

BILL ANALYSIS

C.S.H.B. 3605
By: Burns
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed support for a municipal management district in the extraterritorial jurisdiction of the City of Cleburne. The parties contend that such a district is needed to provide certain improvement projects and services in the district. C.S.H.B. 3605 seeks to address this need.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 3605 amends the Special District Local Laws Code to create the Joshua Farms Municipal Management District No. 2, subject to voter approval at a confirmation election and a certain development and operating agreement with the City of Cleburne, to provide certain improvements, projects, and services for public use and benefit. The bill provides for, among other provisions, water district powers, road district powers, public improvement district powers, contract powers, limits on the district's emergency services powers, the annexation or exclusion of district land, the enforcement of real property restrictions by the district, division of the district, and dissolution of the district. The district's powers and duties include, subject to certain requirements and a certain development and operating agreement, the authorization to issue obligations without an election, to impose assessments, and to contract for the collection of assessments with the commissioners court of the county under the Interlocal Cooperation Act. The bill prohibits the district from constructing, acquiring, maintaining, or operating a toll road and from imposing property taxes and impact fees. The bill, if it does not receive a two-thirds vote of all the members elected to each house, prohibits the district from exercising the power of eminent domain.

C.S.H.B. 3605 prohibits the initial directors of the district from holding a confirmation and directors' election until the City of Cleburne has entered into a certain development and operating agreement under the bill's provisions, prohibits the district from exercising any powers under the bill's provisions until the development and operating agreement is executed, and dissolves the district and sets the bill's provisions to expire March 1, 2018, if the development and operating agreement is not entered into before that date.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3605 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted 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 3929 to read as follows:

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CHAPTER 3929. JOSHUA FARMS MUNICIPAL MANAGEMENT DISTRICT NO. 2

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SUBCHAPTER A. GENERAL PROVISIONS

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Sec. 3929.001. DEFINITIONS. In this chapter:

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(1) "Board" means the district's board of directors.

(1) "Board" means the district's board of directors.

(2) "City" means the City of Cleburne, Texas.

(2) "City" means the City of Cleburne, Texas.

(3) "County" means Johnson County, Texas.

(3) "Commission" means the Texas Commission on Environmental Quality.

(4) "County" means Johnson County, Texas.

(4) "Director" means a board member.

(5) "Director" means a board member.

(5) "District" means the Joshua Farms Municipal Management District No. 2.

(6) "District" means the Joshua Farms Municipal Management District No. 2.

Sec. 3929.002. CREATION AND NATURE OF DISTRICT.

Sec. 3929.002. CREATION AND NATURE OF DISTRICT.

Sec. 3929.003. PURPOSE; LEGISLATIVE FINDINGS.

Sec. 3929.003. PURPOSE; LEGISLATIVE FINDINGS.

Sec. 3929.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

Sec. 3929.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

Sec. 3929.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

Sec. 3929.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(1) organization, existence, or validity;

- (2) right to contract;
- (3) authority to borrow money or issue bonds or other obligations described by Section 3929.253 or to pay the principal and interest of the bonds or other obligations;
- (4) right to impose or collect an assessment, tax, or any other revenue; or
- (5) legality or operation.

Sec. 3929.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

Sec. 3929.007. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED.

Sec. 3929.008. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. Except as provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3929.009. CONSTRUCTION OF CHAPTER.

- (2) right to contract;
- (3) authority to borrow money or issue bonds or other obligations described by Section 3929.253 or to pay the principal and interest of the bonds or other obligations;
- (4) right to impose or collect an assessment or collect other revenue; or
- (5) legality or operation.

Sec. 3929.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

Sec. 3929.007. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED.

Sec. 3929.008. DEVELOPMENT AND OPERATING AGREEMENT EXECUTION REQUIRED. (a) The initial directors may not hold an election under Section 3929.007 until the city has entered into a development and operating agreement under Section 3929.156.

(b) The district is dissolved and this chapter expires March 1, 2018, if the development and operating agreement is not entered into before that date.

Sec. 3929.009. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. (a) Except as provided by this chapter, Chapter 375, Local Government Code, including Subchapters E and F, applies to the district.

