

By: Davis, Wendy

S.B. No. 2068

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Kennedale TownCenter Development District; providing authority to impose a tax and issue bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3866 to read as follows:

CHAPTER 3866. KENNEDALE TOWNCENTER DEVELOPMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3866.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means Kennedale TownCenter Development District.

Sec. 3866.002. CREATION AND NATURE OF DISTRICT. (a) Kennedale TownCenter Development District is created as a special district under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The board by resolution may change the district's name.

Sec. 3866.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) The creation of the district is necessary to promote,

1 develop, encourage, and maintain transportation, safety,
2 employment, commerce, housing, tourism, recreation, the arts,
3 entertainment, economic development, and the public welfare in the
4 area of the district.

5 Sec. 3866.004. BOUNDARIES. The district includes all the
6 territory contained in the following described area:

7 Block A Lot 1, Lot 2, Lot 3, and Lot 4A of the Kennedale Retail
8 Center Addition; Block A Lot 2 and Lot 3 of the B.T. Webb
9 Subdivision; and Municipal Drive from Third Street to Kennedale
10 Parkway (US Business Highway 287).

11 Sec. 3866.005. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
12 The district is created to serve a public use and benefit.

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

18 (c) The creation of the district is in the public interest
19 and is essential to:

20 (1) further the public purposes of the development and
21 diversification of the economy of the state;

22 (2) eliminate unemployment and underemployment; and

23 (3) develop or expand transportation and commerce.

24 (d) The district will:

25 (1) promote the health, safety, and general welfare of
26 residents, employers, employees, visitors, and consumers in the
27 district and of the public;

1 (2) provide needed funding to preserve, maintain, and
2 enhance the economic health and vitality of the district as a
3 community; and

4 (3) promote the health, safety, welfare, and enjoyment
5 of the public by providing pedestrian ways and by landscaping and
6 developing certain areas in the district, which are necessary for
7 the restoration, preservation, and enhancement of scenic beauty.

8 (e) Pedestrian ways along or across a street, whether at
9 grade or above or below the surface, and street lighting, street
10 landscaping, and street art objects are parts of and necessary
11 components of a street and are considered to be a street or road
12 improvement.

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

16 Sec. 3866.006. LIBERAL CONSTRUCTION OF CHAPTER. This
17 chapter shall be liberally construed in conformity with the
18 findings and purposes stated in this chapter.

19 [Sections 3866.007-3866.020 reserved for expansion]

20 SUBCHAPTER A-1. TEMPORARY PROVISIONS

21 Sec. 3866.021. INITIAL DIRECTORS. (a) The initial board
22 consists of the following persons:

23 (1) John Clark

24 (2) Jerry Miller

25 (3) Robert Mundy

26 (4) Bryan Lankhorst

27 (5) Beverly Hayes

1 (b) Of the initial directors, the terms of the first three
2 directors named in Subsection (a) expire on January 1, 2011, and the
3 terms of the last two directors named in Subsection (a) expire on
4 January 1, 2010. Bob Hart shall serve as the ex officio nonvoting
5 member for a term to be specified by the governing body of the City
6 of Kennedale.

7 Sec. 3866.022. EXPIRATION OF SUBCHAPTER. This subchapter
8 expires January 1, 2011.

9 [Sections 3866.023-3866.050 reserved for expansion]

10 SUBCHAPTER B. BOARD OF DIRECTORS

11 Sec. 3866.051. BOARD OF DIRECTORS; TERMS. (a) The district
12 is governed by a board of five voting directors appointed under
13 Section 3866.052 who serve staggered two-year terms.

14 (b) The governing body of the City of Kennedale may appoint
15 one nonvoting director to serve a term prescribed by the governing
16 body. The nonvoting director must be an employee of the City of
17 Kennedale and shall serve as an ex officio member in an advisory
18 capacity to provide assistance on matters in the district that
19 involve the city.

20 Sec. 3866.052. APPOINTMENT OF DIRECTORS. (a) The
21 governing body of the City of Kennedale shall appoint directors to
22 the board.

23 (b) Sections 375.063, Local Government Code, and 49.052,
24 Water Code, do not apply to the district.

25 Sec. 3866.053. REMOVAL OF DIRECTOR. The members of the
26 board serve at the pleasure of the governing body of the City of
27 Kennedale. The governing body may remove any board member by

1 majority vote.

2 Sec. 3866.054. VACANCIES. A vacancy on the board shall be
3 filled by the governing body of the City of Kennedale.

4 Sec. 3866.055. CONFLICTS OF INTEREST. Except as provided
5 by Chapter 171, Local Government Code, a director may participate
6 in all board votes and decisions.

7 Sec. 3866.056. DISBURSEMENTS AND TRANSFERS OF MONEY. The
8 board by resolution shall establish the number of directors'
9 signatures and the procedure required for a disbursement or
10 transfer of the district's money.

11 [Sections 3866.057-3866.100 reserved for expansion]

12 SUBCHAPTER C. POWERS AND DUTIES

13 Sec. 3866.101. POWERS OF DISTRICT. The district has all
14 powers provided by the general laws on road districts and road
15 utility districts created under Section 52, Article III, Texas
16 Constitution, and conservation and reclamation districts and
17 municipal management districts created under Section 59, Article
18 XVI, Texas Constitution, including:

- 19 (1) Chapters 257 and 441, Transportation Code;
20 (2) Chapter 375, Local Government Code; and
21 (3) Chapters 49 and 54, Water Code.

22 Sec. 3866.102. AGREEMENTS; GRANTS. (a) The district may
23 make an agreement with or accept a gift, grant, or loan from any
24 person.

25 (b) The implementation of a project is a governmental
26 function or service for the purposes of Chapter 791, Government
27 Code.

