

By: West
(Dutton)

S.B. No. 1234

Substitute the following for S.B. No. 1234:

By: Dutton

C.S.S.B. No. 1234

A BILL TO BE ENTITLED

AN ACT

relating to municipal management districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 375.003(3) and (4), Local Government Code, are amended to read as follows:

(3) "Commission" means the Texas Commission on Environmental Quality [~~Natural Resource Conservation Commission~~].

(4) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit and at least 51 percent of all classes of the shares of stock or other equitable securities of which are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control, including black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians;

(B) a sole proprietorship formed for the purpose of making a profit that is owned, operated, and controlled exclusively by one or more persons described by Paragraph (A);

(C) a partnership that is formed for the purpose of making a profit, in which 51 percent of the assets and interest in the partnership is owned by one or more persons described by Paragraph (A), and in which minority or women partners have a

1 proportionate interest in the control, operation, and management of
2 the partnership affairs;

3 (D) a joint venture between minority and women's
4 group members formed for the purpose of making a profit and the
5 minority participation in which is based on the sharing of real
6 economic interest, including equally proportionate control over
7 management, interest in capital, and interest earnings, other than
8 a joint venture in which majority group members own or control debt
9 securities, leasehold interest, management contracts, or other
10 interests; ~~or~~

11 (E) a supplier contract between persons
12 described in Paragraph (A) and a prime contractor in which the
13 disadvantaged business is directly involved for the manufacture or
14 distribution of the supplies or materials or otherwise for
15 warehousing and shipping the supplies; or

16 (F) a person certified as a disadvantaged
17 business by:

18 (i) this state;

19 (ii) a political subdivision of this state;

20 or

21 (iii) a regional planning commission,
22 council of governments, or similar regional planning agency created
23 under Chapter 391.

24 SECTION 2. Section 375.022(c), Local Government Code, is
25 amended to read as follows:

26 (c) The petition must:

27 (1) describe the boundaries of the proposed district;

- 1 (A) by metes and bounds;
- 2 (B) by verifiable landmarks, including a road,
- 3 creek, or railroad line; or
- 4 (C)~~[r]~~ if there is a recorded map or plat and
- 5 survey of the area, by lot and block number;
- 6 (2) state the specific purposes for which the district
- 7 will be created;
- 8 (3) state the general nature of the work, projects, or
- 9 services proposed to be provided, the necessity for those services,
- 10 and the costs as estimated by the persons filing the petition;
- 11 (4) include a name of the district, which must be
- 12 generally descriptive of the location of the district, followed by
- 13 "Management District" or "Improvement District";
- 14 (5) include a proposed list of initial directors that
- 15 includes the directors' experience and initial term of service; and
- 16 (6) include a resolution of the governing body of the
- 17 municipality in support of the creation of the district.

18 SECTION 3. Section 375.043, Local Government Code, is

19 amended to read as follows:

20 Sec. 375.043. ANNEXATION. A district may annex land as

21 provided by Section 49.301 and Chapter 54, Water Code, subject to

22 the approval of the governing body of the municipality.

23 SECTION 4. Section 375.044(b), Local Government Code, is

24 amended to read as follows:

25 (b) The board shall call a hearing on the exclusion of land

26 or other property from the district if a signed petition evidencing

27 the consent of the owners of a majority of the acreage in the

1 district, according to the most recent certified tax roll of the
2 county, is filed [~~landowner or property owner in the district~~
3 ~~files~~] with the secretary of the board [~~a written petition~~]
4 requesting the hearing before the issuance of bonds.

5 SECTION 5. Section 375.061, Local Government Code, is
6 amended to read as follows:

7 Sec. 375.061. NUMBER OF DIRECTORS; TERMS. A district is
8 governed by a board of at least five [~~nine~~] but not more than 30
9 directors who serve staggered four-year terms.

10 SECTION 6. Section 375.071, Local Government Code, is
11 amended to read as follows:

12 Sec. 375.071. QUORUM. One-half of the serving directors
13 constitutes a quorum, and a concurrence of a majority of a quorum of
14 directors is required for any official action of the district. The
15 written consent of at least two-thirds of the directors is required
16 to authorize the levy of assessments, the levy of taxes, the
17 imposition of impact fees, or the issuance of bonds.

18 SECTION 7. Section 375.091, Local Government Code, is
19 amended to read as follows:

20 Sec. 375.091. GENERAL POWERS OF DISTRICT. [~~(a)~~] A district
21 has the rights, powers, privileges, authority, and functions
22 conferred by the general law of this state applicable to
23 conservation and reclamation districts created under Article XVI,
24 Section 59, of the Texas Constitution, including those conferred by
25 Chapter 54, Water Code.

