

BILL ANALYSIS

C.S.H.B. 863
By: Christian
Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Timber Springs is a lifelong learning focused retirement community in East Texas. Located in Nacogdoches, a popular destination for retirees, Timber Springs has the potential to become a hotbed for retirees in the years to come. Almost immediately, the community will create approximately 70 jobs with an annual payroll of more than \$2 million. Over the next 20 years, the community anticipates generating more than \$1 million in sales and personal property tax revenue.

C.S.H.B. 863 seeks to create the Timber Springs Municipal Management District to foster growth and development in Timber Springs. Among other provisions, the bill gives the district the authority to impose a tax, levy an assessment, and issue bonds.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 863 amends the Special District Local Laws Code to create the Timber Springs Municipal Management District and to establish the nature and purpose of the district. The bill provides for the district territory and certain mistakes made in its description. The bill makes all or part of the district eligible for inclusion in a tax increment reinvestment zone, tax abatement reinvestment zone, or enterprise zone created by the municipality in which the district is located.

C.S.H.B. 863 provides for the district's governance by a board of five elected directors and sets out the length of terms and eligibility criteria for the directors. The bill includes provisions relating to the election date, filling of vacancies, a director's oath or affirmation, officers, and the compensation of directors. The bill adds a temporary provision, set to expire September 1, 2014, to provide for the appointment and terms of the initial directors.

C.S.H.B. 863 grants the district the powers and duties of a conservation and reclamation district, road district, road utility district, public improvement district, and municipal management district. The bill authorizes the district to adopt rules to administer or operate the district; for the use, enjoyment, availability, protection, security, and maintenance of the district's property and facilities; or to provide for public safety and security in the district. The bill authorizes the district's board of directors to add or remove territory in the district if the action is approved by the governing body of the municipality in which the district is located and by the owners of the property being added or removed. The bill authorizes the district to create economic development programs, provide economic development grants, and exercise the economic development powers that state law governing obligations for other municipal purposes grants to municipalities.

C.S.H.B. 863 prohibits the district from exercising the power of eminent domain.

C.S.H.B. 863 authorizes the district to provide, or enter into contracts with a governmental or private entity to provide, certain improvement projects or activities in support or incidental to those projects. The bill prohibits the district from undertaking an improvement project unless the board determines the project to be necessary to accomplish a public purpose of the district. The bill authorizes an improvement project to be inside or outside of the district and requires a project to comply with any applicable municipal requirements, including codes and ordinances and municipal consent for certain projects. The bill includes provisions relating to an improvement project in connection with a lake, water, roads, storm water, parking facility or heliport, education and culture, convention center, demolition, mitigation of environmental effects, acquisition of property, special or supplemental services, and miscellaneous design, construction, and maintenance.

C.S.H.B. 863 authorizes the district to contract with any person to accomplish any district purpose and includes provisions relating to contract terms, reimbursement of costs, and contracts for improvement projects.

C.S.H.B. 863 requires the district to negotiate a project development agreement with each municipality in which the district is located before issuing bonds, imposing taxes, or borrowing money. The bill authorizes the district to impose a property tax or an assessment, user fee, concession fee, or rental charge, or use any other revenue, including bond proceeds, to meet the district's contractual obligations or indebtedness. The bill authorizes the district to impose an assessment on property in the district to pay the cost or the cost of maintenance of any authorized district improvement and authorizes the district to impose an impact fee on residential or commercial property for certain limited purposes, including public water and wastewater facilities. The bill makes the exemption from an impact fee, tax, or assessment for certain residential property under the municipal management district law inapplicable to the district. The bill authorizes the district to establish user charges related to storm water facilities and the use of nonpotable water for irrigation purposes. The bill specifies that the nonpotable water user charges are subject to approval of the governing body of the municipality in which the user is located.

