

## **BILL ANALYSIS**

C.S.H.B. 4349  
By: Cortez  
Special Purpose Districts  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties note that, given the cultural importance of the Alamo and the pressures of tourist traffic and urban development, the Alamo and its surrounding area are in need of long term maintenance and oversight to protect the dignity and historical importance of the Alamo and its surrounding area from inappropriate development. C.S.H.B. 4349 seeks to address this need by providing for the creation of the Alamo Management 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. 4349 amends the Special District Local Laws Code to create the Alamo Management District to provide certain improvements, projects, and services for public use and benefit, including the protection and preservation of the Alamo shrine and the surrounding area. The bill provides for, among other provisions, the application of municipal management districts law to the district, resolution of a conflict with an authority or power granted to the San Antonio River Authority, resolution of a conflict with the City of San Antonio, contracts with political subdivisions, and the dissolution of the district by the district's board. The bill authorizes the district to participate with the City of San Antonio in the development and implementation of an Alamo Complex Master Plan and sets out the district's powers and duties, which include, subject to certain requirements, the authority to issue obligations. The bill prohibits the district from annexing territory, exercising the power of eminent domain, or imposing a tax, assessment, or fee.

### **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. 4349 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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3636 to read as follows:

CHAPTER 3636. ALAMO MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3636.001. DEFINITIONS.

Sec. 3636.002. CREATION AND NATURE OF DISTRICT.

Sec. 3636.003. PURPOSE; LEGISLATIVE FINDINGS.

Sec. 3636.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE

Sec. 3636.005. INITIAL DISTRICT TERRITORY.

Sec. 3636.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

Sec. 3636.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW.

Sec. 3636.008. LIBERAL CONSTRUCTION OF CHAPTER.

Sec. 3636.009. CONFLICT WITH RIVER AUTHORITY.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3636.051. BOARD; TERMS.

Sec. 3636.052. APPOINTMENT AND REMOVAL OF DIRECTORS. (a) The commissioner serves as the presiding officer

HOUSE COMMITTEE SUBSTITUTE

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Sec. 3636.005. INITIAL DISTRICT TERRITORY.

Sec. 3636.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

Sec. 3636.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW.

Sec. 3636.008. LIBERAL CONSTRUCTION OF CHAPTER.

Sec. 3636.009. CONFLICT WITH RIVER AUTHORITY

Sec. 3636.010. CONFLICT WITH CITY. If any authority or power granted to the district overlaps or conflicts with any authority or power granted to the city, the authority or power granted to the city shall supersede and control over the authority or power granted to the district, unless the city consents to the exercise of the authority or power by the district.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3636.051. BOARD; TERMS.

Sec. 3636.052. APPOINTMENT AND REMOVAL OF DIRECTORS. (a) The commissioner serves as the presiding officer

of the board.

(b) The commissioner shall appoint the remaining members of the board as follows:

(1) a person with knowledge of Texas history;

(2) a person with knowledge of preservation or operation of historic sites;

(3) a person with knowledge of fund-raising or state funding sources and procedures;

(4) a person with knowledge of municipal land use or site development regulation;

(5) a person who owns a business in or near the district; and

(6) a person qualified to serve as a director under Section 375.063, Local Government Code.

(c) If the board increases the number of directors under Section 3636.051 to more than seven, the commissioner shall appoint the additional directors. The additional directors must be qualified to serve as a director under Section 375.063, Local Government Code.

(d) If a vacancy occurs on the board, the commissioner shall appoint a director for the remainder of the unexpired term only with the approval of a majority of the remaining directors.

(e) Each director serves at the pleasure of the commissioner. The commissioner may remove a director at any time in a manner authorized by law.

Sec. 3636.053. NONVOTING DIRECTORS.

Sec. 3636.054. QUORUM; BOARD ACTION.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3636.101. GENERAL POWERS AND DUTIES.

Sec. 3636.102. STANDARDS FOR LAND USE, SITE DEVELOPMENT, ARCHITECTURAL DESIGN. (a) The district may adopt and enforce standards for land use, site development, and architectural design in the district to ensure that land use, site development, and architecture in the district are compatible with land use, site

of the board.

(b) The mayor of the city shall serve as a director or appoint a person to serve on behalf of the mayor.