1 Sec. 3866.103. CONTRACT FOR LAW ENFORCEMENT SERVICES. To
2 protect the public interest, the district may contract with a
3 municipality or county to provide law enforcement services in the
4 district for a fee.

5 [Sections 3866.104-3866.150 reserved for expansion]

6 SUBCHAPTER D. FINANCIAL PROVISIONS

7 Sec. 3866.151. COMPETITIVE BIDDING. Section 375.221, Local
8 Government Code, applies to the district only for a contract that
9 has a value of more than \$25,000.

10 Sec. 3866.152. AUTHORITY TO IMPOSE AD VALOREM TAXES,
11 ASSESSMENTS, AND IMPACT FEES. The district may impose an ad valorem
12 tax, assessment, or impact fee and use the proceeds of the tax,
13 assessment, or impact fee for:

14 (1) any district purpose, including the payment of
15 debt or other contractual obligations; or

16 (2) the payment of maintenance and operating expenses.

17 Sec. 3866.153. ELECTIONS REGARDING TAXES OR BONDS. (a) The
18 district must hold an election in the manner provided by Chapters 49
19 and 54, Water Code, to obtain voter approval before the district
20 imposes a maintenance tax or issues bonds payable from ad valorem
21 taxes.

22 (b) The board may include more than one purpose in a single
23 proposition at an election.

24 (c) If the district obtains the written consent of all
25 property owners in the district to impose a maintenance tax or issue
26 bonds payable from ad valorem taxes or assessments, the district is
27 exempt from the election requirement under Subsection (a) and may

1 cancel an election called under Subsection (a).

2 Sec. 3866.154. MAINTENANCE TAX. (a) The district may
3 impose an annual ad valorem tax on taxable property in the district
4 for any district purpose, including to:

5 (1) maintain and operate the district, including
6 improvements constructed or acquired by the district; or

7 (2) provide a service.

8 (b) The board shall determine the tax rate.

9 Sec. 3866.155. ASSESSMENTS. (a) The board by resolution
10 may impose and collect an assessment for any purpose authorized by
11 this chapter.

12 (b) An assessment, a reassessment, or an assessment
13 resulting from an addition to or correction of the assessment roll
14 by the district, penalties and interest on an assessment or
15 reassessment, an expense of collection, and reasonable attorney's
16 fees incurred by the district:

17 (1) are a first and prior lien against the property
18 assessed;

19 (2) are superior to any other lien or claim other than
20 a lien or claim for county, school district, or municipal ad valorem
21 taxes; and

22 (3) are the personal liability of and charge against
23 the owners of the property even if the owners are not named in the
24 assessment proceeding.

25 (c) The lien is effective from the date of the board's
26 resolution imposing the assessment until the date the assessment is
27 paid. The board may enforce the lien in the same manner that the

1 board may enforce an ad valorem tax lien against real property.

2 Sec. 3866.156. PETITION REQUIRED FOR FINANCING SERVICES AND
3 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
4 service or improvement project with assessments under this chapter
5 unless a written petition requesting that service or improvement
6 has been filed with the board.

7 (b) A petition requesting a project financed by assessment
8 must be signed by the owners of a majority of the assessed value of
9 real property in the district subject to assessment according to
10 the most recent certified tax appraisal roll for the county in which
11 the property is located.

12 Sec. 3866.157. BONDS AND OTHER OBLIGATIONS. (a) The
13 district may issue bonds or other obligations payable wholly or
14 partly from ad valorem taxes, assessments, impact fees, revenue,
15 grants, or other money of the district, or any combination of those
16 sources of money, to pay for any authorized purpose of the district.

17 (b) In exercising the district's borrowing power, the
18 district may issue a bond or other obligation in the form of a bond,
19 note, certificate of participation, or other instrument evidencing
20 a proportionate interest in payments to be made by the district, or
21 other type of obligation.

22 Sec. 3866.158. APPROVAL OF CERTAIN IMPROVEMENT PROJECTS.
23 The district must obtain the approval of the governing body of the
24 City of Kennedale for:

- 25 (1) the issuance of bonds for an improvement project;
26 (2) the plans and specifications of an improvement
27 project financed by the bonds; and

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

5 [Sections 3866.159-3866.200 reserved for expansion]

6 SUBCHAPTER E. DISSOLUTION

7 Sec. 3866.201. DISSOLUTION. (a) The district may be
8 dissolved by:

9 (1) the governing body of the City of Kennedale on a
10 vote of not less than two-thirds of its membership and adoption of
11 an ordinance dissolving the district; or

12 (2) majority vote of the board of directors.

13 (b) Section 375.264, Local Government Code, does not apply
14 to the district.

15 (c) If the district has debt when it is dissolved, the
16 district shall remain in existence solely for the purpose of
17 discharging its debts. The dissolution is effective when all debts
18 have been discharged.

19 SECTION 2. The legislature finds that:

20 (1) proper and legal notice of the intention to
21 introduce this Act, setting forth the general substance of this
22 Act, has been published as provided by law, and the notice and a
23 copy of this Act have been furnished to all persons, agencies,
24 officials, or entities to which they are required to be furnished by
25 the constitution and laws of this state, including the governor,
26 who has submitted the notice and Act to the Texas Commission on
27 Environmental Quality;

1 (2) the Texas Commission on Environmental Quality has
2 filed its recommendations relating to this Act with the governor,
3 lieutenant governor, and speaker of the house of representatives
4 within the required time;

5 (3) the general law relating to consent by political
6 subdivisions to the creation of districts with conservation,
7 reclamation, and road powers and the inclusion of land in those
8 districts has been complied with; and

9 (4) all requirements of the constitution and laws of
10 this state and the rules and procedures of the legislature with
11 respect to the notice, introduction, and passage of this Act have
12 been fulfilled and accomplished.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2009.