

BILL ANALYSIS

Senate Research Center

C.S.S.B. 921
By: Galloway
Intergovernmental Relations
4-14-97
Committee Report (Substituted)

DIGEST

Currently, improvement district are created to diversify the economy of the state by promoting, encouraging, and developing employment, commerce, economic development, and public welfare. These districts promote the transportation of agriculture, industrial and commercial products, and provide needed funding to preserve, maintain, and enhance the economic health and vitality of an area as a community and a business and industrial center. C.S.S.B. 921 would create the East Montgomery County Improvement District and authorize a tax approved by a majority of the qualified voters of the district.

PURPOSE

As proposed, C.S.S.B. 921 outlines provisions and authorizes a tax regarding the creation of the East Montgomery County Improvement District.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the East Montgomery County Improvement District under SECTION 16(a)(7) and the board of directors of the East Montgomery County Improvement District under SECTIONS 22(a), 26, 32, and 33(a) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. CREATION OF DISTRICT. Provides that a special district to be known as the "East Montgomery County Improvement District" (district) exists as a governmental agency, body politic and corporate, and political subdivision of the state. Provides that the district is a governmental unit for purposes of Chapter 101, Civil Practice and Remedies Code, and operations of the district are considered for all purposes, including the application of that chapter, to be essential governmental functions and not proprietary functions. Authorizes the name of the district to be changed by resolution of the board of directors of the district (board).

SECTION 2. DECLARATION OF INTENT. Provides that the creation of the district is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act and necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the eastern area of Montgomery County. Provides that the district is created to supplement and not to supplant Montgomery County, Texas (county), the governmental agency, political subdivision, or municipal services provided in the district. Provides that this Act does not relieve the county or a governmental agency, political subdivision, or municipality from providing the level of services the entity provides in the district as of August 31, 1997, or release the county or a governmental agency, political subdivision, or municipality from the obligations the entity has to provide services to that area.

SECTION 3. DEFINITIONS. Defines "board," "district," and "county."

SECTION 4. BOUNDARIES. Provides that the boundaries of the district are coextensive with the boundaries of the New Caney Independent School District and the Splendora Independent School District as those boundaries exist on January 1, 1997 but the district does not include any portion of the City of Houston as it existed on January 1, 1997.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district form a closure. Sets forth characteristics of the district a mistake does not in any way affect if the mistake is made in the field notes or in copying the field notes in the legislative process.

SECTION 6. FINDING OF BENEFIT AND PUBLIC PURPOSE. Provides that all the land and other property included in the district will be benefitted by the works, projects, improvements, and services to be provided by the district under powers granted by Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted by this Act. Provides that the district is created to serve a public use and benefit. Provides that the creation of the district is in the public interest and is essential to further the public purposes of the development and diversification of the economy of the state and eliminate unemployment and underemployment and develop or expand transportation and commerce. Sets forth the duties of the district. Provides that each improvement project authorized by this Act is essential to carry out a public purpose. Provides that the district will not act as the agent or instrumentality of any private interest even though many private interests will be benefitted by the district, as will the general public.

SECTION 7. INITIAL DIRECTORS. Requires the commissioners court of the county to appoint eight initial directors. Requires a person to have the qualifications specified in SECTION 12 of this Act to be qualified for appointment as a director. Requires the commissioners court to attempt to compose the board of persons who reflect the residents in the area of the district in making appointments.

SECTION 8. CONFIRMATION ELECTION. Sets forth requirements and outlines provisions regarding the confirmation election to determine if the proposed district shall be established.

SECTION 9. ELECTION OF DIRECTORS. Sets forth requirements regarding the election of the initial permanent directors of the board (director).

SECTION 10. BOARD OF DIRECTORS; TERMS. Sets forth the terms of the board of directors of the district.

SECTION 11. ADMINISTRATION OF BOARD. Provides that Sections 375.066-375.070, Local Government Code, apply to the board as if it were established under Chapter 375, Local Government Code.

SECTION 12. QUALIFICATIONS OF DIRECTOR. Sets forth qualifications of a director. Provides that a person or entity that owns an interest in a general or limited partnership owning real property in the district or that has a lease of rental property in the district with a remaining term of 10 years or more, excluding options, is considered to be an owner of real property for purposes of this section.

