

BILL ANALYSIS

Senate Research Center
84R18796 JXC-F

H.B. 4180
By: Zerwas (Kolkhorst)
Administration
5/25/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 4180 creates Management District No. 1. The legislation serves as a conversion—converting the existing Harris-Fort Bend Municipal Utility District No. 4 (district) to Katy Management District No. 1.

The district was originally created as a MUD in the City of Katy to provide water, sewer, and drainage service to a commercial area. At this point, the development of the commercial area has been a tremendous success. However, both the district and the City of Katy desire to convert the existing district to a management district to provide additional flexibility to the district in undertaking relevant projects within its boundaries.

H.B. 4180 converts the district to a management district, subject to Chapter 375, Local Government Code, relating to management districts. The powers and authorities that would result from the conversion will allow for the district to provide additional services and engage in additional projects, such as providing security, additional lighting, landscaping, and other services typical to management districts in the Greater Houston area.

The district and the City of Katy support the passage of H.B. 4180.

H.B. 4180 amends current law relating to the conversion of the Harris-Fort Bend Counties Municipal Utility District No. 4 to the Katy Management District No. 1, provides authority to issue bonds, and provides authority to impose assessments, fees, or taxes.

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. Provides that the Harris-Fort Bend Counties Municipal Utility District No. 4 is converted to the Katy Management District No. 1 and is governed by Chapter 3935, Special District Local Laws Code, as added by this Act.

SECTION 2. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3935, as follows:

CHAPTER 3935. KATY MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3935.001. DEFINITIONS. Defines "board," "city," "county," "director," and "district" in this chapter.

Sec. 3935.002. NATURE OF DISTRICT; CONVERSION. Provides that the Katy Management District No. 1 (district) is a special district 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, as the Harris-Fort Bend Counties Municipal Utility District No. 4. Provides that the district is converted to a municipal management district known as the Katy Management District No. 1 under the same constitutional authority.

Sec. 3935.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the conversion and operation of the district are 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), and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. Provides that, by converting the district to a municipal management 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) Provides that the conversion and operation of the district are 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 conversion or operation of the district from being 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. Provides that the district is created to supplement and not to supplant city or county services provided in the district.

Sec. 3935.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is converted to a municipal management district to serve a public use and benefit.

(b) 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, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that the operation 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.

(d) 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;
- (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; and

(4) provide for water, wastewater, drainage, road, and recreational facilities for the district.

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

(f) 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.

Sec. 3935.005. INITIAL DISTRICT TERRITORY. Provides that the district is initially composed of the territory of the former Harris-Fort Bend Counties Municipal Utility District No. 4 as that territory existed on March 1, 2015.

Sec. 3935.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that, except as otherwise provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district.

Sec. 3935.007. CONSTRUCTION OF CHAPTER. Requires that this chapter be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3935.051. GOVERNING BODY; TERMS. (a) Provides that 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 May 1 of each even-numbered year.

(b) Authorizes the board by resolution to change the number of voting directors on the board if the board determines that the change is in the best interest of the district. Prohibits the board from consisting of fewer than 5 or more than 11 voting directors.

Sec. 3935.052. APPOINTMENT OF VOTING DIRECTORS. (a) Requires the mayor and members of the governing body of the city to appoint voting directors from persons recommended by the board. Provides that a person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

(b) Provides that Section 375.063 (Qualifications of Director), Local Government Code, does not apply to the district.

Sec. 3935.053. NONVOTING DIRECTORS. Authorizes the board to appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3935.054. QUORUM. Provides that, for purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3935.055. COMPENSATION. Entitles a director to receive fees of office and reimbursement for actual expenses as provided by Section 49.060 (Fees of Office; Reimbursement), Water Code. Provides that Sections 375.069 (Board Position Not Civil

Office of Emolument) and 375.070 (Compensation of Directors; Reimbursement of Expenses), Local Government Code, do not apply to the board.

Sec. 3935.056. INITIAL VOTING DIRECTORS ON CONVERSION TO MANAGEMENT DISTRICT. (a) Provides that, on the conversion of the district to a management district, the initial board consists of the directors as set forth herein.

(b) Provides that of the initial directors, the terms of directors appointed for positions one through three expire May 14, 2016, and the terms of directors appointed for positions four and five expire May 12, 2018.

(c) Provides that Sections 3935.051 and 3935.052 do not apply to the appointment or terms of directors appointed under Subsection (a). Provides that a director appointed to succeed a director appointed under Subsection (a) serves until May 1 of the appropriate year.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3935.101. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purposes described by this chapter.

