

BILL ANALYSIS

Senate Research Center
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S.B. 1362
By: Kolkhorst
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Bridgeland Management District (district) was created by Chapter 861, Acts of the 82nd Legislature, Regular Session, 2011. The creation legislation is codified under Chapter 3901, Special District Local Laws Code. S.B. 1362 provides a number of clarifications to the district's creation legislation. In addition, it authorizes the district to provide and finance conduit facilities for electric, fiber-optic and similar "dry utilities," and authorize the district to file an annual financial report in lieu of an annual audit if certain conditions are met.

As proposed, S.B. 1362 amends current law relating to the powers and duties and composition of the board of directors of the Bridgeland Management District.

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. Amends Section 3901.002, Special District Local Laws Code, as follows:

Sec. 3901.002. New heading: CREATION AND NATURE OF DISTRICT; IMMUNITY. (a) Creates this subsection from existing text and makes no further change.

(b) Provides that the Bridgeland Management District (district) is a governmental unit, as provided by Section 375.004 (Governmental Agency; Tort Claims), Local Government Code.

(c) Provides that this chapter does not waive any governmental or sovereign immunity from suit, liability, or judgment that would otherwise apply to the district.

SECTION 2. Amends Section 3901.006(d), Special District Local Laws Code, to provide that the district will promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways, road facilities, transit facilities, parking facilities, conduit facilities and other enhanced infrastructure, recreational facilities, and public art objects and by landscaping and developing certain areas, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

SECTION 3. Amends Section 3901.011, Special District Local Laws Code, to provide that this chapter prevails over any provision of general law, including a provision of Chapter 375 (Municipal Management Districts in General), Local Government Code, or Chapter 49 (Provisions Applicable to All Districts), Water Code, that is in conflict or inconsistent with this chapter.

SECTION 4. Amends Subchapter B, Chapter 3901, Special District Local Laws Code, by adding Section 3901.054, as follows:

Sec. 3901.054. DISQUALIFICATION OF DIRECTORS. Provides that Section 49.052 (Disqualification of Directors), Water Code, applies to the members of the board of the district.

SECTION 5. Amends Section 3901.103, Special District Local Laws Code, as follows:

Sec. 3901.103. RECREATIONAL FACILITIES. Authorizes the district to develop or finance recreational facilities as authorized by Chapter 375, Local Government Code, 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, Texas Constitution, Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution, and any other law that applies to the district.

SECTION 6. Amends Section 3901.104, Special District Local Laws Code, as follows:

Sec. 3901.104. AUTHORITY FOR ROAD PROJECTS. Authorizes the district, under Section 52, Article III, Texas Constitution, to own, operate, maintain, design, acquire, construct, finance, issue bonds, notes, or other obligations for, improve, and convey to this state, a county, or a municipality, for ownership, operation, and maintenance, macadamized, graveled, or paved roads or improvements, including storm drainage, in aid of those roads.

SECTION 7. Amends Sections 3901.105(a) and (b), Special District Local Laws Code, as follows:

(a) Authorizes, rather than requires the district to convey a road project authorized by Section 3901.104 to a municipality or county that will operate and maintain the road if the municipality or county has approved the plans and specifications of the road project, or the state if the state will operate and maintain the road and the Texas Transportation Commission has approved the plans and specifications of the road project.

(b) Requires the district, except as provided by Subsection (c), to operate and maintain a road project authorized by Section 3901.104 that the district implements and does not convey to a municipality, a county, or this state under Subsection (a).

SECTION 8. Amends Section 3901.109, Special District Local Laws Code, as follows:

Sec. 3901.109. LAW ENFORCEMENT SERVICES. Provides that Section 49.216 (Enforcement by Peace Officers), Water Code, applies to the district, rather than authorizing 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.

SECTION 9. Amends Section 3901.114, Special District Local Laws Code, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Authorizes the district to include and exclude land as provided by Sections 54.739-54.747 (relating to powers of the district's board of directors), Water Code. Provides that a reference in those sections to a "tax" means an ad valorem tax for the purposes of this subsection.

(d) Provides that if the district adopts a sales and use tax authorized at an election held under Section 3901.252 (Election; Adoption of Tax) and subsequently includes new territory in the district under this section, the district is not required to hold another election to approve the imposition of the sales and use tax in the included territory; and is required to impose the sales and use tax in the included territory as provided by Chapter 321 (Municipal Sales and Use Tax Act), Tax Code.

(e) Provides that the sales and use tax is inapplicable to the excluded territory, as provided by Chapter 321, Tax Code if the district adopts a sales and use tax authorized at an election held under Section 3901.252 and subsequently excludes territory in the district under this section.

