

BILL ANALYSIS

C.S.H.B. 4345
By: Rodriguez, Eddie
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that certain undeveloped land located within Travis County would benefit from the creation of a municipal utility district. C.S.H.B. 4345 seeks to provide for the creation of such a district.

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. 4345 amends the Special District Local Laws Code to create the Rio de Vida Municipal Utility District No. 1, subject to the consent of the City of Austin and voter approval at a confirmation election, and to provide for dissolution of the district on February 14, 2020, if the city does not consent to the district's creation. The bill grants the district the power to undertake certain road projects and provides for the district's eligibility for inclusion in a tax abatement reinvestment zone, a contract to further regional cooperation between the district and the city, grading and improvements to district land, the division of the district into multiple districts, and municipal annexation and dissolution of the district. The bill expressly prohibits the district from exercising the power of eminent domain. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, contract, sales and use, and hotel occupancy taxes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4345 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 F, Title 6, Special District Local Laws Code, is amended by

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by

adding Chapter 8013 to read as follows:

CHAPTER 8013. RIO DE VIDA
MUNICIPAL UTILITY
DISTRICT NO. 1

SUBCHAPTER A. GENERAL
PROVISIONS

Sec. 8013.001. DEFINITIONS.

Sec. 8013.002. NATURE OF DISTRICT.

Sec. 8013.003. CONFIRMATION
ELECTION REQUIRED. The temporary
directors shall hold an election to confirm
the creation of the district.

Sec. 8013.004. CONSENT OF CITY
REQUIRED; ENFORCEABILITY OF
CONSENT AGREEMENT. (a) The
temporary directors may not hold an
election under Section 8013.003 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 under this section
before September 1, 2018:

(1) the district is dissolved September 1,
2018, 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 expires September 1, 2018.

Sec. 8013.005. FINDINGS OF PUBLIC
PURPOSE AND BENEFIT.

Sec. 8013.006. INITIAL DISTRICT
TERRITORY.

Sec. 8013.007. ELIGIBILITY FOR
INCLUSION IN TAX ABATEMENT
REINVESTMENT ZONE.

Sec. 8013.008. REQUIREMENT FOR
AFFORDABLE HOUSING. (a) In this
section, "affordable housing" means housing

adding Chapter 8013 to read as follows:

CHAPTER 8013. RIO DE VIDA
MUNICIPAL UTILITY
DISTRICT NO. 1

SUBCHAPTER A. GENERAL
PROVISIONS

Sec. 8013.001. DEFINITIONS.

Sec. 8013.002. NATURE OF DISTRICT.

Sec. 8013.003. CONFIRMATION AND
DIRECTORS' ELECTION REQUIRED.
The temporary directors shall hold an
election to confirm the creation of the
district and to elect four permanent
directors.

Sec. 8013.004. CONSENT OF CITY
REQUIRED. (a) The temporary directors
may not hold an election under Section
8013.003 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 under this section
before February 14, 2020:

(1) the district is dissolved February 14,
2020, 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 expires February 14, 2020.

Sec. 8013.005. FINDINGS OF PUBLIC
PURPOSE AND BENEFIT.

Sec. 8013.006. INITIAL DISTRICT
TERRITORY.

Sec. 8013.007. ELIGIBILITY FOR
INCLUSION IN TAX ABATEMENT
REINVESTMENT ZONE.

for which the monthly mortgage payment or contract rent does not exceed 30 percent of the applicable area median family income.

(b) Not less than 25 percent of non-rental residential units developed on the real property in the district must be deed restricted for sale to low-income households as affordable housing. Of that 25 percent, one-third shall be reserved for:

(1) individuals or families with incomes at or below 80 percent of the area median family income;

(2) individuals or families with incomes at or below 60 percent of the area median family income; and

(3) individuals or families with incomes at or below 40 percent of the area median family income.

(c) Not less than 25 percent of rental residential units developed on the real property in the district must be deed restricted for rent by low-income households as affordable housing. Of that 25 percent, one-third shall be reserved for:

(1) individuals or families with incomes at or below 80 percent of the area median family income;

(2) individuals or families with incomes at or below 60 percent of the area median family income; and

(3) individuals or families with incomes at or below 40 percent of the area median family income.

(d) If the deed restrictions imposed under this section are for a term of years, the deed restrictions shall renew automatically.

(e) Affordable housing units reserved under this section must be reserved in the same proportion of the type and size of units that are offered in the residential development as a whole.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8013.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) A director may not serve more than two full terms of four years.

Sec. 8013.052. APPOINTMENT OF DIRECTORS. (a) Except as provided by

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8013.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) A director may not serve more than two full terms of four years.

(c) The board consists of:

(1) four elected directors; and

Subsection (c), the members of the governing body of the city shall appoint the directors. Four of the five directors must be appointed from persons recommended by the board.

(b) A person is appointed if a majority of the members of the governing body vote to appoint the person.

(c) Beginning on January 1, 2047, the members of the governing body of the city may appoint all of the directors without the recommendation of the board. This subsection applies only to a director whose term expires on or after January 1, 2047.

Sec. 8013.053. QUALIFICATIONS. A person recommended by the board must:

- (1) reside in the district; or
- (2) own real property in the district.

Sec. 8013.054. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) Jeff Frank;
- (2) Gordon Westergren;
- (3) Steve Soward;
- (4) Clint Walker; and
- (5) Rob Riviere.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are appointed under Section 8013.052; or
- (2) September 1, 2021.

(c) Section 8013.053 does not apply to this section.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8013.101. GENERAL POWERS AND DUTIES.

Sec. 8013.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

Sec. 8013.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for,

(2) one director appointed by the governing body of the city.

(d) A director appointed under Subsection (c)(2) is not required to reside in the district or to own real property in the district.

