

## **BILL ANALYSIS**

C.S.S.B. 1234  
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Urban Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In its interim report to the 82nd Legislature, the Senate Committee on Intergovernmental Relations reported that although municipal management districts (MMDs) may be created through petition of the Texas Commission on Environmental Quality, MMDs are more commonly created through special law. The committee noted that the authority granted to each MMD is determined by the language contained in the bill that creates it, which varies to a large extent on the purpose for the creation of the district and its location.

The committee concluded that Chapter 375, Local Government Code, otherwise known as the municipal management district statute, is in need of revision and recommended amendments to the statute to better reflect the current use of MMDs, provide greater oversight by the appropriate state agencies, and clarify common administrative procedures. C.S.S.B. 1234 seeks to implement the recommendations of the Senate Committee on Intergovernmental Relations regarding municipal management 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.S.B. 1234 amends the Local Government Code to require the petition requesting creation of a municipal management district to describe the boundaries of the proposed district by verifiable landmarks, including a road, creek, or rail line, as an alternative to describing the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area. The bill requires the petition to include a name of the district, which must be generally descriptive of the location of the district, followed by "management district" or "improvement district," rather than including a name followed by "management district."

C.S.S.B. 1234 specifies that a municipal management district's authority to annex land, subject to the approval of the governing body of the municipality, is provided by Water Code provisions relating to adding land by petition of a landowner in addition to provisions governing municipal utility districts.

C.S.S.B. 1234 requires the board of directors of a district to call a hearing on the exclusion of land or other property from the district if a signed petition evidencing the consent of the owners of a majority of the acreage in the district, according to the most recent certified tax roll of the county, is filed with the secretary of the board requesting the hearing before the issuance of bonds, rather than requiring the board to call the hearing if a landowner or property owner in the district files with the secretary of the board a written petition requesting the hearing before the issuance of bonds.

C.S.S.B. 1234 reduces from nine to five the minimum number of board members governing a

municipal management district.

C.S.S.B. 1234 specifies that one-half of the serving directors, rather than one-half of the directors, constitutes a quorum of a municipal management district.

C.S.S.B. 1234, in provisions relating to the general powers of a municipal management district, removes provisions authorizing a district to contract and manage its affairs and funds for any corporate purpose in accordance with Water Code provisions governing municipal utility districts. The bill removes provisions granting a district those powers conferred by provisions of law relating to road district toll roads and road utility districts. The bill removes provisions granting a district all the rights, powers, privileges, authority, and functions of road districts and road utility districts created under certain provisions of the Texas Constitution, including the power to levy property taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid of such roads.

C.S.S.B. 1234 adds new provisions relating to a district's authority for road projects and authorizes a district to design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to Texas, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads. The bill reestablishes that a district is authorized to impose property taxes to provide for mass transit systems in the manner and subject to the limitations provided by the Texas Constitution.

C.S.S.B. 1234 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 that 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 specifies that the Texas Transportation Commission must approve the plans and specifications of the road project if the state will maintain and operate the road.

C.S.S.B. 1234 authorizes a hearings examiner appointed by the board to conduct a hearing called by the board, including a hearing required by provisions of law relating to financing certain capital improvements, to be a contractor of the district as an alternative to being an employee of the district or a member of the district's board.

C.S.S.B. 1234 specifies that a governmental act or proceeding of a district is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if the third anniversary of the effective date of the act or proceeding has expired and a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary. The bill makes these provisions inapplicable to an act or proceeding that was void at the time it occurred; an act or proceeding that, under a statute of Texas or the United States, was a misdemeanor or felony at the time the act or proceeding occurred; a rule that, at the time it was passed, was preempted by a statute of Texas or the United States, including a Texas statute relating to the regulation of alcoholic beverages; or a matter that on the effective date of these provisions is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court or has been held invalid by a final judgment of a court.

C.S.S.B. 1234, in provisions relating to specific powers relating to assessments, includes theatres, studios, exhibition halls, production facilities, and related ancillary facilities among the improvements, the construction, acquisition, improvement, relocation, operation, maintenance, or provision of which may be included in an improvement project or services provided by a municipal management district.

C.S.S.B. 1234, in a provision prohibiting the board of a district from financing services and improvement projects unless a written petition has been filed with the board requesting those improvements or services, specifies that the petition is signed by, among others, the owners of 50 percent or more of the assessed value of the property in the district subject to assessment, according to the most recent certified county property tax rolls, rather than being signed by the owners of 50 percent or more of assessed value of such property as determined from such rolls. The bill makes a conforming change in provisions relating to a written petition signed by the owners of 50 percent or more of the surface area of the district.

C.S.S.B. 1234, in provisions relating to the terms and conditions of bonds issued by the district, authorizes the proceeds from the sale of bonds to be used, in addition to other purposes, to pay costs associated with the issuance of the bonds, if provided by the bond order or resolution.

C.S.S.B. 1234 specifies that provisions requiring the district to submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination are applicable only to bonds that are public securities, as that term is defined by Government Code provisions relating to the examination and registration of public securities.

C.S.S.B. 1234 requires the board of a district, at the time the district issues bonds payable wholly or partly from property taxes, to provide for the annual imposition of a continuing direct annual property tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Water Code provisions relating to a tax levy for bonds and the establishment of a tax rate in each year.

C.S.S.B. 1234 makes provisions relating to competitive bidding on certain public works contracts relate instead to the applicability of water districts law to competitive bidding on certain contracts. The bill specifies that except as provided by provisions relating to the waiver of the competitive bid requirement, Water Code provisions relating to construction, equipment, materials, and machinery contracts apply to a district contract for construction work, equipment, materials, or machinery. The bill removes provisions relating to the requirement for competitive bids or competitive sealed proposals for certain contracts. The bill makes these provisions applicable only to a contract awarded on or after January 1, 2012, and, for a contract awarded before that date, continues the law in effect on the date the contract was awarded.

C.S.S.B. 1234, in a provision relating to the authority of the governing board of a municipality in which a district is wholly located, rather than located, to adopt an ordinance dissolving the district, removes the exception limiting that authority if a district has any outstanding bonded indebtedness.

C.S.S.B. 1234 makes provisions relating to a limitation in connection with dissolution relate instead to a limitation on dissolution by the board of a district. The bill prohibits a district from being dissolved by its board, rather than by its board or by a municipality, if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

C.S.S.B. 1234 authorizes a district with territory in the extraterritorial jurisdiction of a municipality to negotiate and enter into a written strategic partnership with the municipality under provisions of law relating to strategic partnerships for continuation of certain water control and improvement districts or municipal utility districts.

C.S.S.B. 1234 repeals provisions relating to areas eligible for creation of a municipal management district, creation of a district in a municipality with a population of more than 1.5 million, and the appointment of persons with experience in certain areas to the board of a district.

C.S.S.B. 1234 updates the definition of "commission" and redefines "disadvantaged business." The bill makes conforming and nonsubstantive changes.

C.S.S.B. 1234 repeals the following provisions of the Local Government Code:

- Section 375.021
- Section 375.027
- Section 375.064(f)

**EFFECTIVE DATE**

September 1, 2011.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 1234 contains a provision not included in the original relating to the improvements that an improvement project or services provided by a municipal management district may include.