

BILL ANALYSIS

C.S.H.B. 3832
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Continuing development and growth in Central Texas, including Hays County, has created the need for large-scale, permanent improvements such as water supply and distribution facilities, wastewater collection and treatment facilities, drainage and flood control projects, and major thoroughfare improvements. Certain constitutional provisions provide for the creation of local governmental districts that are authorized to incur indebtedness to provide such permanent improvements and to levy taxes for the maintenance and operation of the improvements and for the repayment of related indebtedness.

The Hays County Development District No. 1 was created several years ago by the Hays County Commissioners Court and later confirmed by the legislature. The district includes over 500 acres in Hays County. C.S.H.B. 3832 seeks to establish provisions relating to the district in order to, among other things, clarify certain project authority and powers of the district.

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. 3832 amends Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, to establish that the legislature finds that certain improvement projects the Hays County Development District No. 1 is authorized to provide, or to contract with a governmental or private entity to provide, as provided by the bill, will serve the public purpose of attracting visitors and tourists to Hays County and will result in employment and economic activity in the manner contemplated by constitutional provisions relating to a loan or grant of public money for economic development and the County Development District Act. The bill establishes that the legislature finds that the operation, in addition to the creation, of the district and the acquisition or financing of such an improvement project, in addition to the project approved by the Hays County Commissioners Court on January 11, 2000, serve the purpose of constitutional provisions relating to the conservation and development of natural resources and parks and recreational facilities and conservation and reclamation districts, and constitutional provisions relating to counties, cities, or other political corporations or subdivisions and the lending of credit, grants, and bonds. The bill establishes that the legislature finds that the creation and continued operation of the district is essential to accomplish the purposes of the aforementioned constitutional provisions and other public purposes.

C.S.H.B. 3832 establishes that the district has all of the rights, powers, privileges, authority, functions, and duties provided to municipal utility districts by Water Code provisions applicable to all water districts and provisions relating to municipal utility districts, in addition to all of the rights, powers, privileges, authority, functions, and duties provided by Local Government Code provisions relating to county development districts and municipal management districts.

C.S.H.B. 3832, in a provision establishing that the district's rights, powers, privileges, authority, functions, and duties include the utilization of funds, includes funds derived from assessments and provides for the utilization of funds for payment of projects or services in the manner authorized by provisions relating to municipal utility districts, in addition to other statutory provisions. The bill, in a provision establishing that the district's rights, powers, privileges, authority, functions, and duties include entering into obligations, requires the district to obtain the approval of the attorney general, in addition to those approvals required for the issuance of obligations by Hays County by Chapter 53, Acts of the 70th Legislature, Second Called Session, 1987. The bill establishes that the district's rights, powers, privileges, authority, functions, and duties include, among others, the exercise of all of the rights, powers, and authority of a municipal utility district, rather than a water control and improvement district, and removes language limiting such exercise to the exercise of rights, powers, and authority which are not specifically contradicted by the County Development District Act.

C.S.H.B. 3832 establishes that the district's rights, powers, privileges, authority, functions, and duties include, among others, the exercise of all of the rights, powers, and authority granted to a municipal utility district by provisions of law applicable to all water districts and provisions of law relating to municipal utility districts, which are not contrary to provisions relating to creation and operation of the district, to finance, construct, or otherwise acquire certain improvement projects in addition to a certain approved project or any element of such project, including, but not limited to, among others, a residential area of a development, a trail or related feature, and a commercial activity or endeavor.

C.S.H.B. 3832 authorizes the district to provide, or to contract with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects: the project approved by the Hays County Commissioners Court on January 11, 2000, wholly or partly, or a public improvement, facility, or service provided by a municipal utility district or municipal management district.

C.S.H.B. 3832 requires a certain authorized ballot applicable to a fresh water supply district, if the district adopts the powers of a road district, to reference the "Hays County Development District No. 1." The bill requires a road project to meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located. The bill requires a road project, if the project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, to meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located. The bill requires the Texas Transportation Commission, if the state will maintain and operate the road, to approve the plans and specifications of the road project.

