

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1764
By: Gallegos
S/C on Emerging Technologies & Economic Development
4/13/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Airline and Belmar areas are located in Harris County and are surrounded by the City of Houston but excluded from its corporate limits. The geographic boundaries, as proposed by C.S.S.B. 1764, are areas that have experienced population growth along with extreme economic decline and social change. The population growth, economic decline, and social change have combined to create public needs that state law does not empower a county government to serve.

C.S.S.B. 1764 amends the Special District Local Laws Code to create the Airline Improvement District in the Airline/Belmar community areas of Harris County in order to address those needs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3847, as follows:

CHAPTER 3847. AIRLINE IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3847.001. DEFINITIONS. Defines "board" and "district."

Sec. 3847.002. AIRLINE IMPROVEMENT DISTRICT. Provides that the Airline Improvement District (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3847.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety and the public welfare in the district.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve Harris County from providing the level of services provided as of the effective date of this Act, to the area in the district or to release the county from the obligations of the county to provide services to that area. Provides that the district is created to supplement and not to supplant the county services provided in the area in the district.

Sec. 3847.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that the creation of the district is in the public interest and is essential to serve certain purposes.

(d) Sets forth certain functions of the district.

(e) Provides that pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3847.005. **DISTRICT TERRITORY.** (a) Provides that the district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under certain statutory provisions.

(b) Provides that the boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not in any way affect certain aspects of the district.

Sec. 3847.006. **ANNEXATION OF CERTAIN TERRITORY BY GOVERNING BODY OF MUNICIPALITY.** (a) Authorizes the governing body of the City of Houston, if territory in the City of Houston's limit or extraterritorial jurisdiction is included in the district, to remove that territory from the district if the district does not have any bonded indebtedness.

(b) Requires the governing body of the City of Houston, to remove the territory, to notify the secretary of the board of directors of the district (board) in writing that the territory is excluded from the district's territory.

(c) Requires the governing body of a municipality, if the municipality annexes territory that is in its extraterritorial jurisdiction and included in the district, to notify the board secretary in writing that the annexed territory is excluded from the district's territory.

Sec. 3847.007. **APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW.** Provides that, except as otherwise provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district.

Sec. 3847.008. **LIBERAL CONSTRUCTION OF CHAPTER.** Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3847.009-3847.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3847.051. **BOARD OF DIRECTORS; TERMS.** (a) Provides that the district is governed by a board of nine voting directors who serve staggered terms of four years, with four or five directors' terms expiring June 1 of each odd-numbered year.

(b) Requires two voting directors to reside in the district.

(c) Authorizes the board by resolution to change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district, subject to Section 375.061 (Number of Directors; Terms), Local Government Code.

Sec. 3847.052. APPOINTMENT AND REMOVAL OF DIRECTORS. Provides that Sections 374.064 (Recommendations for Succeeding) and 375.065 (Removal of Director), Local Government Code, govern the appointment and removal of voting directors, except that for purposes of this chapter references in those sections to the governing body of the municipality mean the commissioners court of Harris County.

Sec. 3847.053. NONVOTING DIRECTORS. Authorizes the board to appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3847.054. QUORUM. (a) Provides that Section 375.071 (Quorum), Local Government Code, does not apply to the district.

(b) Provides that one-half of the board constitutes a quorum.

(c) Provides that, except as provided by Section 3847.152, a concurrence of a majority of a quorum is required for any official district action.

(d) Provides that nonvoting directors are not counted for the purposes of establishing a board quorum.

Sec. 3847.055. INITIAL VOTING DIRECTORS. (a) Sets forth the voting directors that compose the initial board.

(b) Provides that, of the initial voting directors, the terms of directors appointed for positions 1 through 4 expire June 1, 2007, and the terms of directors appointed for positions 5 through 9 expire June 1, 2009.

(c) Provides that Section 3847.052 does not apply to this section.

(d) Provides that this section expires September 1, 2009.

[Reserves Sections 3847.056-3847.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3847.101. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. Authorizes the district to exercise the powers of a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.).

Sec. 3847.102. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to 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) Provides that the nonprofit corporation has certain abilities.

(c) Requires the board to appoint the board of directors of the nonprofit corporation. Requires the board of directors of the nonprofit corporation to serve in the same manner as, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code.

Sec. 3847.103. CONTRACT WITH POLITICAL SUBDIVISION. Authorizes Harris County, the City of Houston, or another political subdivision of this state, without further authorization, to contract with the district to implement a project of the district or assist the district in providing a service authorized under this chapter. Authorizes a contract under this section to contain certain provisions.

Sec. 3847.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with Harris County or the City of Houston for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3847.105. APPROVAL BY CITY OF HOUSTON. (a) Requires the district, except as provided by Subsection (b), to obtain the approval of the City of Houston's governing body for certain plans and projects.

(b) Authorizes the district, if the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, to finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3847.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to certain organizations.

Sec. 3847.107. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3847.108-3847.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3847.151. DISBURSEMENTS AND TRANSFERS OF MONEY. Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3847.152. BOARD VOTE REQUIRED TO AUTHORIZE TAXES, ASSESSMENTS, IMPACT FEES, OR BONDS. (a) Provides that a majority vote of the directors serving is required to authorize the imposition of a tax, assessment, or impact fee.

(b) Provides that the written consent of at least two-thirds of all voting directors is required to authorize the issuance of a bond.

Sec. 3847.153. MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 3847.157, to impose an annual ad valorem tax on taxable property in the district to pay for certain costs.

(b) Requires the board to determine the tax rate.

Sec. 3847.154. SALES AND USE TAX. (a) Authorizes the district to impose a sales and use tax if authorized by a majority of the voters of the district voting at an election called for that purpose. Authorizes revenue from the tax to be used for any purpose for which ad valorem tax revenue of the district is authorized to be used.

(b) Prohibits the district from adopting a sales and use tax if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(c) Provides that if the voters of the district approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves an increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district, the election to adopt a sales and use tax under this chapter has no effect.

Sec. 3847.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter.

(b) Provides that an assessment, 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 the collection, and reasonable attorney's fees incurred by the district serve certain functions.

(c) Provides that the lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. Authorizes the board to enforce the lien in the same manner that the board is authorized to enforce an ad valorem tax lien against real property.

Sec. 3847.156. PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS.

(a) Prohibits the district from imposing an impact fee or assessment under Chapter 375, Local Government Code, on a residential property, including a multiunit residential property, or a condominium.

(b) Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of an electric utility or telecommunications provider.

Sec. 3847.157. ELECTIONS REGARDING TAXES OR BONDS. (a) Requires the district, in addition to the elections required under Subchapter L, Chapter 375, Local Government Code, to hold an election in the manner provided by that subchapter to obtain voter approval before the district is authorized to take certain actions regarding taxes and bonds.

(b) Authorizes the board to include more than one purpose in a single proposition at an election.

Sec. 3847.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

[Reserves Sections 3847.159-3847.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3847.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) Authorizes the board to dissolve the district regardless of whether the district has debt. Provides that Section 375.264 (Limitation), Local Government Code, does not apply to the district.

(b) Requires the district, if the district has debt when it is dissolved, to remain in existence solely for the purpose of discharging its debts. Provides that the dissolution is effective when all debts have been discharged

SECTION 2. BOUNDARIES. Sets forth the boundaries of the district.

SECTION 3. LEGISLATIVE FINDINGS. Sets forth the findings of the legislature.

SECTION 4. Effective date: upon passage or September 1, 2005.