

## **BILL ANALYSIS**

H.B. 3859  
By: Laubenberg  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties contend that there is a need to provide improvement projects and services that confer a special benefit on certain property in the City of Heath in Kaufman and Rockwall Counties and to pay for such projects and services by levying special assessments. H.B. 3859 seeks to address this issue by establishing provisions relating to the creation of the Club Municipal Management District No. 1 and providing authority to 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**

H.B. 3859 amends the Special District Local Laws Code to create the Club Municipal Management District No. 1 and establish the nature of the district. The bill establishes the primary purpose of the district as facilitating the construction and continued maintenance of a quality mixed-use residential and commercial development to benefit residents of the City of Heath. The bill establishes additional purposes, legislative findings, findings of benefit and public purpose, and the initial district territory, including provisions for the effect of certain mistakes in the description of the boundaries. The bill makes all or part of the district eligible for inclusion in a tax increment reinvestment zone, tax abatement reinvestment zone, enterprise zone, or industrial district, and provides for the event that the city creates a tax increment reinvestment zone. The bill makes statutory provisions relating to municipal management districts in general applicable to the district, except as otherwise provided, and establishes that the district is created to accomplish the purposes of a municipal management district. The bill requires its provisions to be liberally construed in conformity with the findings and purposes stated in its provisions.

H.B. 3859 provides for the district's governance by a board of five directors and sets out provisions relating to the length of terms, qualifications, and appointment of directors. The bill provides for the appointment of up to three ex officio nonvoting directors, and sets out provisions relating to a board vacancy and director compensation and expense reimbursement. The bill adds a temporary provision, set to expire September 1, 2015, to provide for the appointment and terms of initial directors.

H.B. 3859 establishes that the district has the powers and duties necessary to accomplish the purposes for which it is created and authorizes the district to provide, or to enter into contracts with a governmental or private entity to provide certain improvement projects or activities in support of or incidental to those projects. The bill grants the district the powers of a Type B development corporation, if approved by the governing body of the city, and the powers of a conservation and reclamation district, road district, road utility district, and public improvement district. The bill authorizes the district to contract with a governmental or private entity to carry

out an authorized power or duty or to accomplish a purpose for which the district is created.

H.B. 3859 authorizes the district to make an agreement with or accept a gift, grant, or loan from any person, and establishes that the implementation of a project is a governmental function or service for the purposes of the Interlocal Cooperation Act. The bill authorizes the city to enter into an agreement with each person who owns land in the district at the time the agreement is executed that relates to any aspect of the development of property in or outside the district, and provides for a district capital improvement plan. The bill authorizes the district to join and pay dues to a charitable or nonprofit organization to further a district purpose. The bill authorizes the district to acquire, lease, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities and sets out related provisions.

H.B. 3859 provides for the addition and removal of district territory, requiring the addition or removal of territory to be approved by three-fourths of all the members of the governing body of the city and prohibiting territory from being removed from the district if bonds or other obligations of the district payable wholly or partly from assessments levied or assessed on the territory are outstanding.

H.B. 3859 prohibits the district from exercising the power of eminent domain.

H.B. 3859 authorizes the district to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance, or contract with a governmental or private entity for, an authorized improvement project or service. The bill sets out related provisions regarding a required board determination; required city approval; required development agreement, capital improvement plan, and financial plan; location of an improvement project or service; and city requirements.

H.B. 3859 authorizes the district to undertake an improvement project or service that confers a special benefit on a definable area in the district and to impose a special assessment on benefited property in the district in accordance with certain Local Government Code provisions. The bill establishes that a contract to design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project is considered a contract for a good or service under Local Government Code provisions relating to the adjudication of claims arising under written contracts with local governmental entities. The bill, unless the district and the city agree otherwise, authorizes the city by ordinance, order, or resolution to require that title to all or any portion of an improvement project vest in the city, or to authorize the district to own, encumber, maintain, or operate an improvement project or convey the project to the city at a later date. The bill requires the district to immediately comply with such a city ordinance, order, or resolution.

H.B. 3859 authorizes the district to be divided into two or more new districts only if the district has no outstanding bonded debt and three-fourths of all members of the governing body of the city approve of each division, and sets out provisions relating to law applicable to a new district, division procedures, notice and recording of an order dividing the district, and contract authority of new districts.

H.B. 3859 sets out general financial provisions relating to disbursements and transfers of district money and money used for improvements or services. The bill authorizes the district to borrow money for a district purpose without holding an election by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract or other agreement payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under the Tax Increment Financing Act or the Property Redevelopment and Tax Abatement Act, other district revenue, or a combination of these sources. The bill authorizes such an obligation to bear interest at a rate determined by the board and to include a term or condition as determined by the board.

H.B. 3859, before the district borrows money or issues an obligation, requires the district to submit and the governing body of the city to approve a capital improvement plan, a financial

plan, and a development agreement that describe the method of borrowing the money or issuing that type of obligation and using the proceeds that result from borrowing the money or issuing the obligation. The bill requires the district, before the district issues an obligation described in the capital improvement plan, financial plan, and development agreement, to provide the governing body of the city with the information required to make an informed decision relating to the obligation, and to obtain approval from the governing body of the city for the obligation. The bill requires the district, after the district incurs an obligation and until all obligations of the district are paid in full or otherwise satisfied, to submit a quarterly financial report to the city and sets out reporting requirements.

H.B. 3859 authorizes the district to impose an assessment on property in the district to pay for an obligation in the manner provided for a municipal management district, or a municipality or county under the Public Improvement District Assessment Act, and sets out provisions relating to notice of assessments. The bill prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects from exceeding one-fourth of the assessed value of the real property in the district at the time of issuance. The bill establishes that the city is not obligated to pay bonds, notes, or any other obligation of the district, including bonds or debt payable from assessments or other district revenue, unless the city assumes the district's obligations by a vote of three-fourths of the governing body of the city. The bill authorizes the district to designate reinvestment zones and to grant abatements of a tax or assessment on property in the zones. The bill makes a municipal management district exemption for single-family detached residential property, duplexes, triplexes, and quadraplexes inapplicable to the district. The bill prohibits the district from imposing an impact fee or a tax, including a sales tax and a property tax.

H.B. 3859 establishes that the district dissolves and the bill's provisions expire on September 1, 2018, if the district does not have outstanding debt or other obligations and a developer does not begin, on or before September 1, 2018, to construct a road or other improvement project in the district that is to be financed with district bonds or other obligations in accordance with a capital improvement plan or financial plan approved by the city. The bill authorizes the city to dissolve the district by ordinance, but prohibits the city from dissolving the district until the district's outstanding debt or contractual obligations have been repaid or discharged, or until the city agrees to succeed to the rights and obligations of the district. The bill sets out provisions providing for the collection of assessments and other revenue by the city, and the assumption of assets and liabilities.

H.B. 3859 sets out in detail the initial boundaries of the district. The bill defines "board," "capital improvement plan," "city," "development agreement," "director," "district," "financial plan," "improvement project," and "homeowner."

#### **EFFECTIVE DATE**

September 1, 2011.