C.S.H.B. 3832, except as otherwise provided by provisions relating to the creation and operation of the district, as amended by the bill, authorizes the rights, powers, and authority of a road district, county development district, municipal management district, or municipal utility district granted by such provisions to be exercised only in the manner provided by applicable Local Government Code provisions to a municipal management district, the County Development District Act to a county development district, and certain Water Code provisions to a municipal utility district, including review and approval by the Texas Commission on Environmental Quality for water and wastewater improvements. The bill prohibits the district from exercising the power of eminent domain outside the district and in the corporate limits or extraterritorial jurisdiction of a municipality unless the governing body of the municipality consents by ordinance or resolution.

C.S.H.B. 3832 establishes that the legislature finds that the district may provide landscaping and road services to residential retail or commercial customers in the district, in addition to water and sewer, drainage, and reclamation services. The bill, in a provision establishing that the district is a district governed by a board of directors appointed in whole or in part by the governor, a state

agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, sewer, drainage, reclamation, or flood control services to residential retail or commercial customers as its principal function, provides that the district is such a district except for purposes of Water Code provisions applicable to all water districts relating to the disqualification of directors.

C.S.H.B. 3832 makes provisions of law relating to the addition of land in the extraterritorial jurisdiction of a municipality to certain political subdivisions applicable to the district's annexation of property in the extraterritorial jurisdiction of a municipality.

C.S.H.B. 3832 establishes that the legislature confirms and validates all actions of the district that were taken before May 1, 2011, including any elections conducted by the district, including any election to impose maintenance and operation taxes or to adopt the powers of a road district.

C.S.H.B. 3832 makes conforming and nonsubstantive 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. 3832 omits a provision included in the original establishing that the legislature finds that the creation and operation of the district and the works, projects, improvements, and services that are to be promoted, facilitated, and accomplished by the district under powers conferred by certain constitutional provisions and certain other granted powers will provide a substantial and continuing public use and benefit and removing statutory language establishing that the legislature finds that the creation of the Hay County Development District No. 1 and the acquisition or financing of a certain project by the district serve the purpose of certain constitutional provisions and that all steps necessary to create the district have been taken. The substitute contains a provision not included in the original retaining that statutory language removed by the original and establishing that the legislature finds that the operation, in addition to the creation, of the district and the acquisition or financing of certain improvement projects, in addition to a certain specified project, by the district serve the purpose of certain constitutional provisions.

C.S.H.B. 3832 differs from the original, in a provision establishing the rights, powers, privileges, authority, functions, and duties of the district, by establishing that the district has the rights, powers, privileges, authority, functions, and duties provided by certain Water Code provisions to municipal utility districts, whereas the original establishes that the district has the rights, powers, privileges, authority, functions, and duties provided by the general laws relating to conservation and reclamation districts created under certain constitutional provisions and including such Water Code provisions.

C.S.H.B. 3832 differs from the original, in a provision establishing that the district's rights, powers, privileges, authority, functions, and duties include the authority to levy, assess, and collect taxes for certain purposes, by retaining statutory language removed in the original making such authority contingent on approval by voters at an election conducted within the boundaries of the district. The substitute contains language not included in the original, in a provision establishing that the district's rights, powers, privileges, authority, functions, and duties include entering into obligations, requiring the district to obtain the approval of the attorney general and making a conforming change.

C.S.H.B. 3832 differs from the original by establishing that the district's rights, powers, privileges, authority, functions, and duties include the exercise of certain rights, powers, and authority to finance, construct, or otherwise acquire a trail or related feature, whereas the original

provides for such finance, construction, or acquisition of a nature trail. The substitute omits a provision included in the original establishing that the district's rights, powers, privileges, authority, functions, and duties include the purchase of a right-of-way.