(b) The following provisions of Chapter 375, Local Government Code, do not apply to the district:

- (1) Sections 375.164 and 375.262; and
- (2) Subchapters B and O.

Sec. 3929.010. CONSTRUCTION OF CHAPTER.

Sec. 3929.011. CONCURRENCE ON ADDITIONAL POWERS. If the legislature grants the district a power that is in addition to the powers approved by the initial resolution of the governing body of the city consenting to the creation of the district, the district may not exercise that power unless the governing body of the city consents to that change by ordinance or resolution.

Sec. 3929.012. CITY CONSENT TO CREATION OF DISTRICT. The city's consent to the creation of the district is not subject to the limitations on the conditions or other restrictions the city may place on its

consent under Section 42.042, Local Government Code.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3929.051. GOVERNING BODY; TERMS.

Sec. 3929.052. BOARD MEETINGS.

Sec. 3929.053. INITIAL DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3929.101. GENERAL POWERS AND DUTIES.

Sec. 3929.102. IMPROVEMENT PROJECTS.

Sec. 3929.103. WATER DISTRICT POWERS.

Sec. 3929.104. ROAD DISTRICT POWERS. The district has the powers provided by the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapters 257 and 441, Transportation Code.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3929.051. GOVERNING BODY; TERMS.

Sec. 3929.052. BOARD MEETINGS.

Sec. 3929.053. REMOVAL OF DIRECTORS. (a) The board may remove a director by unanimous vote of the other directors if the director has missed at least half of the meetings scheduled during the preceding 12 months.

(b) A director removed under this section may file a written appeal with the commission not later than the 30th day after the date the director receives written notice of the board action. The commission may reinstate the director if the commission finds that the removal was unwarranted under the circumstances after considering the reasons for the absences, the time and place of the meetings, the business conducted at the meetings missed, and any other relevant circumstances.

Sec. 3929.054. INITIAL DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3929.101. GENERAL POWERS AND DUTIES.

Sec. 3929.102. IMPROVEMENT PROJECTS.

Sec. 3929.103. WATER DISTRICT POWERS.

Sec. 3929.104. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads or improvements, including storm drainage, in aid of those roads.

Sec. 3929.105. PUBLIC IMPROVEMENT DISTRICT POWERS.

Sec. 3929.106. CONTRACT POWERS.

Sec. 3929.107. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may 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) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3929.108. ADDING OR REMOVING TERRITORY. As provided by Subchapter J, Chapter 49, Water Code, the board may add territory inside the boundaries of the city or the extraterritorial jurisdiction of the city to the district or remove territory inside the boundaries of the city or the extraterritorial jurisdiction of the city from the district, except that:

(1) the addition or removal of the territory must be approved by the city;

(2) the addition or removal may not occur without petition by the owners of the territory being added or removed; and

(3) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from taxes

Sec. 3929.105. PUBLIC IMPROVEMENT DISTRICT POWERS.

Sec. 3929.106. CONTRACT POWERS.

Sec. 3929.107. AD VALOREM TAXATION. The district may not impose an ad valorem tax.

Sec. 3929.108. LIMITATIONS ON EMERGENCY SERVICES POWERS. The district may not establish, operate, maintain, or finance a police or fire department without the consent of the city by ordinance or resolution.

Sec. 3929.109. ADDING OR REMOVING TERRITORY. As provided by Subchapter J, Chapter 49, Water Code, the board may add territory inside the extraterritorial jurisdiction of the city to the district or remove territory inside the extraterritorial jurisdiction of the city from the district, except that:

(1) the addition or removal of the territory must be approved by the city;

(2) the addition or removal may not occur without petition by the owners of the territory being added or removed; and

(3) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from

or assessments assessed on the territory are outstanding.

Sec. 3929.109. NO TOLL ROADS.

Sec. 3929.110. EMINENT DOMAIN. (a) Section 375.094, Local Government Code, does not apply to the district.

(b) The district may acquire by condemnation any land, easements, or other property inside or outside the district's boundaries or the boundaries of the certificated service area of a water supply corporation necessary for water, sanitary sewer, storm drainage, flood drainage, or control or roadway purposes, or for any other of the district's projects or purposes, and may elect to condemn either the fee simple title or a lesser property interest.