(e) The common law doctrine of incompatibility does not disqualify an elected official or employee of the city from being appointed as a director by the governing body of the city under Subsection (c)(2). A director appointed to the board may continue to serve in a public office of or be employed by the city.

Sec. 8013.052. QUALIFICATIONS. Except as provided by Section 8013.051(d), to qualify to serve on the board, a person must:

- (1) reside in the district; or
- (2) own real property in the district.

Sec. 8013.053. TEMPORARY DIRECTORS. (a) On or after September 1, 2017, the owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Unless the district is dissolved and this chapter expires as provided by Section 8013.004, temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 8013.003; or
- (2) September 1, 2021.

(c) Section 8013.052 does not apply to a director appointed under this section.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8013.101. GENERAL POWERS AND DUTIES.

Sec. 8013.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

Sec. 8013.103. 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. 8013.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8013.105. COMPLIANCE WITH MUNICIPAL CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION. (a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) Any agreement between the district and the city related to the city's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds, the district is considered to have acknowledged and consented to the exercise of the city's authority as to actions taken by the city under Section 54.016(g), Water Code.

Sec. 8013.106. CONTRACT TO FURTHER REGIONAL COOPERATION.

Sec. 8013.107. ECONOMIC DEVELOPMENT. (a) Before exercising a power under this section, the district must obtain the city's consent.

(b) The district may engage in activities

improve, operate, maintain, and convey to this state, a county, or the city for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8013.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of the city.

(b) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8013.105. COMPLIANCE WITH CONSENT AGREEMENT, ORDINANCE, OR RESOLUTION. (a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district, including affordable housing requirements established in the consent agreement.

(b) Any agreement between the district and the city related to the city's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds, the district is considered to have acknowledged and consented to the exercise of the city's authority as to actions taken by the city under Section 54.016(g), Water Code.

Sec. 8013.106. CONTRACT TO FURTHER REGIONAL COOPERATION.

that accomplish the economic development purposes of the district.

(c) 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.

(d) The district may create economic development programs and exercise the economic development powers that Chapter 380, Local Government Code, provides to a municipality.

Sec. 8013.108. MASS GRADING AND IMPROVEMENTS TO LAND IN THE DISTRICT. The district may construct, acquire, improve, maintain, finance, or operate a facility or improvement related to reclaiming or grading land in the district.

Sec. 8013.109. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8013.151. DIVISION OF DISTRICT; PREREQUISITES.

Sec. 8013.152. LAW APPLICABLE TO NEW DISTRICT.

Sec. 8013.153. LIMITATION ON AREA OF NEW DISTRICT.

Sec. 8013.154. CONSENT OF MUNICIPALITY OR COUNTY. (a) If the district is located wholly or partly in the corporate limits or the extraterritorial jurisdiction of a municipality, the district may not divide under this subchapter unless the municipality by resolution or ordinance first consents to the division of the district.

(b) If the district is not located wholly or partly in the corporate limits or the extraterritorial jurisdiction of a municipality, the district may not divide under this subchapter unless the commissioners court of each county in which the district is wholly or partly located first adopts a resolution or order in support of the division of the district.

Sec. 8013.107. GRADING AND IMPROVEMENTS TO LAND IN THE DISTRICT. The district may construct, acquire, improve, maintain, finance, or operate a facility or improvement related to reclaiming or grading land in the district.

Sec. 8013.108. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8013.151. DIVISION OF DISTRICT; PREREQUISITES.

Sec. 8013.152. LAW APPLICABLE TO NEW DISTRICT.

Sec. 8013.153. LIMITATION ON AREA OF NEW DISTRICT.

Sec. 8013.154. CONSENT OF CITY OR COUNTY. If the district is located wholly or partly in the corporate limits or the extraterritorial jurisdiction of the city, the district may not divide under this subchapter unless the city by resolution or ordinance first consents to the division of the district.

Sec. 8013.155. DIVISION PROCEDURES.

Sec. 8013.156. TAX OR BOND ELECTION.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8013.201. ELECTIONS REGARDING TAXES OR BONDS.

Sec. 8013.202. OPERATION AND MAINTENANCE TAX.

Sec. 8013.203. CONTRACT TAXES.

Sec. 8013.204. APPROVAL BY CITY OF CAPITAL IMPROVEMENTS BUDGET. If the district obtains approval from the city's governing body of a capital improvements budget for a period not to exceed 10 years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the city.

SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

Sec. 8013.251. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.

Sec. 8013.252. TAXES FOR BONDS.

Sec. 8013.253. BONDS FOR ROAD PROJECTS.

Sec. 8013.254. BONDS FOR RECREATIONAL FACILITIES. The limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645, Water Code, does not apply to the district.

SUBCHAPTER G. SALES AND USE TAX

SUBCHAPTER H. HOTEL OCCUPANCY TAX

SUBCHAPTER I. MUNICIPAL ANNEXATION AND DISSOLUTION

SECTION 2. Sets out the metes and bounds of the district.

Sec. 8013.155. DIVISION PROCEDURES.

Sec. 8013.156. TAX OR BOND ELECTION.

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8013.201. ELECTIONS REGARDING TAXES OR BONDS.

Sec. 8013.202. OPERATION AND MAINTENANCE TAX.

Sec. 8013.203. CONTRACT TAXES.

SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

Sec. 8013.251. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.

Sec. 8013.252. TAXES FOR BONDS.

Sec. 8013.253. BONDS FOR ROAD PROJECTS.

SUBCHAPTER G. SALES AND USE TAX

SUBCHAPTER H. HOTEL OCCUPANCY TAX

SUBCHAPTER I. MUNICIPAL ANNEXATION AND DISSOLUTION

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) 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, 2017.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.