(c) The commissioner shall appoint the remaining members of the board as follows:

(1) a person with knowledge of Texas history;

(2) a person with knowledge of preservation or operation of historic sites;

(3) a person with knowledge of fund-raising or state funding sources and procedures;

(4) a person with knowledge of municipal land use or site development regulation; and

(5) a person who owns a business in or near the district.

(d) If the board increases the number of directors under Section 3636.051 to more than seven, the commissioner shall appoint the additional directors. The additional directors must be qualified to serve as a director under Section 375.063, Local Government Code.

(e) If a vacancy occurs on the board, the commissioner shall appoint a director for the remainder of the unexpired term only with the approval of a majority of the remaining directors.

(f) Each director appointed under Subsection (c) serves at the pleasure of the commissioner. The commissioner may remove a director at any time in a manner authorized by law.

Sec. 3636.053. NONVOTING DIRECTORS.

Sec. 3636.054. QUORUM; BOARD ACTION.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3636.101. GENERAL POWERS AND DUTIES.

Sec. 3636.102. MASTER PLAN. The district may participate with the city in the development and implementation of an Alamo Complex Master Plan.

development, and architecture in the Alamo complex.

(b) The district may create and adopt a master plan for land use, site development, and architectural design in the district. If the district adopts a master plan, any standards adopted under Subsection (a) must conform with the plan.

(c) A standard adopted under this section may not be less strict than a standard adopted by the city that applies to land or architecture in the district.

Sec. 3636.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3636.104. NONPROFIT CORPORATION. (a) The board by resolution may 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) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall 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. 3636.105. AGREEMENTS; GRANTS.

Sec. 3636.106. CONTRACT WITH POLITICAL SUBDIVISION.

Sec. 3636.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

Sec. 3636.108. ANNEXATION. The

Sec. 3636.103. AGREEMENTS; GRANTS.

Sec. 3636.104. CONTRACT WITH POLITICAL SUBDIVISION.

Sec. 3636.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

Sec. 3636.106. NO ANNEXATION. The

district may annex territory that is adjacent to the district in the manner provided by Section 49.301, Water Code.

Sec. 3636.109. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3636.151. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not finance a service or an improvement project under this chapter unless a written petition requesting that service or improvement is filed with the board.

(b) The petition must 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. 3636.152. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3636.153. AUTHORITY TO IMPOSE ASSESSMENTS, IMPACT FEES, AND OTHER FEES. (a) The district may impose an assessment, impact fee, or other fee as provided by Chapter 375, Local Government Code, to finance:

(1) an improvement this chapter authorizes the district to construct or acquire; or

(2) a service this chapter authorizes the district to provide.

(b) The district may impose an assessment, impact fee, or other fee only on property on which a structure is, on or after the date the district is created:

(1) constructed; or

(2) renovated in a manner that removes, replaces, or renovates at least 50 percent of the square footage of the structure.

Sec. 3636.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) An assessment or reassessment, including an assessment resulting from an addition to or correction of the assessment

district may not annex territory.

Sec. 3636.107. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3636.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

*(See Sec. 3636.152 below.)*

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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 proceeding.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid.

(d) The board may correct, add to, or delete assessments from its assessment rolls after notice and hearing as provided by Subchapter F, Chapter 375, Local Government Code.

Sec. 3636.155. ASSESSMENT ABATEMENTS. The district may grant abatements of an assessment on property in the district.

*(See Sec. 3636.152 below.)*

Sec. 3636.156. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

*(See Sec. 3636.152 below.)*

(1) burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line;

(2) removing poles and any elevated lines using the poles; and

(3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) The district may acquire, operate, or charge fees for the use of the district conduits for:

(1) another person's:

(A) telecommunications network;

(B) fiber-optic cable; or

(C) electronic transmission line; or

(2) any other type of transmission line or supporting facility.

(c) The district may not require a person to use a district conduit.

(d) The district may not impose an assessment under this section on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) a telecommunications provider, as defined by Section 51.002, Utilities Code;

or

(2) a cable service provider or a video service provider, as defined by Section 66.002, Utilities Code.

(e) Subsection (d) does not apply to property that is used for an office.