(c) The right of eminent domain shall be exercised in the manner provided by Chapter 21, Property Code, except that the district is not required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and is not required to deposit more than the amount of any award in any suit.

(d) The district may not use the power of eminent domain to condemn land for the purpose of acquiring rights to underground water or acquiring water or water rights.

SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3929.151. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3929.152. BOARD

assessments assessed on the territory are outstanding.

Sec. 3929.110. NO TOLL ROADS.

Sec. 3929.111. EMINENT DOMAIN. (a) Section 375.094, Local Government Code, does not apply to the district.

(b) Subject to the consent of the city by ordinance or resolution, the district may exercise the right of eminent domain in the manner provided by Section 49.222, Water Code. The city may not unreasonably withhold consent under this section.

Sec. 3929.112. ENFORCEMENT OF REAL PROPERTY RESTRICTIONS. The district may enforce a real property restriction in the manner provided by Section 54.237, Water Code, if, in the reasonable judgment of the board, the enforcement of the restriction is necessary.

Sec. 3929.113. POWERS SUBJECT TO DEVELOPMENT AND OPERATING AGREEMENT. In addition to the other limitations provided by this chapter, the district's authority to exercise its powers is subject to the terms of the development and operating agreement required under Section 3929.156.

SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3929.151. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3929.152. BOARD

DETERMINATION REQUIRED.

Sec. 3929.153. LOCATION OF IMPROVEMENT PROJECT.

Sec. 3929.154. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA.

Sec. 3929.155. CONTRACTS. A contract to design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project is considered a contract for a good or service under Subchapter I, Chapter 271, Local Government Code.

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3929.201. DIVISION OF DISTRICT; PREREQUISITE. The district, including territory added to the district under Section 3929.108, may be divided into two or more new districts only if the district has no outstanding bonded debt. Territory

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DETERMINATION REQUIRED.

Sec. 3929.153. LOCATION OF IMPROVEMENT PROJECT.

Sec. 3929.154. CITY REQUIREMENTS. An improvement project in the district must comply with any applicable requirements of the city, including codes and ordinances, unless specifically waived or superseded by the development and operating agreement entered into under Section 3929.156 or another agreement with the city.

Sec. 3929.155. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA; BENEFIT BASIS.

Sec. 3929.156. DEVELOPMENT AND OPERATING AGREEMENT REQUIRED. (a) After the district's board is organized, but before the district may undertake any improvement project, issue bonds, levy assessments or fees, or borrow money, the district, the city, and the owner of a majority of the assessed value of real property in the district according to the most recent certified tax rolls of the central appraisal district of the county must negotiate and execute a mutually approved and accepted development and operating agreement, including any limitations imposed by the city. (b) An agreement authorized by this section is not effective until its terms and execution are approved by the board, the governing body of the city by ordinance or resolution, and the owner described by Subsection (a).

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3929.201. DIVISION OF DISTRICT; PREREQUISITES. (a) Subject to Subsection (b), the district, including territory added to the district under Section 3929.109, may be divided into two or more new districts only if the district has no

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previously added to the district under Section 3929.108 may be included in a new district.

outstanding bonded debt. Territory previously added to the district under Section 3929.109 may be included in a new district.

(b) If the board adds territory inside the extraterritorial jurisdiction of the city or any other municipality to the district under Section 3929.109, the district may be divided under Subsection (a) only with the consent by ordinance or resolution of the city and any other municipality whose extraterritorial jurisdiction is included in the district.

Sec. 3929.202. LAW APPLICABLE TO NEW DISTRICT.

Sec. 3929.202. LAW APPLICABLE TO NEW DISTRICT.

Sec. 3929.203. DIVISION PROCEDURES.

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(a) The board, on its own motion or on receipt of a petition signed by an owner of real property in the district, may adopt an order proposing to divide the district.

(a) The board, on its own motion or on receipt of a petition signed by an owner of real property in the district, may adopt an order proposing to divide the district.

(b) If the board decides to divide the district, the board shall, subject to the city's resolution or ordinance:

(b) If the board decides to divide the district, the board shall:

(1) set the terms of the division, including names for the new districts and a plan for the payment or performance of any outstanding district obligations;

(1) set the terms of the division, including names for the new districts and a plan for the payment or performance of any outstanding district obligations;

(2) prepare a metes and bounds description for each proposed district; and

(2) prepare a metes and bounds description for each proposed district; and

(3) appoint initial directors for each new district.