Sec. 3935.102. IMPROVEMENT PROJECTS AND SERVICES. Authorizes the district to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any 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 project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3935.103. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provides that the district has the powers and duties provided by the general law of this state, including Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 3935.104. 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. 3935.105. NONPROFIT CORPORATION. (a) Authorizes the 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) may 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. 3935.106. AGREEMENTS; GRANTS. (a) Authorizes the district, as provided by Chapter 375, Local Government Code, to make an agreement with or accept a gift, grant, or loan from any person.

(b) Provides that the implementation of a project is a governmental function or service for the purposes of Chapter 791 (Interlocal Corporation Contracts), Government Code.

Sec. 3935.107. LAW ENFORCEMENT SERVICES. Authorizes the district, to protect the public interest, to contract with a qualified party, including the county or the city, to provide law enforcement services in the district for a fee.

Sec. 3935.108. 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. 3935.109. 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 provided to municipalities by:

(1) Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code; 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.

Sec. 3935.110. 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. 3935.111. ANNEXATION OF LAND. Authorizes the district to annex land as provided by Subchapter J (Annexation or Exclusion of Land), Chapter 49, Water Code.

Sec. 3935.112. APPROVAL BY CITY. (a) Requires the district, except as provided by Subsection (c), to obtain the approval of the city for:

(1) the issuance of bonds;

(2) the plans and specifications of an improvement project financed by bonds; and

(3) the plans and specifications of an improvement project related to the use of land owned by the city, an easement granted by the city, or a right-of-way of a street, road, or highway.

(b) Prohibits the district from issuing bonds until the governing body of the city adopts a resolution or ordinance authorizing the issuance of the bonds.

(c) Authorizes the district, if the district obtains the approval of the city's governing body of a capital improvements budget for a period not to exceed 10 years, to finance the capital improvements and issue bonds specified in the budget without further approval from the city.

(d) Provides that the governing body of the city:

(1) is not required to adopt a resolution or ordinance to approve plans and specifications described by Subsection (a); and

(2) may establish an administrative process to approve plans and specifications described by Subsection (a) without the involvement of the governing body.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3935.151. DISBURSEMENTS AND TRANSFERS OF MONEY. Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

Sec. 3935.152. 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. 3935.153. 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 a petition filed under Subsection (a) 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. 3935.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter 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 may 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. 3935.155. TAX AND ASSESSMENT ABATEMENT. Authorizes the district to designate reinvestment zones and to grant abatements of district taxes or assessments on property in the zones.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3935.201. ELECTIONS REGARDING TAXES AND BONDS. (a) Authorizes the district to issue, without an election, bonds, notes, and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 3935.203.

(b) Requires the district to 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) Provides that 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. 3935.202. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district, if authorized by a majority of the district voters voting at an election held in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, to impose an operation and maintenance tax on taxable property in the district in accordance with that section for any district purpose, including to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

(b) Requires the board to determine the tax rate. Prohibits the rate from exceeding the rate approved at the election.

(c) Provides that Section 49.107(h) (prohibiting an operation and maintenance tax to be used for recreational facilities, as defined by Section 49.462, levied by a district located in a county with a population of more than 3.3 million or in a county adjacent to that county, to the extent authorized by Section 59, Article XVI, Texas Constitution, from exceeding 10 cents per \$100 of assessed valuation of taxable property in the district), Water Code, does not apply to the district.

Sec. 3935.203. 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. 3935.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to borrow money on terms determined by the board. Provides that Section 375.205 (Approval by Attorney General; Registration), Local Government Code, does not apply to a loan, line of credit, or other borrowing from a bank or financial institution secured by revenue other than ad valorem taxes.

(b) Authorizes the district to issue bonds, notes, 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 of money, 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.

Sec. 3935.205. TAXES FOR BONDS. 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, for each year that 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.

Sec. 3935.206. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

SECTION 3. Provides that the Katy Management District No. 1 retains all rights, powers, privileges, authority, duties, and functions that the Harris-Fort Bend Counties Municipal Utility District No. 4 had before the effective date of this Act, except as otherwise expressly provided by Chapter 3935, Special District Local Laws Code, as added by this Act.

SECTION 4. (a) Provides that the legislature validates and confirms all governmental acts and proceedings of the Harris-Fort Bend Counties Municipal Utility District No. 4 that were taken before the effective date of this Act.

(b) Provides that 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 court judgment; or

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

SECTION 5. Provides that all requirements of the constitution and the 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 6. Effective date: upon passage or September 1, 2015.