26 [~~(b) The district may contract and manage its affairs and~~
27 ~~funds for any corporate purpose in accordance with Chapter 54,~~

1 ~~Water Code.~~

2 ~~[(c) The district has all the rights, powers, privileges,~~
3 ~~authority, and functions of road districts and road utility~~
4 ~~districts created pursuant to Article III, Section 52, of the Texas~~
5 ~~Constitution, including the power to levy ad valorem taxes for the~~
6 ~~construction, maintenance, and operation of macadamized, graveled,~~
7 ~~or paved roads and turnpikes, or in aid thereof. This power~~
8 ~~includes the power to levy ad valorem taxes to provide for mass~~
9 ~~transit systems in the manner and subject to the limitations~~
10 ~~provided in Article III, Section 52, and Article III, Section~~
11 ~~52(a), of the Texas Constitution.~~

12 ~~[(d) A district has those powers conferred by Chapters 365~~
13 ~~and 441, Transportation Code, and the additional rights,~~
14 ~~privileges, authority, and functions contained in those chapters.]~~

15 SECTION 8. Subchapter E, Chapter 375, Local Government
16 Code, is amended by adding Sections 375.0921 and 375.0922 to read as
17 follows:

18 Sec. 375.0921. AUTHORITY FOR ROAD PROJECTS. (a) Under
19 Section 52, Article III, Texas Constitution, a district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 (b) The district may impose ad valorem taxes to provide for
25 mass transit systems in the manner and subject to the limitations
26 provided by Section 52, Article III, and Section 52-a, Article III,
27 Texas Constitution.

1 Sec. 375.0922. ROAD STANDARDS AND REQUIREMENTS. (a) A road
2 project must meet all applicable construction standards, zoning and
3 subdivision requirements, and regulations of each municipality in
4 whose corporate limits or extraterritorial jurisdiction the road
5 project is located.

6 (b) If a road project is not located in the corporate limits
7 or extraterritorial jurisdiction of a municipality, the road
8 project must meet all applicable construction standards,
9 subdivision requirements, and regulations of each county in which
10 the road project is located.

11 (c) If the state will maintain and operate the road, the
12 Texas Transportation Commission must approve the plans and
13 specifications of the road project.

14 SECTION 9. Section 375.097(a), Local Government Code, is
15 amended to read as follows:

16 (a) The board may appoint a hearings examiner to conduct any
17 hearing called by the board, including a hearing required by
18 Chapter 395. The hearings examiner may be an employee or contractor
19 of the district, or a member of the district's board.

20 SECTION 10. Subchapter E, Chapter 375, Local Government
21 Code, is amended by adding Section 375.098 to read as follows:

22 Sec. 375.098. DISTRICT ACT OR PROCEEDING PRESUMED VALID.

23 (a) A governmental act or proceeding of a district is conclusively
24 presumed, as of the date it occurred, valid and to have occurred in
25 accordance with all applicable statutes and rules if:

26 (1) the third anniversary of the effective date of the
27 act or proceeding has expired; and

1 (2) a lawsuit to annul or invalidate the act or
2 proceeding has not been filed on or before that third anniversary.

3 (b) This section does not apply to:

4 (1) an act or proceeding that was void at the time it
5 occurred;

6 (2) an act or proceeding that, under a statute of this
7 state or the United States, was a misdemeanor or felony at the time
8 the act or proceeding occurred;

9 (3) a rule that, at the time it was passed, was
10 preempted by a statute of this state or the United States, including
11 Section 1.06 or 109.57, Alcoholic Beverage Code; or

12 (4) a matter that on the effective date of this
13 section:

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

17 (B) has been held invalid by a final judgment of a
18 court.

19 SECTION 11. Section 375.112(a)(1), Local Government Code,
20 is amended to read as follows

21 (1) landscaping, lighting, banners, and signs; streets and
22 sidewalks; pedestrian skywalks, crosswalks, and tunnels; seawalls;
23 marinas; drainage and navigation improvements; pedestrian malls;
24 solid waste, water, sewer and power facilities, including
25 electrical, gas, steam, cogeneration, and chilled water
26 facilities; parks, plazas, lakes, rivers, bayous, ponds, and
27 recreation and scenic areas; historic areas; fountains; works or

1 art; off-street parking facilities, bus terminals, heliports, and
2 mass transit systems; theatres, studios, exhibition halls,
3 production facilities and ancillary facilities in support of the
4 foregoing; and the cost of any demolition in connection with
5 providing any of the improvement projects;

6 SECTION 12. Section 375.114, Local Government Code, is
7 amended to read as follows:

8 Sec. 375.114. PETITION REQUIRED. The board may not finance
9 services and improvement projects under this chapter unless a
10 written petition has been filed with the board requesting those
11 improvements or services signed by:

12 (1) the owners of 50 percent or more of the assessed
13 value of the property in the district subject to assessment,
14 according to [~~as determined from~~] the most recent certified county
15 property tax rolls; or

16 (2) the owners of 50 percent or more of the surface
17 area of the district, excluding roads, streets, highways, and
18 utility rights-of-way, other public areas, and any other property
19 exempt from assessment under Section 375.162 or 375.163, according
20 to [~~as determined from~~] the most recent certified county property
21 tax rolls.