(3) appoint initial directors for each new district.

Sec. 3929.204. NOTICE AND RECORDING OF ORDER.

Sec. 3929.204. NOTICE AND RECORDING OF ORDER.

Sec. 3929.205. CONTRACT AUTHORITY OF NEW DISTRICTS.

Sec. 3929.205. CONTRACT AUTHORITY OF NEW DISTRICTS.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

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Sec. 3929.251. DISBURSEMENTS AND TRANSFERS OF MONEY.

Sec. 3929.251. DISBURSEMENTS AND TRANSFERS OF MONEY.

Sec. 3929.252. MONEY USED FOR IMPROVEMENTS OR SERVICES.

Sec. 3929.252. MONEY USED FOR IMPROVEMENTS OR SERVICES.

Sec. 3929.253. BORROWING MONEY; OBLIGATIONS. (a) The district may borrow money for a district purpose, including the acquisition or construction of improvement projects authorized by this

Sec. 3929.253. BORROWING MONEY; OBLIGATIONS. (a) Subject to the terms of the development and operating agreement required under Section 3929.156, the district may borrow money for a district purpose,

chapter and the reimbursement of a person who develops or owns an improvement project authorized by this chapter, by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract or other agreement payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

Sec. 3929.254. CERTAIN OBLIGATIONS NOT SUBJECT TO APPROVAL OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY.

Sec. 3929.255. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations payable from any source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 3929.256. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election, the district may impose an operation and maintenance tax in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 3929.257. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and

including the acquisition or construction of improvement projects authorized by this chapter and the reimbursement of a person who develops or owns an improvement project authorized by this chapter, by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract or other agreement payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

(c) The board may issue an obligation under this section without an election.

Sec. 3929.254. CERTAIN OBLIGATIONS NOT SUBJECT TO APPROVAL OF COMMISSION.

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

Sec. 3929.258. ASSESSMENTS.

Sec. 3929.259. RESIDENTIAL PROPERTY NOT EXEMPT.

Sec. 3929.260. NO IMPACT FEES.

SUBCHAPTER F. DISSOLUTION

Sec. 3929.301. DISSOLUTION BY CITY.

Sec. 3929.302. COLLECTION OF TAXES, ASSESSMENTS, AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from taxes, assessments, or other revenue, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the taxes, assessments, or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the taxes, assessments, or other revenue to pay:

- (1) the bonds or other obligations when due and payable according to their terms; or
- (2) ad valorem tax bonds, special revenue or assessment bonds, or other obligations issued by the city to refund the outstanding bonds or obligations of the district.

Sec. 3929.303. ASSUMPTION OF

Sec. 3929.255. ASSESSMENTS.

Sec. 3929.256. RESIDENTIAL PROPERTY NOT EXEMPT.

Sec. 3929.257. NO IMPACT FEES.

Sec. 3929.258. COLLECTION OF ASSESSMENTS. The district may contract as provided by Chapter 791, Government Code, with the commissioners court of the county for the assessment and collection of assessments imposed under this subchapter.

SUBCHAPTER F. DISSOLUTION

Sec. 3929.301. DISSOLUTION BY BOARD. The board may dissolve the district in the manner provided by Section 375.261, Local Government Code, subject to Section 375.264, Local Government Code.

Sec. 3929.302. DISSOLUTION BY CITY.

Sec. 3929.303. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

- (1) the bonds or other obligations when due and payable according to their terms; or
- (2) revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations of the district.

Sec. 3929.304. ASSUMPTION OF

ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes the obligations of the district, including any contractual obligations or bonds or other debt payable from taxes, assessments, or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. Establishes boundaries for the Joshua Farms Municipal Management District No. 2.

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) 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. (a) Section 3929.110, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 3929, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 3929.110 to read as follows:

Sec. 3929.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an

ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes the obligations of the district, including any contractual obligations or bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Substantially the same as introduced version.

expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 5. This Act takes effect September 1, 2015.

SECTION 5. Same as introduced version.