certain person is not

qualified to serve as a director under this chapter), to meet the requirements provided by Section 375.063, Local Government Code.

(d) Provides that a person who qualifies to serve on the board, rather than a person who qualifies to serve on the board under Subsections (a) and (b), is qualified to serve as a director and participate in all votes pertaining to the business of the district.

SECTION 4. Amends Section 3818.054, Special District Local Laws Code, to require the board, rather than TCEQ, by appointment to fill a vacancy on the board.

SECTION 5. Amends Subchapter C, Chapter 3818, Special District Local Laws Code, by adding Sections 3818.110, 3818.111, and 3818.112, as follows:

Sec. 3818.110. **AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.** Authorizes the district, to protect the public interest, to contract with a qualified party, including Harris County, the City of Houston, or any licensed peace officer, for the provision of law enforcement services in the district for a fee.

Sec. 3818.111. **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. 3818.112. **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 the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

SECTION 6. Amends Section 3818.201, Special District Local Laws Code, to authorize the board to finance a service or improvement project under this chapter with assessments after notice of a hearing has been given as required by Section 3818.202 and the board holds a public hearing on the advisability of the service or improvement and the proposed assessments.

SECTION 7. Amends Section 3818.202, Special District Local Laws Code, by adding Subsection (d), to authorize the district to mail the notice required by Section 375.115(c) (relating to requiring certain written notices to be mailed by certified mail, return receipt requested not later than a certain day), Local Government Code, by certified or first class United States mail. Requires the board to determine the method of notice.

SECTION 8. Amends Section 3818.204, Special District Local Laws Code, as follows:

Sec. 3818.204. **PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENT PROJECTS.** (a) Makes a conforming change.

(b) Requires that the petition be signed by the owners of 50 percent of the assessed value of the property in the district subject to assessment based on the most recent certified county tax appraisal roll or the owners of 50 percent or more of the surface area of the district subject to assessment, excluding roads, streets, highways, and utility rights-of-way, based on the most recent certified county tax appraisal roll.

SECTION 9. Amends Section 3818.205(a), Special District Local Laws Code, to authorize the district to impose an ad valorem tax, assessment, or impact fee in accordance with Chapter 375 (Municipal Management Districts in General), Local Government Code, to provide an improvement or service for a project or activity the district may acquire, construct, improve, or provide under this chapter, rather than authorizing the district to take such actions if a written petition requesting that improvement or service has been filed with the board.

SECTION 10. Amends Subchapter E, Chapter 3818, Special District Local Laws Code, by adding Sections 3818.212-3818.219, as follows:

Sec. 3818.212. **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. 3818.213. **MONEY USED FOR IMPROVEMENTS OR SERVICES.** Authorizes the district to acquire, construct, finance, operate, or maintain any improvements or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3818.214. **OPERATION AND MAINTENANCE TAX.** (a) Authorizes the district, if authorized at an election held in accordance with Section 3818.217, to impose an operation and maintenance 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 tax rate from exceeding the rate approved at the election.

(c) Provides that Section 49.107(h) (relating to prohibiting an operation and maintenance tax to be used for recreational facilities levied by a certain district from exceeding 10 cents per \$100 of assessed valuation of taxable property), Water Code, does not apply to the district.

Sec. 3818.215. **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 of 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. 3818.216. **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 annual imposition of a continuing direct ad valorem tax, without limit as to the 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. 3818.217. **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.

(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 payable 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 part of any facilities or improvements that the district may acquire by the issuance of district bonds to be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3818.218. **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 375.223 (Supersedes Other Law), Local Government Code, do not apply to the district.

Sec. 3818.219. **TAX AND 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 owed to the district.

SECTION 11. Repealers: Sections 3818.052(b), 3818.053 (Quorum; Concurrence of Directors), 3818.151(b) (relating to authorizing the district to acquire, construct, or develop a mass transit improvement or facility), 3818.205(b) (relating to certain signing requirement for the petition), and 3818.208 (Petition Required for Bond Election), Special District Local Laws Code.

SECTION 12. (a) Provides that the legislature validates and confirms all governmental acts and proceedings of the board of directors of the district that were taken before the effective date of this Act.

(b) Provides that Subsection (a) does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court or has been held invalid by a final judgment of a court.

SECTION 13. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act has been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides the governor, one of the required receipts, has submitted the notice and Act to TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 14. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

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