

BILL ANALYSIS

Senate Research Center
82R16169 NAJ-F

C.S.S.B. 1880
By: Huffman
Intergovernmental Relations
4/28/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1880 amends the powers of the Imperial Redevelopment District (district), which was created by the Texas Legislature in 2005.

The Imperial Sugar Company began its business in the early 1900s at its current site in the City of Sugar Land (city) and is the oldest business in Texas operating at the same location for over 150 years. The Imperial Sugar Company closed the Sugar Land refinery in 2003, and announced its plans to sell the 160-acre former refinery site while retaining the company's corporate offices in the city.

The current landowner has proposed to develop the former Imperial site as a mixed-use development project. The developer has been working with the district and the city for the public infrastructure and economic development projects and services to serve the proposed development.

Currently, the district is authorized to exercise the powers of a management district. C.S.S.B. 1880 updates the district's enabling legislation regarding these powers, by including standardized language consistent with other management districts.

Additionally, C.S.S.B. 1880 authorizes the district to undertake sports and community venue projects. These powers will be used, among other things, to provide necessary services and improvements to serve a new minor league baseball stadium to be constructed by the city.

C.S.S.B. 1880 amends current law relating to the powers and duties of the Imperial Redevelopment District and provides authority to impose a tax and issue bonds.

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 8150.001, Special District Local Laws Code, by adding Subdivision (2-a) to define "county."

SECTION 2. Amends Section 8150.002, Special District Local Laws Code, as follows:

Sec. 8150.002. NATURE OF DISTRICT. Provides that the Imperial Redevelopment District (district) is a municipal utility district in Fort Bend County created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, and is essential to accomplish the purposes of Sections 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds) and 52-a (Loan or Grant of Public Money for Economic Development), Article III (Legislative Department), Section 1-g (Development or Redevelopment of Property; Ad Valorem Tax Relief and Issuance of Bonds and Notes), Article VIII (Taxation and

Revenue), and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. Makes a nonsubstantive change.

SECTION 3. Amends Subchapter A, Chapter 8150, Special District Local Laws Code, by adding Section 8150.0025, as follows:

Sec. 8150.0025. DECLARATION OF INTENT. (a) Provides that by creating the district and in authorizing the City of Sugar Land (city), Fort Bend County (county), and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) Provides that the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve the city or the county from providing services to the area in the district. Provides that the district is created to supplement and not to supplant city and county services provided in the district.

SECTION 4. Amends Section 8150.003, Special District Local Laws Code, as follows:

Sec. 8150.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter. Makes a nonsubstantive change.

(b) Provides that the district is created for the purposes of:

(1) Makes no changes to this subdivision;

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements in aid of those roads, including drainage improvements; and

(3) Makes no changes to this subdivision.

Deletes existing text providing that the district is created for the same purposes as a road utility district created under Section 52, Article III, Texas Constitution, and operating under Chapter 441 (Road Utility Districts), Transportation Code, including the purpose of constructing, acquiring, improving, maintaining, and operating roads and road facilities.

(c) Provides that the district is created to serve a public use and benefit.

(d) Provides that the creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(e) Provides that the district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Provides that pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

SECTION 5. Amends Subchapter A, Chapter 8150, Special District Local Laws Code, by adding Section 8150.0035, as follows:

Sec. 8150.0035. FINDING ON SPORTS AND COMMUNITY VENUES. Provides that a sports and community venue facility is considered to be a park and recreational facility.

SECTION 6. Amends Subchapter C, Chapter 8150, Special District Local Laws Code, by adding Sections 8150.1025, 8150.105, 8150.106, 8150.107, 8150.108, 8150.109, and 8150.110, as follows:

Sec. 8150.1025. MUNICIPAL MANAGEMENT DISTRICT PROJECTS AND SERVICES. Authorizes the district to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement, improvement project, or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement, improvement project, or service authorized under this chapter or Chapter 375 (Municipal Management Districts in General), Local Government Code.

