

BILL ANALYSIS

Senate Research Center
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H.B. 4283
By: Oliverson (Kolkhorst)
Administration
5/16/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This local bill proposes to modify the existing Grand Northwest Municipal Utility District to become a municipal management district called Grand Northwest Municipal Management District.

The current district includes approximately 480 acres of currently raw, undeveloped land at the northwest corner of the U.S. 290/Grand Parkway intersection. The district's boundaries will not be changed or altered as a result of this bill.

The development plans for the district include retail and office space, multi-family residential, and parks and open space. The district will retain all of the powers and duties that it currently has as a municipal utility district. Becoming a management district will allow the district to provide additional services and improvements to the property in the district, such as attractive signage, landscaping and beautification, and sidewalks and lighting.

Municipal management districts, which are generally governed by Chapter 375, Local Government Code, have been used to promote the development of commercial areas and provide infrastructure improvements and supplemental services required of such areas. Management districts have been widely used in the Houston region, with almost every major commercial area in the Houston region being supported by a management district.

The bill tracks the "standardized" management district creation language previously adopted by the Senate Intergovernmental Relations Committee and used by prior house and senate committees. No objections are anticipated for this local bill. The sole land owner, an entity controlled by John McCormack, initiated the request for this local bill. John McCormack is the founder and CEO of Visible Changes.

The committee substitute will require the directors to be elected instead of appointed.

H.B. 4283 amends current law relating to the conversion of the Grand Northwest Municipal Utility District to the Grand Northwest Municipal Management District, 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 Grand Northwest Municipal Utility District (Grand Northwest MUD) is converted to the Grand Northwest Municipal Management District (district) and is governed by Chapter 3949, 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 3949, as follows:

CHAPTER 3949. GRAND NORTHWEST MUNICIPAL MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3949.001. DEFINITIONS. Defines "board," "county," "director," and "district."

Sec. 3949.002. NATURE OF DISTRICT; CONVERSION. Provides that the 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 Grand Northwest MUD. Provides that the Grand Northwest MUD is converted to a municipal management district (MMD) known as the Grand Northwest Municipal Management District under the same constitutional authority.

Sec. 3949.003. 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 an MMD and in authorizing 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 accomplish certain purposes in the district.

(c) Prohibits this chapter and the conversion of operation of the district from being interpreted to relieve Harris County (county) from providing the level of services provided as of the effective date of this Act enacting this chapter to the area in the district. Provides that the district is created to supplement and not to supplant county services provided in the district.

Sec. 3949.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is converted to an MMD 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 certain public purposes.

(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. 3949.005. INITIAL DISTRICT TERRITORY. Provides that the district is initially composed of the territory of the former Grand Northwest MUD as that territory existed on March 1, 2017.

Sec. 3949.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that Chapter 375 (Municipal Management Districts in General), Local Government Code, except as otherwise provided by this chapter, applies to the district.

Sec. 3949.007. 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. 3949.051. GOVERNING BODY; TERMS. (a) Provides that the district is governed by a board of five directors (board) elected in the manner provided by Sections 49.102 (Confirmation and Director Election) and 49.103 (Terms of Office of Directors), Water Code.

(b) Provides that directors serve staggered four-year terms.

Sec. 3949.052. QUORUM. Provides that, for purposes of determining the requirements for a quorum of the board, a board position vacant for any reason, including death, resignation, or disqualification, or a director who is abstaining from participation in a vote because of a conflict of interest are not counted.

Sec. 3949.053. COMPENSATION. Provides that a director is entitled 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. 3949.054. INITIAL DIRECTORS ON CONVERSION TO MANAGEMENT DISTRICT. (a) Provides that, notwithstanding Section 3949.051, on the conversion of the district to a MMD the initial board consists of certain directors.

(b) Provides that the initial directors' terms expire on certain staggered dates.

(c) Provides that this section expires September 1, 2020.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3949.101. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purposes described by this chapter.

Sec. 3949.102. IMPROVEMENT PROJECTS AND SERVICES. Authorizes the district to carry out certain actions relating to an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3949.103. 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 MUDs created under Section 59, Article XVI, Texas Constitution.

Sec. 3949.104. 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 Cooperation Contracts), Government Code.

Sec. 3949.105. LAW ENFORCEMENT SERVICES. Authorizes the district, to protect the public interest, to contract with a qualified party, including the county, to provide law enforcement services in the district for a fee.

Sec. 3949.106. 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 make loans and grants of public money and provide district personnel and services.

(c) Authorizes the district to create economic development programs and to exercise the economic development powers provided to municipalities by Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code, and 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. 3949.107. PARKING FACILITIES. (a) Authorizes the district to take certain actions relating to parking facilities.

(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. 3949.108. ANNEXATION OF LAND. Authorizes the district to annex land as provided by Subchapter J (Annexation or Exclusion of Land), Chapter 49, Water Code.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3949.151. 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. 3949.152. 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. 3949.153. 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. 3949.154. 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 is authorized to 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.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3949.201. ELECTIONS REGARDING TAXES AND BONDS. (a) Authorizes the district to issue, without an election, bonds, notes, and other obligations secured by revenue other than ad valorem taxes or contract payments described by Section 3949.203.

(b) Requires the district to hold an election in the manner provided by Subchapter L (Elections), Chapter 375, Local Government Code, to obtain voter approval before the district is authorized to impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Provides that Section 375.243 (Petition Required for Bond Election), Local Government Code, does not apply to the district.

(d) Authorizes all or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds to be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3949.202. 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 3949.201, to impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, for any district purpose, including to maintain and operate the district, construct or acquire improvements, or 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) (relating to prohibiting a certain operation and maintenance tax from exceeding a certain amount), Water Code, does not apply to the district.

Sec. 3949.203. 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 to 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. 3949.204. 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 certain bonds, notes, or other obligations 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. 3949.205. 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.

SUBCHAPTER F. DISSOLUTION AND MUNICIPAL ANNEXATION

Sec. 3949.251. MUNICIPAL ANNEXATION; DISSOLUTION. (a) Provides that the district is a "water or sewer district" under Section 43.071 (Authority to Annex Water or Sewer District), Local Government Code.

(b) Provides that Section 43.075 (Abolition of, or Division of Functions of, Water-Related Special District That Becomes Part of Not More Than One Municipality), Local Government Code, applies to the district.

(c) Provides that Section 375.264 (Limitation on Dissolution by Board), Local Government Code, does not apply to the dissolution of the district by a municipality.

SECTION 3. Provides that the district retains all rights, powers, privileges, authority, duties, and functions that the Grand Northwest MUD had before the effective date of this Act, except as otherwise expressly provided by Chapter 3949, 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 Grand Northwest MUD 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 is involved in litigation if the litigation ultimately results in the matter being held invalid by a final court judgment or 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 have been fulfilled and accomplished.

SECTION 6. Effective date: upon passage or September 1, 2017.