

House Bill 5336
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION (CS)	CONFERENCE
SECTION 1. Chapter 5002, Special District Local Laws Code, is amended by adding Subchapters D and E to read as follows:	SECTION 1. Same as House version.	
<u>SUBCHAPTER D. POWERS AND DUTIES</u> <u>Sec. 5002.151. DEFINITIONS. In this subchapter:</u> <u>(1) “Port use” means any use permitted or allowed, with or without a special use permit, in the following zoning districts under the zoning ordinance, or any additional use subsequently permitted or allowed in the following zoning districts under an amendment to the zoning ordinance:</u> <u>(A) a zoning district designated as DT, C-1, C-2, C-3, or W-1; or</u> <u>(B) a zoning district designated as “IN,” other than heavy industrial or other heavy industrial uses as defined in the zoning ordinance.</u> <u>(2) “Port zone” means:</u> <u>(A) the lands within the protected zone that are located both south of West Eighth Street and east of Cherry Street; and</u> <u>(B) all lands east of Farm-to-Market Road 1495 that are included within the Plat and Dedication of the Freeport Townsite recorded in Volume 2, at Page 95 of the Brazoria County Real Property Records.</u> <u>(3) "Protected zone" means the portion of the corporate limits of the City of Freeport as they exist on September 1, 2023, that lies:</u> <u>(A) within the enclosed space bounded by beginning at the intersection of State Highway 36 and the center of the Brazos River, then north along the center of the Brazos River to the intersection of the center of the Brazos River and the center of the DOW fresh water canal, then north and east along the center of the DOW fresh water canal to the intersection of the</u>	Same as House version.	

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<p><u>center of the DOW fresh water canal and Farm-to-Market Road 1495, then south along Farm-to-Market Road 1495 to the intersection of Farm-to-Market Road 1495 and State Highway 36, and then west along State Highway 36 to the intersection of State Highway 36 and the center of the Brazos River;</u></p> <p><u>(B) within Brazoria County 2020 United States Census tract 664501 blocks 2027, 2032, and 2034;</u></p> <p><u>(C) within the enclosed space bounded by beginning at the intersection of Farm-to-Market Road 1495 and the Intracoastal Waterway, then west along the Intracoastal Waterway to the intersection of the Intracoastal Waterway and the Brazos River, then south along the Brazos River to the Gulf of Mexico, then east along the Gulf of Mexico to the intersection of a line extending from the southern terminus of Farm-to-Market Road 1495 due south to the intersection with the Gulf of Mexico, and then due north to the intersection of Farm-to-Market Road 1495 and the Intracoastal Waterway;</u></p> <p><u>(D) adjacent to the old Brazos River channel and inside the floodgate, which is zoned as a W-1 District under the zoning ordinance, and bounded by Farm-to-Market Road 1495 on the west;</u></p> <p><u>(E) within the portion of Brazoria County 2020 United States Census tract 664200 blocks 2059, 2060, and 2061 that lies within 3,500 feet of the centerline of State Highway 332;</u></p> <p><u>(F) within the 13.316 acre tract of land described in that certain Deed recorded in Volume 11199, at Page 471 of the Brazoria County Real Property Records; or</u></p> <p><u>(G) within the 56.751 acre tract of land described in that certain Deed of Exchange recorded in Volume 86286, at Page 927 of the Brazoria County Real Property Records.</u></p> <p><u>(4) "Zoning ordinance" means Chapter 155, Code of</u></p>		

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<u>Ordinances, of the City of Freeport, Texas in effect on January 1, 2023.</u>		
<u>Sec. 5002.152. POWERS REGARDING PORTS AND FACILITIES. Except as provided by Section 5002.153, the district may:</u> <u>(1) acquire by gift, purchase, or eminent domain and own land adjacent or accessible by road, rail, or water to navigable water and ports developed by the district that is necessary for the development and operation of the navigable water or ports within the district or necessary for or in aid of the development of industries and businesses on that land; and</u> <u>(2) construct, extend, improve, repair, maintain, and reconstruct, cause to be constructed, extended, improved, repaired, maintained, and reconstructed, and own, rent, lease, use, and operate any facility of any kind necessary or convenient to the exercise of the rights, powers, privileges, and functions granted by this chapter.</u>	Same as House version.	
<u>Sec. 5002.153. LIMITATION ON ACQUISITION AND USE OF REAL PROPERTY WITHIN THE CORPORATE LIMITS OF CERTAIN MUNICIPALITIES. After the effective date of the Act enacting this section, the district shall not:</u> <u>(1) acquire by gift, purchase, or condemnation any real property located within the protected zone unless:</u> <u>(A) the acquisition is of a residential lot or lots for which no change in the permitted use will be sought by the district; or</u> <u>(B) the acquisition is submitted to the qualified voters of the municipality within which the real property is located at an election held on a uniform election date and is approved by a majority of the votes received at the election;</u>	Same as House version.	

