

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1104
By: Jackson
Transportation & Homeland Security
4/25/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the 80th Legislature, H.B. 3011 created the nation's first ship channel security district (district). The district is a cooperative effort between public and private entities to ensure the security of the Houston Ship Channel and the numerous petrochemical and manufacturing facilities located in the district.

Through assessments, the county and facilities within the district have been able to implement and maintain a robust security infrastructure protecting the assets found along the Houston Ship Channel.

C.S.S.B. 1104 amends current law relating to the operation, powers, and duties of ship channel districts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 68.051(c), Water Code, to authorize the commissioners court that created the ship channel security district (district), after the district is created, to, by order, provide for this chapter to apply to any other type of facility that the district by petition requests the court to add, except as provided by Subsection (d) (relating to facilities to which this chapter does not apply). Makes a nonsubstantive change.

SECTION 2. Amends Sections 68.152(a) and (b), Water Code, as follows:

(a) Requires the commissioners court of the county 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. Requires each person nominated as a director to be employed by a facility owner at a facility in the zone. Deletes existing text requiring the commissioners court of the county to appoint two directors for each security zone from a list of two persons nominated by a majority vote of the facility owners in each security zone. Makes a nonsubstantive change.

(b) Requires the commissioners court, after reviewing the list of persons nominated to be directors, to approve or disapprove the nominations for each security zone.

SECTION 3. Amends Section 68.156, Water Code, by adding Subsection (c), to provide that when a director's term expires, the successor director is appointed in the manner provided by this subchapter for that director position.

SECTION 4. Amends Section 68.161, Water Code, as follows:

Sec. 68.161. MEETINGS. (a) Requires the board of directors of a district (board) to determine the frequency of its meetings and authorizes the board to hold meetings at any time the board determines, except as provided by Subsection (c).

(b) Requires the board to conduct its meetings in this state, rather than in the district.

(c) Requires the board to meet at least once per year in addition to conducting hearings as necessary under Section 68.302 (Proposed Assessments).

(d) Authorizes the board to combine its annual meeting, or any other meeting, with a hearing held under Section 68.302.

(e) Requires the board, at each annual meeting and at each hearing required by Section 68.302, to make available to the public the following, except to the extent the board determines that disclosure may jeopardize the safety and security of a facility in the district:

(1) an accounting of all federal and district money received and spent by the district during the preceding year;

(2) a summary of all security projects implemented by the district, including a report detailing the effectiveness of the security projects;

(3) a description of all pending or planned district security projects; and

(4) an estimate of the money that will be received through any proposed assessments and a description of how the money will be spent.

SECTION 5. Amends Subchapter F, Chapter 68, Water Code, by adding Sections 68.255 and 68.256, as follows:

Sec. 68.255. QUARTERLY FINANCIAL REPORT BY COMMISSIONERS COURT. Requires the commissioners court to provide a quarterly financial report to the board. Requires that the report comply with generally accepted accounting principles and list all federal money received by the county and all outstanding obligations by the county to fund the district and its functions.

Sec. 68.256. QUARTERLY GENERAL ACCOUNTING BY BOARD. Requires the board to prepare a quarterly accounting of the district's general operating and maintenance costs. Requires that the accounting comply with generally accepted accounting principles.

SECTION 6. Amends Section 68.301, Water Code, as follows:

Sec. 68.301. New heading: AUTHORITY TO IMPOSE ASSESSMENT; HEARING REQUIRED. (a) Creates this subsection from existing text. Authorizes the board to impose one or more assessments, rather than an assessment, against one or more facilities for any district purpose, including for general district purposes or for a specific security project or security service.

(b) Prohibits the board from imposing the assessment until the board holds the hearing required by this subchapter.

SECTION 7. Amends Section 68.303(a), Water Code, as follows:

(a) Requires the district, not later than the 30th day before the date of the hearing, to provide notice of the hearing by certified mail, return receipt requested, to each facility owner:

(1) at the current address of each facility according to the appraisal record maintained by the appraisal district for that facility under Section 25.02 (Form and Content), Tax Code; or

(2) if the appraisal records do not accurately reflect that address or do not show the physical location of a particular facility, at the facility's physical location as reflected by any other information available.

Makes nonsubstantive changes.

SECTION 8. Amends Section 68.307(c), Water Code, as follows:

(c) Requires the board, after all objections have been heard and action has been taken with regard to those objections, to by resolution impose the assessments on the facilities and to specify the method of payment of the assessments. Requires a facility to pay assessments in one lump sum on the date designated by the board, unless the board allows the assessments to be paid in periodic installments. Deletes existing text authorizing the board, after all objections have been heard and action has been taken with regard to those objections, to provide that those assessments be paid in periodic installments under Subsection (d) (relating to requiring that periodic installments be in amounts sufficient to meet annual costs for security projects or security services provided by this chapter and continue for the number of years required to pay for the security projects and security services to be rendered).

