

BILL ANALYSIS

C.S.H.B. 2232
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Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Houston Ship Channel Security District, a public-private partnership, was created recently to implement a layered, systemwide approach to providing security and safety for the facilities, employees, and communities in the area surrounding the Houston Ship Channel. Since the district's creation, the district's board of directors has identified the need for certain adjustments to make the district run more efficiently and effectively. In response to this need, C.S.H.B. 2232 updates the law relating to the operation, powers, and duties of ship channel security districts.

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. 2232 amends the Water Code to require the commissioners court of a county that created a ship channel security district to appoint as directors for each security zone the one or two nominees as appropriate for the staggering of terms who received the highest number of votes in a vote by the facility owners in each security zone, rather than appoint two directors from a list of two persons nominated by a majority vote of the facility owners. The bill establishes that when a director's term expires, the successor director is appointed in the manner provided by provisions of law for that director position.

C.S.H.B. 2232 requires the district's board of directors to conduct its meetings in Texas, rather than in the district. The bill requires the board to meet at least once per year and authorizes the board to combine its annual meeting, or any other meeting, with a public hearing by the board on the advisability of the security project or security service and the proposed assessments to be imposed by the board against certain facilities. The bill requires the board, except to the extent the board determines that disclosure may jeopardize the safety and security of a facility in the district, to make available to the public at each meeting, the following information: an accounting of all federal and district money received and spent by the district during the preceding year; a summary of all security projects implemented by the district, including a report detailing the effectiveness of the security projects; a description of all pending or planned district security projects; and an estimate of the money that will be received through any proposed assessments and a description of how the money will be spent.

C.S.H.B. 2232 requires the commissioners court to provide a quarterly financial report to the board that complies with generally accepted accounting principles and lists all federal money received by the county and all outstanding obligations by the county to fund the district and its functions. The bill requires the board to prepare a quarterly accounting of the district's general operating and maintenance costs that complies with generally accepted accounting principles.

C.S.H.B. 2232 authorizes a district's board of directors to impose one or more assessments against one or more facilities for any district purpose, including for general district purposes or

for a specific security project or security service, rather than impose an assessment against facilities for any district purpose. The bill prohibits the board from imposing the assessment until the board holds the required hearing.

C.S.H.B. 2232, in provisions requiring a district to provide notice of a hearing relating to proposed assessments by certified mail, return receipt requested, to each facility owner, authorizes the district, if the appraisal records do not accurately reflect a facility owner's current address or do not show the physical location of a particular facility, to use the facility's physical location as reflected by any other information available as an alternative to using the current address of each facility according to the appraisal record maintained by the appraisal district for that facility.

C.S.H.B. 2232 requires a facility, after the board specifies the method of payment of assessments, to pay assessments in one lump sum on the date designated by the board. The bill makes a nonsubstantive change in a statutory provision authorizing the board to allow the assessments to be paid in periodic installments. The bill makes statutory provisions relating to liens for assessments relate to liens against the facility assessed, rather than the property assessed, and makes statutory provisions relating to a failure to pay an assessment as amended by the bill applicable to a property interest that is a certain type of district facility, including an improvement or fixture and an owned or leased property interest.

C.S.H.B. 2232 authorizes a district's board of directors to petition the commissioners court of the county that created the district to add to the district territory that contains a facility in the county if the board finds that a security project or security service in the district benefits or will benefit the facility. The bill requires the petition to recommend a security zone in which the facility to be added should be included and to describe the territory to be added, the facilities in the territory to be added, and the total territory of the district after the addition of the territory. The bill authorizes the board to recommend modifying one or more security zones as necessary to add the facility. The bill authorizes the board of a district that has four security zones to also recommend adding a fifth security zone as necessary to add the new facility. The bill requires the recommendation to also note whether the security zone of any facilities will change if the petition is granted. The bill requires the petition, if any part of the assessment imposed by the board is allocable to the facility to be added, to describe the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility. The bill requires the commissioners court to publish notice and conduct a hearing on the petition and authorizes the commissioners court to grant the petition if the commissioners court determines that a security project or security service in the district benefits or will benefit the facility.