Sec. 3636.157. NO AD VALOREM TAX. The district may not impose an ad valorem tax.

Sec. 3636.158. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds, notes, or other obligations payable wholly or partly from assessments or other money available to the district in the manner provided by Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

#### SUBCHAPTER E. DISSOLUTION BY BOARD

Sec. 3636.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT.

#### SUBCHAPTER Z. SPECIAL BOND PROVISIONS

Sec. 3636.901. APPLICABILITY. This subchapter applies to bonds payable wholly or partly from revenue derived from assessments on real property in the district.

Sec. 3636.902. CONFLICT OF LAWS. In

Sec. 3636.152. NO TAXES, ASSESSMENTS, OR FEES. The district may not impose a tax, assessment, or fee.

Sec. 3636.153. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds, notes, or other obligations payable from money available to the district in the manner provided by Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3636.154. REQUIREMENTS FOR BOND ISSUE. The district may not issue bonds until the district submits to the Texas Commission on Environmental Quality:

(1) an engineer's report describing the project for which the bonds will provide funding, including data, profiles, maps, plans, and specifications related to the project; and

(2) a cash flow analysis to determine the projected bond payoff schedule, which includes the following assumptions:

(A) each ending balance for debt service in the analysis is not less than 25 percent of the following year's debt service requirement; and

(B) interest income is only shown on the ending balance for debt service for the first two years.

#### SUBCHAPTER E. DISSOLUTION BY BOARD

Sec. 3636.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT.

the event of a conflict between this subchapter and any other law, this subchapter prevails.

Sec. 3636.903. WRITTEN AGREEMENT REGARDING SPECIAL APPRAISALS.

Before issuing bonds, the district and any person to whom the governing body of the district intends that proceeds of the bonds be distributed, including a developer or other owner of land in the district, and any entity acting as a lender to a developer or other owner of land in the district for the purpose of a project relating to the district, must enter into a written agreement that:

(1) waives for the term of the agreement the right to a special appraisal with respect to taxation by the district under Subchapters B, C, D, E, F, and H, Chapter 23, Tax Code; and

(2) remains in effect for 30 years and is binding on the parties, on entities related to or affiliated with the parties, and on their successors and assignees.

Sec. 3636.904. REQUIREMENTS FOR ADVERTISING BOND ISSUE.

The district may not advertise for an issuance of bonds until the completion of at least 25 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds.

Sec. 3636.905. REQUIREMENTS FOR BOND ISSUE. The district may not issue bonds until:

(1) the district submits to the Texas Commission on Environmental Quality:

(A) an engineer's report describing the project for which the bonds will provide funding, including data, profiles, maps, plans, and specifications related to the project; and

(B) a cash flow analysis to determine the projected rate of assessment, which includes the following assumptions:

(i) each ending balance for debt service in the analysis is not less than 25 percent of the following year's debt service requirement;

(ii) interest income is only shown on the ending balance for debt service for the first two years; and

(iii) the projected rate of assessment is level or decreasing for the life of the bonds issued by the district;

(2) the completion of at least 75 percent of



the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds; and  
(3) the district has obtained an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property that is liable for district assessments and necessary to support the district bonds.

Sec. 3636.906. REQUIREMENTS FOR COLLECTION OF REVENUE TO PAY CERTAIN BONDS. The district may not collect an assessment to be used for the payment of bonds to be issued to finance the construction of underground water, wastewater, and drainage facilities until:

(1) the completion of at least 95 percent of the underground water, wastewater, and drainage facilities financed from bond proceeds that are necessary to serve the projected build-out, as certified by the district's engineer;

(2) the district or other appropriate party has secured the groundwater, surface water, and water discharge permits that are necessary to secure capacity to support the projected build-out;

(3) the completion of at least 95 percent of lift station, water plant, and sewage treatment plant capacity sufficient to serve the connections constructed in the project for a period of not less than 18 months, as certified by the district's engineer; and

(4) the completion of at least 95 percent of the streets and roads that are necessary to provide access to the areas served by utilities and to be financed by the proceeds of the bonds, as certified by the district's engineer and constructed in accordance with city or county standards.

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

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

SECTION 3. Same as introduced version.

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) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) 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 4. Same as introduced version.