Sec. 8150.105. DEVELOPMENT CORPORATION POWERS. Authorizes the district, using money available to the district, to exercise the powers given to a development corporation under Chapter 505 (Type B Corporations), Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 8150.106. NONPROFIT CORPORATION. (a) Authorizes the board of directors of the district (board) by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) Provides that the nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D (Local Government Corporations), Chapter 431 (Texas Transportation Corporation Act), Transportation Code; and

(2) is authorized to implement any project and provide any service authorized by this chapter.

(c) Requires the board to appoint the board of directors of the nonprofit corporation. Requires the board of directors of the nonprofit corporation to serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 8150.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 8150.108. ECONOMIC DEVELOPMENT. (a) Authorizes the district to engage in activities that accomplish the economic development purposes of the district.

(b) Authorizes the district to establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) Authorizes the district to create economic development programs and exercise the economic development powers that:

- (1) Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code, provides to a municipality; and
- (2) Subchapter A (Bonds for Facilities to Be Sold or Leased to Public or Private Entities), Chapter 1509 (Obligations for Other Municipal Purposes), Government Code, provides to a municipality.

Sec. 8150.109. PARKING FACILITIES. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) Provides that the district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) Provides that the district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) Authorizes the development and operation of the district's parking facilities to be considered an economic development program.

Sec. 8150.110. SPORTS AND COMMUNITY VENUE FACILITIES. (a) Authorizes the district to acquire, sell, lease as lessor or lessee, convey, construct, finance, develop, own, operate, maintain, acquire real property interests for, demolish, or reconstruct a sports and community venue facility.

(b) Provides that a sports and community venue facility authorized under this section includes:

- (1) an arena, coliseum, stadium, or other type of area or facility that is used or is planned for use for one or more professional or amateur sports events, community events, other sports events, promotional events, and other civic or charitable events;

(2) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, performing arts center, museum, aquarium, or plaza that is located in the vicinity of a convention center or facility owned by a municipality or a county; and

(3) a facility related to a sports and community venue facility, including a store, restaurant, on-site hotel, concession, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a sports and community venue, including an area adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation.

SECTION 7. Amends Section 8150.151, Special District Local Laws Code, as follows:

Sec. 8150.151. ROAD PROJECTS. (a) Authorizes the district, as authorized by Section 52, Article III, Texas Constitution, to construct, acquire, improve, maintain, or operate, inside and outside the district, roads and road improvements, rather than roads and road facilities as defined by Chapter 441, Transportation Code.

(b)-(d) Makes conforming changes.

SECTION 8. Amends Section 8150.153, Special District Local Laws Code, to make conforming changes.

SECTION 9. Amends Section 8150.201(a), Special District Local Laws Code, as follows:

(a) Authorizes the district to issue, without an election, bonds and other obligations secured by:

(1) revenue from any source other than ad valorem taxation; or

(2) contract payments described by Section 8150.203.

Makes a nonsubstantive change.

SECTION 10. Amends the heading to Section 8150.202, Special District Local Laws Code, to read as follows:

Sec. 8150.202. OPERATION AND MAINTENANCE TAX.

SECTION 11. Amends Section 8150.202, Special District Local Laws Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes the district, if authorized by a majority of the district voters voting at an election held for that purpose, to impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, for any district purpose, including to:

(1) operate and maintain the district;

(2) construct or acquire improvements; and

(3) provide a service.

Deletes existing text authorizing the district to impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and

operation of the district, including the improvements constructed or acquired by the district if authorized at an election held under Section 8150.201 (Elections Regarding Taxes or Bonds).

(c) Provides that Section 49.107(h) (relating to prohibiting an operation and maintenance tax to be used for recreational facilities from exceeding 10 cents per \$100 of assessed valuation of taxable property in a district in certain counties), Water Code, does not apply to the district.