C.S.H.B. 2232 describes a process by which territory may be added to a ship channel security district on the initiative of the district's board of directors or a facility owner. The bill requires a commissioners court that adds territory to a district to modify the order that created the district to achieve certain purposes. The bill describes a process by which territory and facilities may be excluded from a district by the district's board of directors. The bill makes nonsubstantive and conforming changes.

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. 2232 omits a provision included in the original defining "facility." The substitute differs from the original by requiring the commissioners court of a county that created a ship channel security district to appoint as directors for each security zone the one or two nominees as appropriate for the staggering of terms who received the highest number of votes in a vote by the facility owners in each security zone, rather than the two nominees who received the highest

number of votes in a vote by the facility owners, as in the original.

C.S.H.B. 2232 contains provisions not included in the original requiring the district's board of directors to meet at least once per year; authorizing the board to combine its annual meeting, or any other meeting, with a public hearing by the board on the advisability of the security project or security service and certain proposed assessments; and requiring the board to make certain information available to the public at each meeting.

C.S.H.B. 2232 contains provisions not included in the original requiring the commissioners court to provide a quarterly financial report to the board that complies with generally accepted accounting principles and lists certain information and requiring the board to prepare a quarterly accounting of the district's general operating and maintenance costs that complies with generally accepted accounting principles.

C.S.H.B. 2232 differs from the original by prohibiting the board from imposing an assessment against one or more facilities until the board holds the required hearing, whereas the original authorizes the board to impose assessments against all facilities or against a specific facility or group of facilities.

C.S.H.B. 2232 contains a provision not included in the original authorizing the district, as it relates to providing notice of a certain hearing and if appraisal records do not show the physical location of a particular facility, to use the facility's physical location as reflected by any other information available as an alternative to using the current address of each facility.

C.S.H.B. 2232 contains a provision not included in the original making statutory provisions relating to a failure to pay an assessment and liens for assessments applicable to a property interest that is a certain type of district facility.

C.S.H.B. 2232 omits provisions included in the original establishing that an assessment imposed by the board is a continuing and direct obligation of the owner of the facility on which the assessment is imposed and establishing that the obligation to pay an assessment is not affected by a change in certain conditions relating to the facility.

C.S.H.B. 2232 contains provisions not included in the original requiring a petition on the initiative of the board or a facility owner to add territory to a district to describe the territory to be added, the facilities in the territory to be added, and the total territory of the district after the addition of the territory. The substitute differs from the original by authorizing the board to recommend modifying one or more security zones, rather than a security zone, as in the original, as necessary to add the facility. The substitute differs from the original by requiring the petition, if any part of an assessment imposed by the board is allocable to the facility to be added, to describe the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility, whereas the original requires the petition, given the same condition, to describe the portion, amount, and terms of the assessment.

C.S.H.B. 2232 differs from the original by specifying that a petition on the initiative of a facility owner to add territory request that the board petition the commissioners court to add territory and, if the board grants the petition, by requiring the board to petition the commissioners court, whereas the original authorizes the owner to petition the board to add to territory to the district and, if the board grants the petition, requires the board to forward the petition to the commissioners court. The substitute differs from the original by authorizing the commissioners court to grant the petition on the initiative of the owner of a facility, whereas the original requires the commissioners court to grant the petition.

C.S.H.B. 2232 differs from the original by authorizing the board, on the request of a facility in the district or on its own motion, to petition the commissioners court of the county that created a district to exclude territory and included facilities from the district, whereas the original

authorizes the board without request to petition the commissioners court of the county that created the district to exclude territory from the district that contains a facility. The substitute differs from the original by requiring such a petition to include a finding by the board that excluding the territory is practical, just, and reasonable, rather than practical, just, and desirable, as in the original, and contains provisions not included in the original requiring that the petition include a description of the territory to be excluded and a description of the total territory of the district after the exclusion of the territory.

C.S.H.B. 2232 differs from the original by authorizing the petition to include recommendations to modify one or more security zones or eliminate a security zone, whereas the original authorizes the petition to include recommendations to modify or eliminate a security zone, including whether to change the location of any facilities that will remain in the district. The substitute differs from the original by authorizing the commissioners court to grant the petition if it finds that exclusion of the territory that contains the facility is practical, just, and reasonable, rather than practical, just, and desirable, as in the original. The substitute differs from the original in nonsubstantive ways.