

BILL ANALYSIS

C.S.H.B. 4174
By: Reynolds
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that a certain area within the Fort Bend County Water Control and Improvement District No. 2 should be designated as a defined area within the district to pay for projects and services that uniquely benefit the defined area. C.S.H.B. 4174 seeks to address this issue.

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. 4174 amends Chapter 312, Acts of the 57th Legislature, Regular Session, 1961, to create a defined area in the Fort Bend County Water Control and Improvement District No. 2 to pay for improvements, facilities, or services that primarily benefit the defined area and do not generally benefit the district as a whole. The bill, with respect to the defined area, grants the district the power to undertake certain road projects and provides for, among other provisions, improvement projects and services and the exclusion of land. The bill, with respect to the defined area, authorizes the district, subject to certain requirements, to issue obligations and impose property and operation and maintenance taxes. The bill establishes that the district retains all the rights, powers, privileges, authority, duties, and functions that it had before the bill's effective date. The bill provides for the validation and confirmation of certain district acts and proceedings taken before the bill's effective date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4174 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

84R 28240

15.126.825

Substitute Document Number: 84R 26739

SECTION 1. Chapter 312, Acts of the 57th Legislature, Regular Session, 1961, is amended by adding Sections 8 through 27 to read as follows:

Sec. 8. DEFINED AREA: CREATION OF DEFINED AREA; DESIGNATION.

Sec. 9. DEFINED AREA: INITIAL TERRITORY.

Sec. 10. DEFINED AREA: ANNEXATION OR EXCLUSION OF LAND.

(a) The district may annex land to the defined area in the same manner as the district may annex land to the district.

(b) The district may exclude land from the defined area in the same manner as the district may exclude land from the district.

Sec. 11. DEFINED AREA: PROCEDURE FOR ELECTION.

Sec. 12. DEFINED AREA: TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES.

Sec. 13. DEFINED AREA: ISSUANCE OF BONDS.

Sec. 14. DEFINED AREA: POWERS AND DUTIES. (a) For the benefit of the defined area, the district has the powers and duties provided by the general law of this state, including:

(1) Section 59, Article XVI, Texas Constitution;

(2) Section 52, Article III, Texas Constitution, applicable to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads;

(3) Section 52-a, Article III, Texas Constitution;

(4) except as provided by this chapter, Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution; and

SECTION 1. Chapter 312, Acts of the 57th Legislature, Regular Session, 1961, is amended by adding Sections 9 through 22 to read as follows:

Sec. 9. DEFINED AREA: CREATION OF DEFINED AREA; DESIGNATION.

Sec. 10. DEFINED AREA: INITIAL TERRITORY.

Sec. 11. DEFINED AREA: EXCLUSION OF LAND.

No equivalent provision.

Subject to the City of Stafford providing written consent by ordinance or resolution, the district may exclude land from the defined area in the same manner as the district may exclude land from the district.

Sec. 12. DEFINED AREA: PROCEDURE FOR ELECTION.

Sec. 13. DEFINED AREA: TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES.

Sec. 14. DEFINED AREA: ISSUANCE OF BONDS.

Sec. 15. DEFINED AREA: POWERS AND DUTIES. (a) For the benefit of the defined area, the district has the powers and duties provided by the general law of this state necessary to accomplish the purposes of:

(1) Section 59, Article XVI, Texas Constitution;

(2) Section 52, Article III, Texas Constitution, applicable to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads; and

(3) except as provided by this chapter, Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

(5) Chapter 375, Local Government Code, applicable to municipal management districts.

(b) Except as provided by Subsection (c), the governing body of the district shall administer the defined area as provided by Chapter 51, Water Code.

(c) Sections 51.518, 51.519, 51.520, 51.521, 51.522, 51.523, 51.524, 51.526, 51.527, 51.528, and 51.529, Water Code, do not apply to the district.

Sec. 15. DEFINED AREA: AUTHORITY FOR ROAD PROJECTS.

Sec. 16. DEFINED AREA: ROAD STANDARDS AND REQUIREMENTS.

Sec. 17. DEFINED AREA: IMPROVEMENT PROJECTS AND SERVICES. For the benefit of the defined area, the district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 18. DEFINED AREA: ECONOMIC DEVELOPMENT PROGRAMS. (a) For the benefit of the defined area, the district may engage in activities that accomplish the economic development purposes of the district.

(b) 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.

(c) The district may create economic development programs and exercise the economic development powers provided to municipalities by:

(1) Chapter 380, Local Government Code; and

(2) Subchapter A, Chapter 1509,

(b) Except as provided by Subsection (c), the governing body of the district shall administer the defined area as provided by Chapter 51, Water Code.