22 SECTION 13. Section 375.202(e), Local Government Code, is
23 amended to read as follows:

24 (e) If provided by the bond order or resolution, the
25 proceeds from the sale of bonds may be used to pay interest on the
26 bonds during and after the period of the acquisition or
27 construction of any improvement project to be provided through the

1 issuance of the bonds, to pay administrative and operation expenses
2 to create a reserve fund for the payment of the principal of and
3 interest on the bonds, to pay costs associated with the issuance of
4 the bonds, and to create any other funds. The proceeds of the bonds
5 may be placed on time deposit or invested, until needed, in
6 securities in the manner provided by the bond order or resolution.

7 SECTION 14. Section 375.205(a), Local Government Code, is
8 amended to read as follows:

9 (a) The district shall submit bonds and the appropriate
10 proceedings authorizing their issuance to the attorney general for
11 examination. This subsection applies only to bonds that are public
12 securities, as that term is defined by Section 1202.001, Government
13 Code.

14 SECTION 15. Subchapter J, Chapter 375, Local Government
15 Code, is amended by adding Section 375.209 to read as follows:

16 Sec. 375.209. TAXES FOR BONDS. At the time the district
17 issues bonds payable wholly or partly from ad valorem taxes, the
18 board shall provide for the annual imposition of a continuing
19 direct annual ad valorem tax, without limit as to rate or amount,
20 while all or part of the bonds are outstanding as required and in
21 the manner provided by Sections 54.601 and 54.602, Water Code.

22 SECTION 16. Section 375.221, Local Government Code, is
23 amended to read as follows:

24 Sec. 375.221. APPLICABILITY OF WATER DISTRICTS LAW TO
25 COMPETITIVE BIDDING ON CERTAIN [~~PUBLIC WORKS~~] CONTRACTS. (a)
26 Except as provided by Subsection (b) of this section, Subchapter I,
27 Chapter 49, Water Code, applies to a district contract for

1 construction work, equipment, materials, or machinery.

2 **(b)** ~~[A contract, other than a contract for services, for~~
3 ~~more than \$50,000 for the construction of improvements or the~~
4 ~~purchase of material, machinery, equipment, supplies, and other~~
5 ~~property, except real property, may be entered into only after~~
6 ~~competitive bids. Notice of the contract for the purpose of~~
7 ~~soliciting bids shall be published once a week for two consecutive~~
8 ~~weeks in a newspaper with general circulation in the area in which~~
9 ~~the district is located. The first publication of notice must be~~
10 ~~not later than the 14th day before the date set for receiving bids.]~~

11 The board may adopt rules governing receipt of bids and the award of
12 the contract and providing for the waiver of the competitive bid
13 requirement if:

14 (1) there is an emergency;
15 (2) the needed materials are available from only one
16 source;

17 (3) in a procurement requiring design by the supplier
18 competitive bidding would not be appropriate and competitive
19 negotiation, with proposals solicited from an adequate number of
20 qualified sources, would permit reasonable competition consistent
21 with the nature and requirements of the procurement; or

22 (4) after solicitation, it is ascertained that there
23 will be only one bidder.

24 ~~[(b) If a proposed contract for works, plant improvements,~~
25 ~~facilities other than land, or the purchase of equipment,~~
26 ~~appliances, materials, or supplies is for an estimated amount of~~
27 ~~more than \$50,000 or for a duration of more than two years,~~

1 ~~competitive sealed proposals shall be asked from at least three~~
2 ~~persons.]~~

3 SECTION 17. Section 375.263(a), Local Government Code, is
4 amended to read as follows:

5 (a) The ~~[Except as limited by Section 375.264, the]~~
6 governing body of a municipality in which a district is wholly
7 located, by a vote of not less than two-thirds of its membership,
8 may adopt an ordinance dissolving the district.

9 SECTION 18. Section 375.264, Local Government Code, is
10 amended to read as follows:

11 Sec. 375.264. LIMITATION ON DISSOLUTION BY BOARD. A
12 district may not be dissolved by its board ~~[or by a municipality]~~ if
13 the district has any outstanding bonded indebtedness until that
14 bonded indebtedness has been repaid or defeased in accordance with
15 the order or resolution authorizing the issuance of the bonds.

16 SECTION 19. Subchapter N, Chapter 375, Local Government
17 Code, is amended by adding Section 375.282 to read as follows:

18 Sec. 375.282. STRATEGIC PARTNERSHIP AGREEMENT. A district
19 with territory in the extraterritorial jurisdiction of a
20 municipality may negotiate and enter into a written strategic
21 partnership with the municipality under Section 43.0751.

22 SECTION 20. Sections 375.021, 375.027, and 375.064(f),
23 Local Government Code, are repealed.

24 SECTION 21. The change in law made by this Act to Section
25 375.221, Local Government Code, applies only to a contract awarded
26 on or after January 1, 2012. A contract awarded before January 1,
27 2012, is governed by the law in effect on the date the contract was

1 awarded, and that law is continued in effect for that purpose.

2 SECTION 22. This Act takes effect September 1, 2011.