C.S.H.B. 863 authorizes the district to impose a property tax on all taxable property in the district to pay for an authorized improvement project or to secure the payment of bonds issued for such a project. The bill authorizes the district to impose a maintenance and operations tax if the tax is approved by a majority of the district voters at an election held for that purpose. The bill authorizes the district, by competitive bid or negotiated sale, to issue bonds or other obligations payable wholly or partly from property taxes, future bond proceeds, or assessments. The bill prohibits bonds or other obligations that are secured by and payable from property taxes from being issued unless the bonds and the imposition of the taxes are approved by a majority of the district voters at an election held for that purpose.

C.S.H.B. 863 provides for dissolution of the district by ordinance of the largest municipality in which the district is located if the district's outstanding indebtedness or contractual obligations payable from property taxes has been repaid and the project development agreements with the municipality have been fulfilled. The bill requires the board, if the municipality dissolves the district, to transfer ownership of all district property to the municipality in which the property is located, or, if the property is not located in a municipality, to the county in which the property is located. The bill describes the territory that composes the district. The bill defines "board," "director," "district," "improvement project," and "note."

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 863 omits provisions included in the original defining "city" and "county."

C.S.H.B. 863 omits a provision included in the original establishing that the Timber Springs Municipal Management District's activities are not subject to the jurisdiction or supervision of the Texas Commission on Environmental Quality (TCEQ).

C.S.H.B. 863 differs from the original by requiring the largest municipality in which the district is located, if there are fewer than three directors serving on the five-member board of directors, to appoint the number of directors to fill all vacancies on the district's board of directors, whereas the original requires the City of Nacogdoches to make such appointments.

C.S.H.B. 863 contains a provision not included in the original specifying the names of the initial directors of the district's board.

C.S.H.B. 863 omits a provision included in the original granting the city the powers granted to TCEQ under statutory provisions relating to municipal management districts.

C.S.H.B. 863 differs from the original by requiring the district's board to give notice of a change in the district's name to each municipality in which the district is located, rather than to the city, as in the original.

C.S.H.B. 863 differs from the original by requiring the addition or removal of territory to or from the district to be approved by the governing body of the municipality in which the territory is located, rather than by the city, as in the original.

C.S.H.B. 863 omits provisions included in the original relating to additional city powers regarding improvement projects.

C.S.H.B. 863 omits a provision included in the original prohibiting the district and Nacogdoches County from entering into a contract unless the governing body of the city approves the contract.

C.S.H.B. 863 differs from the original by requiring the district and each municipality in which the district is located, rather than the district and the city, as in the original, to negotiate and execute a project development agreement regarding the development plan and certain rules before the district may issue bonds, impose taxes, or borrow money.

C.S.H.B. 863 authorizes the district to use revenue received under an agreement with a municipality, rather than revenue authorized by the city, as in the original, to provide or secure certain payments, costs, and expenses.

C.S.H.B. 863 omits a provision included in the original authorizing the district to impose an impact fee on property in the district in a certain manner for a public improvement district.

C.S.H.B. 863 specifies that the nonpotable water user charges are subject to approval of the governing body of the municipality in which the user is located, rather than approval by the governing body of the city, as in the original.

C.S.H.B. 863 omits a provision included in the original exempting the district's bonds and other securities from the jurisdiction or supervision of TCEQ.

C.S.H.B. 863 differs from the original by authorizing the largest municipality in which the district is located to dissolve the district by ordinance, whereas the original authorizes the city by ordinance to dissolve the district.

C.S.H.B. 863 differs from the original by requiring the municipality in which a project that

generated revenue is located, if the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, to succeed to the rights and obligations of the district, whereas the original requires the city to succeed to those rights and obligations under such circumstances.

C.S.H.B. 863 differs from the original by requiring the district's board of directors, if the municipality dissolves the district, to transfer ownership of all district property to the municipality or county, as applicable, whereas, the original under such circumstances requires the board to transfer ownership of all district property to the city.

C.S.H.B. 863 differs from the original by changing references to the city or the county in the original to references to the municipality, the municipality in which the district is located, or the county in which the district is located, as applicable, and by making conforming changes to reflect this change.