(c) Sections 51.518, 51.519, 51.520, 51.521, 51.522, 51.523, 51.524, 51.526, 51.527, 51.528, and 51.529, Water Code, do not apply to the district.

Sec. 16. DEFINED AREA: AUTHORITY FOR ROAD PROJECTS.

Sec. 17. DEFINED AREA: ROAD STANDARDS AND REQUIREMENTS.

Sec. 18. DEFINED AREA: IMPROVEMENT PROJECTS AND SERVICES. For the benefit of the defined area, the district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter.

No equivalent provision.

Government Code.

Sec. 19. DEFINED AREA: PARKING FACILITIES. (a) For the benefit of the defined area, the district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) 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) 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) The development and operation of the district's parking facilities may be considered an economic development program.

No equivalent provision.

Sec. 20. DEFINED AREA: MONEY USED FOR IMPROVEMENTS OR SERVICES. For the benefit of the defined area, the district may 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 for the defined area.

No equivalent provision.

Sec. 21. DEFINED AREA: PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The governing body of the district may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the governing body.

(b) A petition filed under Subsection (a) must be signed by the owners of a majority of the assessed value of real property in the defined area subject to assessment according to the most recent certified tax appraisal roll for the county.

No equivalent provision.

Sec. 22. DEFINED AREA: ASSESSMENTS; LIENS FOR

No equivalent provision.

ASSESSMENTS. (a) The governing body of the district by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the defined area.

(b) 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 district, 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) The lien is effective from the date of the governing body's resolution imposing the assessment until the date the assessment is paid. The governing body may enforce the lien in the same manner that the governing body may enforce an ad valorem tax lien against real property.

(d) The governing body may 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.

Sec. 23. DEFINED AREA: ELECTIONS REGARDING TAXES AND BONDS. (a) For the benefit of the defined area, the district may issue, without an election, bonds, notes, and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 25.

(b) The district must hold an election in the defined area to obtain approval of the qualified voters of the defined area before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes in the defined area.

(c) An election under this section does not require that an election be held in the part of the district located outside the defined area.

Sec. 19. DEFINED AREA: ELECTIONS REGARDING TAXES AND BONDS. (a) For the benefit of the defined area, the district may issue, without an election, bonds, notes, and other obligations secured by

revenue other than ad valorem taxes.

(b) The district must hold an election in the defined area to obtain approval of the qualified voters of the defined area before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes in the defined area.

(c) An election under this section does not require that an election be held in the part of the district located outside the defined area.

(d) Section 375.243, Local Government Code, does not apply to the district.

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

Sec. 24. DEFINED AREA: OPERATION AND MAINTENANCE TAX.

Sec. 25. DEFINED AREA: CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and 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 voters in the defined area voting at an election held for that purpose.

(b) A contract approved by the voters in the defined area may contain a provision stating that the contract may be modified or amended by the governing body without further voter approval.

Sec. 26. DEFINED AREA: AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS.

(a) For the benefit of the defined area, the district may borrow money on terms determined by the governing body of the district. Section 375.205, 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) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources of money from the defined area, to pay for any authorized district purpose.

(c) 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.

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

Sec. 20. DEFINED AREA: OPERATION AND MAINTENANCE TAX.

No equivalent provision.

Sec. 21. DEFINED AREA: AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS AND OTHER OBLIGATIONS.

(a) For the benefit of the defined area, the district may borrow money on terms determined by the governing body of the district.

(b) The district may issue bonds, notes, or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources of money from the defined area, to pay for any authorized district purpose.

(c) 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.

(d) The district must obtain approval from the Texas Commission on Environmental Quality as provided by Chapter 49, Water Code, before the district issues bonds to

provide water, sewer, or drainage facilities for the benefit of the defined area.

Sec. 27. DEFINED AREA: TAXES FOR BONDS.

SECTION 2. Establishes initial boundaries for the defined area in the Fort Bend County Water Control and Improvement District No. 2.

SECTION 3. The Fort Bend County Water Control and Improvement District No. 2 retains all the rights, powers, privileges, authority, duties, and functions that it had before the effective date of this Act.

SECTION 4. (a) The legislature validates and confirms all acts and proceedings of the Fort Bend County Water Control and Improvement District No. 2 that were taken before the effective date of this Act.

(b) Subsection (a) of this section does not apply to any matter that on the effective date of this Act:

- (1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or
- (2) has been held invalid by a final judgment of a court.

SECTION 5. (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, the lieutenant governor, and the speaker of the house of representatives within the required time.

Sec. 22. DEFINED AREA: TAXES FOR BONDS.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

(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 are fulfilled and accomplished.

SECTION 6. 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, 2015.

SECTION 6. Same as introduced version.