C.S.H.B. 3832 differs from the original, in a provision authorizing the district to provide, or to contract with a governmental or private entity to provide, certain improvement projects or activities in support of or incidental to such projects, by specifying such projects as the project approved by the Hays County Commissioners Court on January 11, 2000, wholly or partly, or a public improvement, facility, or service provided by a municipal utility district or municipal management district, whereas the original specifies such projects as:

- a supply and distribution facility or system to provide potable and nonpotable water to the residents and businesses of the district, including a wastewater collection facility;
- a paved road or street, inside and outside the district, to the extent authorized by certain constitutional provisions;
- the planning, design, construction, improvement, and maintenance of certain projects;
- protection and improvement of the quality of storm water that flows through the district;
- the planning, design, construction, improvement, maintenance, and operation of a water or sewer facility or an off-street parking facility or heliport;
- the planning and acquisition of public art and sculpture and related exhibits and facilities, or an educational and cultural exhibit or facility;
- the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for certain purposes;
- the removal, razing, demolition, or clearing of land or improvements in connection with an improvement project;
- the acquisition and improvement of land or other property for the mitigation of the environmental effects of an improvement project;
- the acquisition of property or an interest in property in connection with an authorized improvement project;
- a special or supplemental service for the improvement and promotion of the district or an area adjacent to the district or for the protection of public health and safety in or adjacent to the district, including certain specified services; or
- any similar public improvement, facility, or service, including a public improvement, facility, or service normally provided by a municipal utility district or municipal management district.

C.S.H.B. 3832 omits provisions included in the original authorizing the district to contract with any person to accomplish a district purpose and setting out related provisions; authorizing the district to adopt certain rules and to enforce its rules by injunctive relief; establishing that to the extent a district rule conflicts with a rule, order, or ordinance of a municipality, the municipal rule, order, or ordinance controls; setting out provisions relating to the use of a roadway, park, or other public area or facility of the district; and establishing that the district's bonds and other securities are not subject to the jurisdiction or supervision of the Texas Commission on Environmental Quality (TCEQ) and making certain municipal management district bond provisions regarding municipal and TCEQ approval inapplicable to the district.

C.S.H.B. 3832 contains provisions not included in the original requiring, if the district adopts the powers of a road district, a certain ballot applicable to a fresh water supply district to reference the "Hays County Development District No. 1"; setting out applicable road standards and requirements; authorizing the rights, powers, and authority of a road district, county

development district, municipal management district, or municipal utility district granted by provisions relating to the district to be exercised only in certain manners; and prohibiting the district from exercising the power of eminent domain outside the district and in the corporate limits or extraterritorial jurisdiction of a municipality unless the governing body of the municipality consents by ordinance or resolution.

C.S.H.B. 3832 omits a provision included in the original requiring the district to operate administratively as a municipal utility district and, subject to provisions relating to the district, to comply with administrative and election provisions applicable to all water districts and with administrative provisions relating to municipal utility districts. The substitute omits a provision included in the original requiring each director who takes office after the effective date of the Act of the 82nd Legislature, Regular Session, 2011, amending administrative provisions relating to the district to own land in the district or be a qualified voter in the district.

C.S.H.B. 3832 omits a provision included in the original establishing that the legislature finds that the district may provide water and sewer, landscaping, drainage, and reclamation services to entertainment venues. The substitute contains a provision not included in the original establishing that the legislature finds that the district may provide road services, in addition to other specified services, to residential retail or commercial customers in the district.

C.S.H.B. 3832 contains an exception not included in the original, in a provision establishing that the district is a district governed by a board of directors appointed in whole or in part by the governor, a state agency, or the governing body or chief elected official of a municipality or county and does not provide, or propose to provide, water, sewer, drainage reclamation, or flood control services to residential retail or commercial customers as its principal function, providing that the district is such a district except for purposes of Water Code provisions applicable to all water districts relating to the disqualification of directors.

C.S.H.B. 3832 omits a provision included in the original repealing a certain provision of law.

C.S.H.B. 3832 omits a provision included in the original establishing that an election to confirm a person who is a member of the board of directors of the district as of May 1, 2011, is not required.

C.S.H.B. 3832 contains a provision not included in the original making provisions of law relating to the addition of land in the extraterritorial jurisdiction of a municipality to certain political subdivisions applicable to the district's annexation of property in the extraterritorial jurisdiction of a municipality.

C.S.H.B. 3832 differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions.