| **House Bill 3845**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (CS) | CONFERENCE |
| SECTION 1. Subchapter A, Chapter 8109, Special District Local Laws Code, is amended by adding Sections 8109.0025 and 8109.0026 to read as follows:  Sec. 8109.0025. PURPOSE; DECLARATION OF INTENT. (a) The district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.  (b) The creation of 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.  Sec. 8109.0026. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.  (b) 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, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.  (c) The creation of the district is in the public interest and is essential to:  (1) further the public purposes of developing and diversifying the economy of the state;  (2) eliminate unemployment and underemployment; and  (3) develop commerce.  (d) The district will:  (1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district;  (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 trails, landscaping, and other services that are necessary for the restoration, preservation, and enhancement of the scenic beauty and environment of the area. | SECTION 1. Same as House version. |  |
| SECTION 2. Chapter 8109, Special District Local Laws Code, is amended by adding Subchapters D, E, F, G, H, and I to read as follows:  SUBCHAPTER D. POWERS AND DUTIES  Sec. 8109.151. MUNICIPAL MANAGEMENT DISTRICT POWERS. The district has the powers provided by Chapter 375, Local Government Code.  Sec. 8109.152. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under Section 380.001(c) or Chapter 501, Local Government Code.  Sec. 8109.153. AIRPORT. The district may construct, acquire, improve, maintain, and operate an airport and improvements in aid of the airport.  Sec. 8109.154. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.  (b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.  Sec. 8109.155. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8109.154 unless:  (1) each county that will operate and maintain the road has approved the plans and specifications of the road project, if a county will operate and maintain the road; or  (2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.  (b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.  Sec. 8109.156. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.  Sec. 8109.157. LIMITATION ON USE OF EMINENT DOMAIN.  The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:  (1) a road project authorized by Section 8109.154; or  (2) a recreational facility as defined by Section 49.462, Water Code.  SUBCHAPTER E. IMPROVEMENT PROJECTS  Sec. 8109.201. IMPROVEMENT PROJECTS; SERVICES. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects and services described by this subchapter or activities in support of or incidental to those projects and services.  Sec. 8109.202. BOARD DETERMINATION REQUIRED. The district may not undertake a project under this subchapter unless the board determines the project to be necessary to accomplish a public purpose of the district.  Sec. 8109.203. WATER. An improvement project may include a:  (1) wastewater treatment and disposal facility;  (2) water quality protection facility; and  (3) facility to enhance groundwater recharge.  Sec. 8109.204. IRRIGATION AND DRAINAGE. An improvement project may include facilities for irrigation and drainage.  Sec. 8109.205. SOLID WASTE SERVICES. An improvement project may include solid waste management services, including garbage collection, recycling, and composting.  Sec. 8109.206. CONVENTION CENTER. An improvement project may include the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:  (1) a conference, convention, or exhibition;  (2) a manufacturer, consumer, or trade show;  (3) a civic, community, or institutional event; or  (4) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday.  Sec. 8109.207. MISCELLANEOUS DESIGN, CONSTRUCTION, AND MAINTENANCE. In addition to the projects and services described by Section 375.112, Local Government Code, an improvement project may include the planning, design, construction, improvement, and maintenance of:  (1) highway right-of-way or transit corridor beautification and improvement;  (2) a hiking and cycling path or trail;  (3) a garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve; or  (4) a storm water detention improvement.  Sec. 8109.208. SIMILAR IMPROVEMENT PROJECTS. An improvement project may include a public improvement, facility, or service similar to a project described by this subchapter.  SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS  Sec. 8109.251. ASSESSMENTS. The district may levy and collect special assessments in the same manner and for the same purposes as a municipal management district as provided in Subchapter F, Chapter 375, Local Government Code.  SUBCHAPTER G. BONDS AND OTHER OBLIGATIONS  Sec. 8109.301. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, hotel occupancy taxes, sales and use taxes, other district money, or any combination of those sources to pay for any authorized district purpose.  Sec. 8109.302. TAXES FOR BONDS. (a) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601, Water Code.  (b) The board shall annually impose the tax while all or part of the bonds are outstanding. Sections 54.601 and 54.602, Water Code, govern the amount and rate of the tax.  Sec. 8109.303. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.  SUBCHAPTER H. SALES AND USE TAX  Sec. 8109.351. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax authorized by this subchapter except to the extent Chapter 321, Tax Code, is inconsistent with this chapter.  (b) A reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the district or the board, respectively.  Sec. 8109.352. ELECTION; ADOPTION OF TAX. (a) The district may adopt a sales and use tax if authorized by a majority of the voters of the district voting at an election held for that purpose.  (b) The board by order may call an election to authorize the adoption of the sales and use tax. The election may be held on any uniform election date and in conjunction with any other district election.  (c) The ballot shall be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the CLL Municipal Utility District No. 1 at a rate not to exceed \_\_\_\_ percent" (insert rate of one or more increments of one-eighth of one percent).  Sec. 8109.353. SALES AND USE TAX RATE. (a) Not later than the 10th day after the date the results are declared of an election held under Section 8109.352, at which the voters approved imposition of the tax authorized by this subchapter, the board shall determine the initial rate of the tax, which must be in one or more increments of one-eighth of one percent.  (b) After the election held under Section 8109.352, the board may decrease the rate of the tax by one or more increments of one-eighth of one percent. The board may not decrease the rate of the tax if the decrease would impair the repayment of any outstanding debt or obligation payable from the tax.  (c) The initial rate of the tax or any rate resulting from subsequent decreases may not exceed the lesser of:  (1) the maximum rate authorized by the district voters at the election held under Section 8109.352; or  (2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district.  (d) The board shall notify the comptroller of any changes made to the tax rate in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.  Sec. 8109.354. USE OF REVENUE. Revenue from the sales and use tax imposed under this subchapter is for the use and benefit of the district and may be used for any district purpose.  SUBCHAPTER I. HOTEL OCCUPANCY TAX  Sec. 8109.401. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) In this subchapter:  (1) a reference in Subchapter A, Chapter 351, Tax Code, to a municipality is a reference to the district; and  (2) a reference in Subchapter A, Chapter 351, Tax Code, to the governing body of a municipality is a reference to the board.  (b) Except as inconsistent with this subchapter, Subchapter A, Chapter 351, Tax Code, governs a hotel occupancy tax authorized by this subchapter, including the collection of the tax, subject to the limitations prescribed by Sections 351.002(b) and (c), Tax Code.  Sec. 8109.402. TAX AUTHORIZED; USE OF REVENUE. The district may impose a hotel occupancy tax for any purpose authorized by Section 351.101, Tax Code.  Sec. 8109.403. TAX RATE. (a) The amount of the hotel occupancy tax may not exceed the maximum rate provided by Section 351.003(a), Tax Code.  (b) The district may not adopt a hotel occupancy tax at a rate that would cause the combined rate of all hotel occupancy taxes imposed by the district and other political subdivisions of this state at a location in the district to exceed 15 percent. If a political subdivision's adoption of a hotel occupancy tax rate causes the combined hotel occupancy tax rate imposed at a location in the district to exceed 15 percent, the district's hotel occupancy tax rate in the entire district is automatically reduced to bring the combined rate imposed at that location down to not more than 15 percent.  (c) The district shall notify each hotel in the district of any change in the hotel occupancy tax rate under this section.  (d) Any change in the hotel occupancy tax rate takes effect on the first day of the next calendar month following the change. | SECTION 2. Chapter 8109, Special District Local Laws Code, is amended by adding Subchapters D, E, F, G, H, and I to read as follows:  SUBCHAPTER D. POWERS AND DUTIES  Sec. 8109.151. MUNICIPAL MANAGEMENT DISTRICT POWERS. The district has the powers provided by Chapter 375, Local Government Code.  Sec. 8109.152. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under Section 380.001(c) or Chapter 501, Local Government Code.  Sec. 8109.153. AIRPORT. The district may construct, acquire, improve, maintain, and operate an airport and improvements in aid of the airport.  Sec. 8109.154. AUTHORITY FOR ROAD PROJECTS. (a) Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.  (b) The district may exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality as required by Section 54.234, Water Code.  Sec. 8109.155. APPROVAL OF ROAD PROJECT. (a) The district may not undertake a road project authorized by Section 8109.154 unless:  (1) each county that will operate and maintain the road has approved the plans and specifications of the road project, if a county will operate and maintain the road; or  (2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state will operate and maintain the road.  (b) Except as provided by Subsection (a), the district is not required to obtain approval from the Texas Transportation Commission to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.  Sec. 8109.156. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.  Sec. 8109.157. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.  Sec. 8109.158. LIMITATION ON USE OF EMINENT DOMAIN. (a) The district may only exercise the power of eminent domain described by Chapters 49 and 54, Water Code.  (b) The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:  (1) a road project authorized by Section 8109.154; or  (2) a recreational facility as defined by Section 49.462, Water Code.  (c) The district may not exercise the power of eminent domain for an improvement project.  SUBCHAPTER E. IMPROVEMENT PROJECTS  Sec. 8109.201. IMPROVEMENT PROJECTS; SERVICES. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects and services described by this subchapter or activities in support of or incidental to those projects and services.  Sec. 8109.202. BOARD DETERMINATION REQUIRED. The district may not undertake a project under this subchapter unless the board determines the project to be necessary to accomplish a public purpose of the district.  Sec. 8109.203. WATER. An improvement project may include a:  (1) wastewater treatment and disposal facility;  (2) water quality protection facility; and  (3) facility to enhance groundwater recharge.  Sec. 8109.204. IRRIGATION AND DRAINAGE. An improvement project may include facilities for irrigation and drainage.  Sec. 8109.205. SOLID WASTE SERVICES. An improvement project may include solid waste management services, including garbage collection, recycling, and composting.  Sec. 8109.206. CONVENTION CENTER. An improvement project may include the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:  (1) a conference, convention, or exhibition;  (2) a manufacturer, consumer, or trade show;  (3) a civic, community, or institutional event; or  (4) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday.  Sec. 8109.207. MISCELLANEOUS DESIGN, CONSTRUCTION, AND MAINTENANCE. In addition to the projects and services described by Section 375.112, Local Government Code, an improvement project may include the planning, design, construction, improvement, and maintenance of:  (1) highway right-of-way or transit corridor beautification and improvement;  (2) a hiking and cycling path or trail;  (3) a garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve; or  (4) a storm water detention improvement.  Sec. 8109.208. SIMILAR IMPROVEMENT PROJECTS. An improvement project may include a public improvement, facility, or service similar to a project described by this subchapter.  SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS  Sec. 8109.251. ASSESSMENTS. The district may levy and collect special assessments in the same manner and for the same purposes as a municipal management district as provided in Subchapter F, Chapter 375, Local Government Code.  SUBCHAPTER G. BONDS AND OTHER OBLIGATIONS  Sec. 8109.301. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, hotel occupancy taxes, sales and use taxes, other district money, or any combination of those sources to pay for any authorized district purpose.  Sec. 8109.302. ELECTIONS REGARDING TAXES AND BONDS. (a) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.  (b) Section 375.243, Local Government Code, does not apply to the district.  (c) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.  Sec. 8109.303. TAXES FOR BONDS. (a) At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601, Water Code.  (b) The board shall annually impose the tax while all or part of the bonds are outstanding. Sections 54.601 and 54.602, Water Code, govern the amount and rate of the tax.  Sec. 8109.304. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.  SUBCHAPTER H. SALES AND USE TAX  Sec. 8109.351. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax authorized by this subchapter except to the extent Chapter 321, Tax Code, is inconsistent with this chapter.  (b) A reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the district or the board, respectively.  Sec. 8109.352. ELECTION; ADOPTION OF TAX. (a) The district may adopt a sales and use tax if authorized by a majority of the voters of the district voting at an election held for that purpose.  (b) The board by order may call an election to authorize the adoption of the sales and use tax. The election may be held on any uniform election date and in conjunction with any other district election.  (c) The ballot shall be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the CLL Municipal Utility District No. 1 at a rate not to exceed \_\_\_\_ percent" (insert rate of one or more increments of one-eighth of one percent).  Sec. 8109.353. SALES AND USE TAX RATE. (a) Not later than the 10th day after the date the results are declared of an election held under Section 8109.352, at which the voters approved imposition of the tax authorized by this subchapter, the board shall determine the initial rate of the tax, which must be in one or more increments of one-eighth of one percent.  (b) After the election held under Section 8109.352, the board may decrease the rate of the tax by one or more increments of one-eighth of one percent. The board may not decrease the rate of the tax if the decrease would impair the repayment of any outstanding debt or obligation payable from the tax.  (c) The initial rate of the tax or any rate resulting from subsequent decreases may not exceed the lesser of:  (1) the maximum rate authorized by the district voters at the election held under Section 8109.352; or  (2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f), Tax Code, at any location in the district.  (d) The board shall notify the comptroller of any changes made to the tax rate in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b), Tax Code.  Sec. 8109.354. USE OF REVENUE. Revenue from the sales and use tax imposed under this subchapter is for the use and benefit of the district and may be used for any district purpose.  SUBCHAPTER I. HOTEL OCCUPANCY TAX  Sec. 8109.401. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) In this subchapter:  (1) a reference in Subchapter A, Chapter 351, Tax Code, to a municipality is a reference to the district; and  (2) a reference in Subchapter A, Chapter 351, Tax Code, to the governing body of a municipality is a reference to the board.  (b) Except as inconsistent with this subchapter, Subchapter A, Chapter 351, Tax Code, governs a hotel occupancy tax authorized by this subchapter, including the collection of the tax, subject to the limitations prescribed by Sections 351.002(b) and (c), Tax Code.  Sec. 8109.402. TAX AUTHORIZED; USE OF REVENUE. The district may impose a hotel occupancy tax for any purpose authorized by Section 351.101, Tax Code.  Sec. 8109.403. TAX RATE. (a) The amount of the hotel occupancy tax may not exceed the maximum rate provided by Section 351.003(a), Tax Code.  (b) The district may not adopt a hotel occupancy tax at a rate that would cause the combined rate of all hotel occupancy taxes imposed by the district and other political subdivisions of this state at a location in the district to exceed 15 percent. If a political subdivision's adoption of a hotel occupancy tax rate causes the combined hotel occupancy tax rate imposed at a location in the district to exceed 15 percent, the district's hotel occupancy tax rate in the entire district is automatically reduced to bring the combined rate imposed at that location down to not more than 15 percent.  (c) The district shall notify each hotel in the district of any change in the hotel occupancy tax rate under this section.  (d) Any change in the hotel occupancy tax rate takes effect on the first day of the next calendar month following the change. |  |
| SECTION 3. (a) The legislature validates and confirms all governmental acts and proceedings of the CLL Municipal Utility District No. 1 relating to the exclusion of land, the annexation of land, and the establishment of the district's boundaries that were taken before the effective date of this Act.  (b) This section does not apply to:  (1) an act or proceeding that was void at the time it occurred;  (2) an act that was a misdemeanor or felony at the time it occurred;  (3) an annexation or attempted annexation of land in the boundaries or extraterritorial jurisdiction of a municipality that occurred without the consent of the municipality; and  (4) any matter that on the effective date of this Act:  (A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment; or  (B) has been held invalid by a final court judgment. | SECTION 3. Same as House version. |  |
| SECTION 4. (a) 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, Government Code.  (b) The governor has submitted the notice and Act to the Texas Commission on Environmental Quality.  (c) The Texas Commission on Environmental Quality 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) 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 are fulfilled and accomplished. | SECTION 4. Same as House version. |  |
| SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. | SECTION 5. Same as House version. |  |