SECTION 10. Amends Section 3901.115(a), Special District Local Laws Code, as follows:

(a) Provides that Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code, applies to a district contract for construction work, equipment, materials, or machinery. Authorizes the district, notwithstanding Sections 2269.003(a) (providing that this chapter prevails over other applicable law) and 2269.352 (Applicability), Government Code, to use any project delivery method described by Subchapter I, Chapter 49, Water Code, or Chapter 2269 (Contracting and Delivery Procedures for Construction Projects), Government Code, including a delivery method described by Subchapter H (Design-Build Procedures for Certain Civil Works Projects), Chapter 2269, Government Code, rather than Subchapter H, Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code.

SECTION 11. Amends Section 3901.153, Special District Local Laws Code, as follows:

Sec. 3901.153. RULES. Authorizes the district, in addition to rules and regulations adopted under the district's general rulemaking authority in Section 375.096(c) (providing rulemaking authority to the board), Local Government Code, to adopt and enforce rules covering its public transit system or its public parking facilities, except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable county requirements.

SECTION 12. Amends Subchapter C-1, Chapter 3901, Special District Local Laws Code, by adding Section 3901.156, as follows:

Sec. 3901.156. MASS TRANSIT SYSTEMS. Provides that this subchapter does not limit the authority of the district to provide mass transit systems under Chapter 375, Local Government Code.

SECTION 13. Amends Chapter 3901, Special District Local Laws Code, by adding Subchapter C-2, as follows:

SUBCHAPTER C-2. CONDUIT FACILITIES

Sec. 3901.171. CONDUIT FACILITIES. (a) Authorizes the district to finance, acquire, construct, improve, operate, maintain, or charge a fee for the use of conduits for fiber-optic cable and supporting facilities, electronic transmission and distribution lines and supporting facilities, or other types of transmission and distribution lines and supporting facilities.

(b) Prohibits the district from requiring a person to use a district conduit for a purpose described by Subsection (a)(1) or another telecommunications purpose.

SECTION 14. Amends Section 3901.204(a), Special District Local Laws Code, to authorize 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 regardless of whether the part of the district where the assessment is to be imposed is subject to an assessment previously imposed by the board.

SECTION 15. Amends Subchapter D, Chapter 3901, Special District Local Laws Code, by adding Section 3901.209, as follows:

Sec. 3901.209. AUDIT EXEMPTION. (a) Authorizes the district to elect to complete an annual financial report in lieu of an annual audit under Section 375.096(a)(6) (authorizing the board to establish a system of accounts and prepare an annual audit), Local

Government Code, if the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period; the district did not have gross receipts from operations, loans, taxes, assessments, or contributions in excess of \$250,000 during the fiscal period; and the district's cash and temporary investments were not in excess of \$250,000 during the fiscal period.

(b) Requires that each annual financial report prepared in accordance with this section be open to public inspection and accompanied by an affidavit signed by a duly authorized representative of the district attesting to the accuracy and authenticity of the financial report.

(c) Requires that the annual financial report and affidavit be substantially similar in form to the annual financial report and affidavit forms prescribed by the executive director of the Texas Commission on Environmental Quality under Section 49.198 (Audit Report Exemption), Water Code.

SECTION 16. Amends Section 3901.351, Special District Local Laws Code, as follows:

Sec. 3901.351. New heading: DISSOLUTION OF DISTRICT. (a) Provides that Sections 375.262 (Dissolution by Petition by Owners) and 375.264 (Limitation on Dissolution by Board), Local Government Code, do not apply to the district.

(b) Authorizes the board to dissolve the district regardless of whether the district has debt. Requires the district, if the district has debt when it is dissolved, to remain in existence solely for the purpose of discharging its debts. Provides that the dissolution is effective when all debts have been discharged.

Deletes existing text providing that Section 375.264, Local Government Code, does not apply to the district.

(c) Requires the board, notwithstanding Section 375.263(b) (relating to dissolution of the district by ordinance), Local Government Code, on dissolution of the district, to determine whether the district's assets will escheat to the state or are transferred to a political subdivision of the state.

SECTION 17. Provides that the change in law made by Section 3901.054, Special District Local Laws Code, as added by this Act, does not affect the entitlement of a member serving on the board of directors of the Bridgeland Management District immediately before the effective date of this Act to continue to carry out the board's functions for the remainder of the member's term. Provides that the change in law applies only to a member elected on or after the effective date of this Act.

SECTION 18. 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 19. Effective date: upon passage or September 1, 2015.