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<p><u>(2) use any property owned or acquired by the district in the port zone for anything other than a port use; or</u></p> <p><u>(3) use any property owned or acquired by the district in the protected zone that is not in the port zone for anything other than a use permitted under the zoning ordinance unless the use is approved by the governing body of the municipality in which the land is located.</u></p> <p><u>Sec. 5002.154. CALLING ELECTION. The governing body of a municipality shall call an election under Section 5002.153(3) to be held on the next uniform election date within 30 days of the municipality’s receipt from the district of a written request for the election and the description of all property subject to the election.</u></p> <p><u>Sec. 5002.155. REPLATTING OF LAND. (a) The district may replat land owned by the district in accordance with Subchapter A, Chapter 212, Local Government Code, for the purpose of combining previously platted lots for development. (b) The municipal authority responsible for approving the plat shall approve a replat requested by the district for the purposes set forth in this section within 60 days following receipt of the application for replat. (c) The provisions of Subsection (b) do not apply to the replatting of land by the district if the replat creates or proposes municipally owned or municipally maintained public right-of-way or municipally owned or municipally maintained water, wastewater, or stormwater infrastructure within the property being platted.</u></p> <p><u>SUBCHAPTER E. RELATIONSHIP WITH MUNICIPALITIES</u></p>	<p><u>Sec. 5002.154. CALLING ELECTION. The governing body of a municipality shall call an election under Section 5002.153(1)(B) to be held on the next uniform election date within 30 days of the municipality’s receipt from the district of a written request for the election and the description of all property subject to the election.</u></p> <p>Same as House version.</p> <p><u>SUBCHAPTER E. Same as House version.</u></p>	

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Sec. 5002.201. DISTRICT PROPERTY SUBJECT TO MUNICIPAL JURISDICTION. (a) This section applies only to property:
(1) owned or leased by the district; and
(2) located in:
(A) the district; and
(B) the boundaries or extraterritorial jurisdiction of a municipality with a population of less than 20,000 that is wholly located in the district and whose corporate limits border the Gulf of Mexico.
(b) Except as provided by Subsection (c), the district has exclusive land use jurisdiction over property to which this section applies.
(c) This section does not apply to an ordinance, rule, or other measure adopted by a municipality that:
(1) applies only to property within the boundaries of the municipality;
(2) regulates only the safety of the operations of the municipality or reasonable aesthetics, including regulations governing fire and emergency response, traffic, light, or noise;
(3) is commercially reasonable; and
(4) does not effectively prohibit development and operation of industries and businesses on property owned or leased by the district that are built in accordance with building codes adopted by the district that meet or exceed the building codes adopted by the local municipality.
(d) A municipality may conduct inspections to verify compliance with Subsection (c) if the inspections are conducted in a timely manner, and any differences in interpretation of applicable codes are determined in favor of the district.
(e) Except as provided by Subsection (c), a municipality may

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not adopt or enforce an ordinance, rule, or other measure that prohibits or restricts:

(1) the acquisition or leasing of property to which this section applies for a purpose described by Section 5002.152; or

(2) the development of industries and businesses on property to which this section applies.

Sec. 5002.202. MUNICIPAL CONSENT NOT REQUIRED. Municipal consent is not required for the district to exercise a power or duty under this chapter.

Sec. 5002.203. DESIGNATION OF REINVESTMENT ZONE. Notwithstanding Subchapter B, Chapter 312, Tax Code, the district may submit a written request to the commissioners court of a county in which a property owned by the district is located for the commissioners court to designate the property as a reinvestment zone or area for the purposes of Chapter 312, Tax Code. The commissioners court may designate the property as a reinvestment zone or area if the commissioners court finds the criteria set forth in Section 312.202, Tax Code, are met for the property as if a municipality in which the property is located were creating the zone.

Sec. 5002.204. ENFORCEMENT OF SUBCHAPTERS. (a) The provisions of Subchapters D and E may be enforced only through mandamus or declaratory or injunctive relief. A political subdivision's immunity from suit is waived in regard to an action under this subchapter.

(b) A court may award court costs and reasonable and necessary attorney's fees to the prevailing party in an action under this subchapter.

Sec. 5002.205. EFFECT OF INVALIDITY OF CERTAIN PROVISIONS. (a) This section applies only to a municipality with a population of more than 5,000 that is

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wholly located in the district and to property:
(1) owned or leased by the district;
(2) located in the district and within seven miles of the Gulf of Mexico; and
(3) located in the corporate limits or extraterritorial jurisdiction of a municipality that is subject to this section.
(b) If enforcement of any part of Section 5002.201 is ever permanently enjoined or held to be invalid or to violate the requirements of the Texas Constitution by a final, non-appealable order or judgment of a court of competent jurisdiction, other than pursuant to an action initiated by the district, then:
(1) all of Section 5002.201 will be automatically enjoined from enforcement; and
(2) the authority of a municipality subject to this section to regulate property subject to this section under Chapter 211 or 212, Local Government Code, or any local code or ordinance shall be expressly preempted and Chapter 232, Local Government Code, shall exclusively apply to such property.
(c) If enforcement of any part of Section 5002.153 or 5002.154 is ever permanently enjoined or held to be invalid or to violate the requirements of the Texas Constitution by a final, non-appealable order or judgment of a court of competent jurisdiction, other than pursuant to an action initiated by a municipality, then Section 5002.201 will be automatically enjoined from enforcement.

SECTION 2. 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, 2023.

SECTION 2. Same as House version.