

BILL ANALYSIS

C.S.H.B. 3897
By: Rodriguez, Eddie
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, there is undeveloped property within the corporate limits and extraterritorial jurisdiction of the City of Austin that is proposed to be developed primarily as residential property. Interested parties contend that the area would benefit from the creation of a management district to administer and provide funding for public improvement projects and services, such as regional recreational facilities. C.S.H.B. 3897 seeks to address this issue.

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.H.B. 3897 amends the Special District Local Laws Code to create the Onion Creek Metro Park District, subject to voter approval at a confirmation election and municipal consent, to provide certain improvements, projects, and services for public use and benefit. The bill provides for, among other provisions, the eligibility for all or any part of the area of the district to be included in special zones, the applicability of municipal management district laws, and the location of improvement projects. The district's powers and duties include, subject to certain requirements, the authorization to issue obligations and impose assessments and property, operation and maintenance, and contract taxes. The district is prohibited from exercising the power of eminent domain. The bill establishes that the City of Austin is not required to pay a bond, note, or other obligation of the district.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3897 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3924 to read as follows:

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CHAPTER 3924. ONION CREEK METRO PARK DISTRICT

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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3924.001. DEFINITIONS.

Sec. 3924.002. NATURE OF DISTRICT.

Sec. 3924.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of 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 and in authorizing the city, the 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) 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. (c) This chapter and the creation of the district may not be interpreted to relieve the city or the county from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant city or county services provided in the district.

Sec. 3924.004. CONFIRMATION AND DIRECTORS ELECTION REQUIRED. The initial directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 3924.005. CONSENT OF MUNICIPALITY REQUIRED; ENFORCEABILITY OF CONSENT AGREEMENT. (a) The initial directors may not hold an election under Section 3924.004 until the city has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district. (b) If the city does not consent to the creation of the district and to the inclusion of land in the district before September 1,

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2014:

(1) the district is dissolved September 1, 2014, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the city or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter, including Section 3924.055, expires September 1, 2014.

Sec. 3924.006. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

Sec. 3924.007. INITIAL DISTRICT TERRITORY.

Sec. 3924.008. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code; or

(3) an enterprise zone created under Chapter 2303, Government Code.

Sec. 3924.009. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW.

Sec. 3924.010. CONSTRUCTION OF CHAPTER.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3924.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

2014:

(1) the district is dissolved September 1, 2014, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to the city or another local governmental entity to be used for a public purpose; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter, including Section 3924.055, expires September 1, 2014.

(c) In addition to the requirements prescribed by Subsection (a), the ordinance or resolution described by Subsection (a):

(1) must specify the qualifications for persons to be eligible to serve as permanent directors; and

(2) may limit the number of terms a director may serve.

Sec. 3924.006. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

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(1) a tax abatement reinvestment zone created under Chapter 312, Tax Code; or

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SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3924.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of seven voting directors who serve staggered terms of four years, with three or four directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 voting directors.

Sec. 3924.052. APPOINTMENT OF VOTING DIRECTORS. The governing body of the city shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body and the mayor vote to appoint that person.

Sec. 3924.053. QUORUM.

Sec. 3924.054. COMPENSATION.

Sec. 3924.055. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

Pos. No. Name of Director
1 Sara Partridge
2 Tyler Zickert
3 Ross Rathgeber
4 George Cofer
5 Andrea Rado Hamilton

(b) Of the initial directors, the terms of directors appointed for positions one, three, and five expire June 1, 2015, and the terms of directors appointed for positions two and four expire June 1, 2017.

(c) Section 3924.052 does not apply to this section.

(d) This section expires September 1, 2017.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3924.101. GENERAL POWERS AND DUTIES.

Sec. 3924.102. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3924.103. LOCATION OF IMPROVEMENT PROJECT. An

(b) The qualifications of the permanent directors must comply with those established in the ordinance or resolution under Section 3924.005(c)(1).

(c) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district and the city approves the change. The board may not consist of fewer than 7 or more than 15 voting directors.

Sec. 3924.052. APPOINTMENT OF VOTING DIRECTORS. The governing body of the city shall appoint the voting directors. A person is appointed if a majority of the members of the governing body vote to appoint that person.

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Sec. 3924.055. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

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1 Sara Partridge
2 Tyler Zickert
3 Ross Rathgeber
4 George Cofer
5 Andrea Rado Hamilton
6 Cile Montgomery
7 Philip Koske

(b) Of the initial directors, the terms of directors appointed for positions one, three, five, and seven expire June 1, 2015, and the terms of directors appointed for positions two, four, and six expire June 1, 2017.

(c) Section 3924.052 does not apply to this section.

(d) This section expires September 1, 2017.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3924.101. GENERAL POWERS AND DUTIES.

Sec. 3924.102. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3924.103. LOCATION OF IMPROVEMENT PROJECT. An

improvement project described by Section 3924.102 may be located:

- (1) in the district; or
- (2) in an area outside but adjacent to the district if the project is for the purpose of extending an improvement project beyond the district's boundaries.

Sec. 3924.104. DEVELOPMENT CORPORATION POWERS.

Sec. 3924.105. NONPROFIT CORPORATION.

Sec. 3924.106. AGREEMENTS; GRANTS.

Sec. 3924.107. LAW ENFORCEMENT SERVICES.

Sec. 3924.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

Sec. 3924.109. ECONOMIC DEVELOPMENT.

Sec. 3924.110. PARKING FACILITIES.

Sec. 3924.111. APPROVAL BY CITY.

Sec. 3924.112. COMPLIANCE WITH MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION.

Sec. 3924.113. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; TAX AND ASSESSMENT ABATEMENTS

Sec. 3924.151. DISBURSEMENTS AND TRANSFERS OF MONEY.

Sec. 3924.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

No equivalent provision.

improvement project described by Section 3924.102 may be located:

- (1) in the district; or
- (2) in an area outside the district if the board determines that the project benefits the district.

Sec. 3924.104. DEVELOPMENT CORPORATION POWERS.

Sec. 3924.105. NONPROFIT CORPORATION.

Sec. 3924.106. AGREEMENTS; GRANTS.

Sec. 3924.107. LAW ENFORCEMENT SERVICES.

Sec. 3924.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

Sec. 3924.109. ECONOMIC DEVELOPMENT.

Sec. 3924.110. PARKING FACILITIES.

Sec. 3924.111. APPROVAL BY CITY.

Sec. 3924.112. COMPLIANCE WITH MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION; ENFORCEABILITY OF AGREEMENT.

Sec. 3924.113. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; TAX AND ASSESSMENT ABATEMENTS

Sec. 3924.151. DISBURSEMENTS AND TRANSFERS OF MONEY.

Sec. 3924.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

Sec. 3924.153. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district. (b) 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) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may 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. 3924.153. RESIDENTIAL PROPERTY NOT EXEMPT.

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Sec. 3924.154. TAX AND ASSESSMENT ABATEMENTS.

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SUBCHAPTER E. TAXES AND BONDS

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Sec. 3924.201. ELECTIONS REGARDING TAXES AND BONDS.

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Sec. 3924.202. OPERATION AND MAINTENANCE TAX.

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Sec. 3924.203. CONTRACT TAXES.

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Sec. 3924.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS.

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Sec. 3924.205. TAXES FOR BONDS.

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Sec. 3924.206. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS.

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SECTION 2. Establishes initial boundaries for the Onion Creek Metro Park District.

SECTION 2. Same as introduced version.

SECTION 3. (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, one of the required recipients, 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) 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) 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 4. 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, 2013.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.