SECTION 9. Amends Section 68.313, Water Code, by amending Subsection (b) and adding Subsection (d), as follows:

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

(1) are a first and prior lien against the facility assessed, rather than against the property assessed;

(2) Makes no changes to this subdivision; and

(3) are the personal liability of and a charge against the owners of the facility, rather than of the property, even if the owners are not named in the assessment proceedings.

(d) Provides that this section applies to a property interest that is a facility listed in Section 68.051(b) (relating to the types of facilities to which this chapter applies), including:

(1) an improvement or fixture; and

(2) an owned or leased property interest.

SECTION 10. Amends Chapter 68, Water Code, by adding Subchapter I, as follows:

SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

Sec. 68.401. PETITION BY BOARD TO ADD TERRITORY AND FACILITIES. (a) Authorizes a board 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.

(b) Requires that the petition describe:

- (1) the territory to be added;
- (2) the facilities in the territory to be added; and
- (3) the total territory of the district after the addition of the territory.

(c) Requires that the petition recommend a security zone in which the facility to be added should be included. Authorizes the board to recommend modifying one or more security zones as necessary to add the facility. 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. Requires that the recommendation also note whether the security zone of any facilities will change if the petition is granted.

(d) Requires that the petition describe the portion, amount, and payment terms of the portion of the assessment that is allocable to the facility if any part of an assessment imposed by the board is allocable to the facility to be added.

Sec. 68.402. HEARING AND ACTION ON BOARD'S PETITION TO ADD TERRITORY AND FACILITIES. Provides that the commissioners court:

- (1) is required to publish notice and conduct a hearing on the petition under Sections 68.104 (Notice of Hearing; Contents of Notice) and 68.105 (Hearing); and
- (2) is authorized 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.

Sec. 68.403. PETITION BY FACILITY OWNER TO ADD TERRITORY AND FACILITIES. (a) Authorizes the owner of a facility in the county to petition the board of a district requesting that the board petition the commissioners court to add to the district territory that contains the facility in the county. Requires that the petition describe the territory and facility to be added and be signed by each owner of the facility.

(b) Requires the board, if the board grants the petition, to petition the commissioners court to add the territory and make recommendations to the court under Subsection (d).

(c) Requires that the petition the board submits to the commissioners court describe:

- (1) the territory to be added;
- (2) the facilities in the territory to be added; and
- (3) the total territory of the district after the addition of the territory.

(d) Requires the board to recommend the security zone in which the facility to be added should be included. Authorizes the board to recommend modifying one or more security zones as necessary to add the facility. 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. Requires that the recommendation also note whether the security zone of any facilities will change if the petition is granted.

(e) Requires the board to include with the petition it forwards to the commissioners court a description of the portion, amount, and payment terms of

the portion of the assessment that is allocable to the facility if any part of an assessment imposed by the board is allocable to the facility to be added.

Sec. 68.404. ACTION OF FACILITY OWNER'S PETITION TO ADD TERRITORY AND FACILITIES. Authorizes the commissioners court to grant the petition.

Sec. 68.405. MODIFICATION OF ORDER. Requires a commissioners court that adds territory under this subchapter to modify the order that created the district under Section 68.107 (Order Creating District; Changes) to:

- (1) modify the territory;
- (2) add the facility;
- (3) describe any security zones created or modified under this section, including the location of any facilities whose zone has changed;
- (4) identify the security zone in which the added facility is located; and
- (5) describe the portion, amount, and terms of payment of an assessment imposed by the board that is allocable to the facility.

Sec. 68.406. PETITION BY BOARD TO EXCLUDE TERRITORY AND FACILITIES.

(a) Authorizes a 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 the district to exclude territory and included facilities from the district. Requires that the petition include:

- (1) a finding by the board that excluding the territory is practical, just, and reasonable;
- (2) a description of the territory to be excluded; and
- (3) a description of the total territory of the district after the exclusion of the territory.

(b) Authorizes the petition to include recommendations to:

- (1) modify one or more security zones or eliminate a security zone, provided that the district may not have fewer than four security zones; and
- (2) modify assessments that the facility has not paid.

Sec. 68.407. HEARING AND ACTION ON BOARD'S PETITION TO EXCLUDE TERRITORY AND FACILITIES. (a) Provides that the commissioners court:

- (1) is required to publish notice and conduct a hearing on the petition under Sections 68.104 and 68.105; and
- (2) is authorized to grant the petition if the commissioners court finds that exclusion of the territory that contains the facility is practical, just, and reasonable.

(b) Requires a commissioners court that excludes territory under this section to modify the order that created the district under Section 68.107 to:

- (1) modify the territory;
- (2) exclude the facility;

(3) describe any security zones modified or eliminated under this section, including the location of any facilities whose zone has changed; and

(4) modify unpaid assessments, as applicable.

SECTION 11. Makes application of Section 68.152, Water Code, as amended by this Act, prospective.

SECTION 12. Effective date: upon passage or September 1, 2011.