SECTION 12. Amends Subchapter E, Chapter 8150, Special District Local Laws Code, by adding Sections 8150.203, 8150.204, 8150.205, 8150.206, 8150.207, and 8150.208, as follows:

Sec. 8150.203. CONTRACT TAXES. (a) Authorizes the district, in accordance with Section 49.108 (Contract Elections), Water Code, to impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) Authorizes a contract approved by the district voters to contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 8150.204. MONEY USED FOR IMPROVEMENTS OR SERVICES. Authorizes the district to acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 8150.205. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) Prohibits the board from financing a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) Requires that the petition be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 8150.206. METHOD OF NOTICE FOR HEARING. Authorizes the district to mail the notice required by Section 375.115(c) (relating to notice of hearing), Local Government Code, by certified or first class United States mail. Requires the board to determine the method of notice.

Sec. 8150.207. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment under Subchapter F (Assessments), Chapter 375, Local Government Code, for any purpose authorized by this chapter or Chapter 375, Local Government Code, in all or any part of the district.

(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 property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

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

(c) Provides that the lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. Authorizes the board to enforce the lien in the same manner that the board is authorized to enforce an ad valorem tax lien against real property.

(d) Authorizes the board to make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 8150.208. TAX AND ASSESSMENT ABATEMENTS. Authorizes the district to designate reinvestment zones and to grant abatements of a tax or assessment on property in the zones.

SECTION 13. Amends Section 8150.251, Special District Local Laws Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(c) Provides that the limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645 (District In Certain Counties: Bonds For Recreational Facilities), Water Code, does not apply to the district.

SECTION 14. Amends Section 8150.252, Special District Local Laws Code, as follows:

Sec. 8150.252. TAXES FOR BONDS AND OTHER OBLIGATIONS. Creates this section from existing text. Requires the board, at the time the district issues bonds payable wholly or partly from ad valorem taxes, to provide for the annual imposition of a continuing direct annual ad valorem 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 Sections 54.601 (Tax Levy for Bonds) and 54.602 (Establishment of Tax Rate in Each Year), Water Code.

Deletes existing text requiring the district, at the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued, to annually impose the continuing direct annual ad valorem tax on all taxable property in the district in an amount sufficient to pay the interest on the bonds or other obligations as the interest becomes due, create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date, and pay the expenses of imposing the taxes.

SECTION 15. Amends Subchapter F, Chapter 8150, Special District Local Laws Code, by adding Section 8150.257, as follows:

Sec. 8150.257. APPROVAL OF CERTAIN BONDS BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. Provides that Section 375.208 (Commission Approval), Local Government Code, applies to the district.

SECTION 16. (a) Prohibits the district from exercising a power granted by Section 8150.105, 8150.106, 8150.107, 8150.108, 8150.109, 8150.110, 8150.203, or 8150.208, Special District Local Laws Code, as added by this Act, until the governing body of the city consents to the power by adopting a resolution or ordinance. Authorizes the governing body to consent to some or all of the sections through the resolution or ordinance. Prohibits the governing body from modifying a section.

(b) Provides that this section does not affect any consent or authorization granted by the city to the district before the effective date of this Act.

SECTION 17. Provides that this Act does not affect bonds or other obligations issued before the effective date of this Act. Provides that bonds or other obligations issued before the effective date of this Act are governed by the law in effect when the bonds or other obligations were issued, and that law is continued in effect for that purpose.

SECTION 18. Repealer: Sections 8150.253 (Bonds for Contract Costs), Special District Local Laws Code.

Repealer: Section 8150.255 (Authority of Texas Commission on Environmental Quality Over Issuance of District Bonds), Special District Local Laws Code.

Repealer: Section 8150.256 (Applicability of Other Bond Law), Special District Local Laws Code.

SECTION 19. (a) Provides that the legislature validates and confirms all acts and proceedings of the board of the district that were taken before the effective date of this Act.

(b) Provides that Subsection (a) of this section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 20. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality (TCEQ).

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) Provides that the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 21. Effective date: upon passage or September 1, 2011.