SECTION 13. QUORUM. Sets forth the composition of a quorum.

SECTION 14. PARTICIPATION IN VOTING. Provides that a person who qualifies to serve on the board is qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any other statutory provision to the contrary.

SECTION 15. GENERAL POWERS. Sets forth general powers of the district.

SECTION 16. SPECIFIC POWERS AND LIMITATIONS. Sets forth specific powers and limitations of the district.

SECTION 17. SPECIFIC POWERS RELATING TO IMPROVEMENTS. Sets forth specific powers of the district relating to improvements.

SECTION 18. RELATION TO OTHER LAW. Provides that if a provision of a law referenced in SECTION 15 of this Act or referenced in Chapter 375E, Local Government Code, is in conflict with or inconsistent with this Act, this Act prevails. Provides that a law referenced in

SECTIONS 15 of this Act or referenced in Chapter 375E, Local Government Code, that is not in conflict with or inconsistent with this Act is adopted and incorporated by reference and may be used by the district independently of each other.

SECTION 19. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

SECTION 20. CERTAIN RESIDENTIAL PROPERTY EXEMPT. Prohibits the district from imposing an impact fee or assessment on a single family residential property or a residential duplex, triplex, quadruplex, or condominium.

SECTION 21. SALES AND USE TAX; EXCISE TAX. Outlines provisions regarding a sales and use tax and an excise tax. Defines "taxable items," and "use."

SECTION 22. TAX ELECTION PROCEDURES. Sets forth requirements and outlines provisions regarding tax election procedures.

SECTION 23. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF TAX. Provides that Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the application, collection, and administration of the tax under this Act, except Sections 323.401 through 323.406, and 323.505, Tax Code, do not apply. Provides that Titles 2A and B and Chapter 151, Tax Code, govern the administration and enforcement of the taxes under this Act. Provides that Chapter 323, Tax Code, does not apply to the use and allocation of revenues under this chapter. Requires the district's name to be substituted for references in that chapter to "the county" and the board of directors of the district is substituted for references in that chapter to "commissioners court" in applying Chapter 323, Tax Code.

SECTION 24. EFFECTIVE DATE OF TAX OR TAX CHANGE. Provides that the adoption of a tax rate or change in the tax rate takes effect after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

SECTION 25. TAX RATES. Authorizes the district to impose certain tax rates.

SECTION 26. ABOLITION OF TAX RATE. Authorizes the board, by order, to abolish the local sales and use tax rate without an election.

SECTION 27. USE OF TAX. Authorizes taxes collected under this section to be used for the purposes for which the district was created.

SECTION 28. SUBMISSION OF ANNEXATION INFORMATION. Sets forth requirements regarding the submission of annexation information.

SECTION 29. APPLICATION OF CERTAIN TAX PROCEEDS. Sets forth requirements regarding the application of certain tax proceeds. Defines "net proceeds."

SECTION 30. LIMITATION ON INDEBTEDNESS. Outlines provisions and sets forth requirements regarding limitations on indebtedness.

SECTION 31. CONTRACTING AUTHORITY. Outlines provisions regarding the district contracting with an authority.

SECTION 32. DISSOLUTION BY BOARD ORDER. Authorizes the board, by order, to dissolve the district at any time unless the district has outstanding indebtedness or contractual obligations.

SECTION 33. DISSOLUTION BY PETITION OF OWNERS. Sets forth requirements and outlines provisions regarding the dissolution by petition of owners of 75 percent or more of the real property acreage in the district.

SECTION 34. ADMINISTRATION OF DISTRICT PROPERTY FOLLOWING DISSOLUTION. Sets forth requirements regarding the administration of district property following dissolution.

SECTION 35. NOTICE AND CONSENT. Sets forth findings of the legislature regarding notice and consent.

SECTION 36. Emergency clause.
Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 16.

Amends text regarding the establishment and collection of certain fees and prohibits the East Montgomery County Improvement District (district) from imposing ad valorem taxes on property in the district.

SECTION 29.

Amends text regarding the application of certain tax proceeds.