

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1295
By: Hegar
Intergovernmental Relations
4/2/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a management district does not exist for the area of land in Fort Bend County to be developed for commercial purposes in the Aliana development. The district will be used to provide needed funding to preserve, maintain, and enhance the community business center, including traffic improvements, pedestrian facilities, and landscaping.

C.S.S.B. 1295 creates the Aliana Management District (district) to finance facilities, infrastructure, services, and economic opportunities in the commercial portion of the Aliana Development.

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 3865, as follows:

CHAPTER 3865. ALIANA MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3865.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 3865.002. NATURE OF DISTRICT. Provides that the Aliana Management District (district) is a special district created under Sections 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds) and 52-a (Loan of Grant of Public Money for Economic Development), Article III (Legislative Department), and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 3865.003. FINDING OF PUBLIC PURPOSE AND BENEFIT. (a) Provides that the district is created to serve a public purpose 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 district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d) Provides that the creation of the district is in the public interest and is essential to further the public purposes of developing and diversifying the economy of the state, eliminate unemployment and underemployment, and develop or expand transportation and commerce.

(e) Provides that the district will promote health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public; provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

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

(g) 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. 3865.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's organization, existence, or validity; right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond; right to impose a tax; or legality or operation.

Sec. 3865.005. COUNTY CONSENT REQUIRED. Prohibits the district from taking any action until the Commissioners Court of Fort Bend County consents by resolution to the creation of the district.

[Reserves Sections 3865.006-3865.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3865.051. GOVERNING BODY; TERMS. (a) Provides that the district is governed by a board of five directors.

(b) Provides that directors serve staggered four-year terms, except as provided by Section 3865.053.

(c) Requires the initial and each succeeding board of directors (board) to recommend to the Fort Bend County Commissioners Court persons to serve on the succeeding board.

(d) Requires the commissioners court, after reviewing the recommendations, to approve or disapprove the directors recommended by the board.

(e) Requires the board, on request of the commissioners court, to submit additional recommendations if the commissioners court is not satisfied with the recommendations submitted by the board.

(f) Authorizes board member to serve successive terms.

(g) Requires the Texas Commission on Environmental Quality (TCEQ) to appoint the board from recommendations submitted by the preceding board if a court finds any provision of Subsections (c)-(f) to be invalid.

Sec. 3865.052. QUALIFICATIONS. Requires a person, to be qualified to serve as a director, to meet the qualifications of Section 375.063 (Qualifications of Director), Local Government Code.

Sec. 3865.053. INITIAL DIRECTORS. (a) Provides that the initial board consists of Jeff Gilman, Charles D. Marcucci, Charles H. Weiss, Hillary Burke, and Greg Valikonis.

(b) Requires the initial directors to draw lots to determine which two shall serve two-year terms and which three shall serve four-year terms.

[Reserves Sections 3865.054-3865.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3865.101. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3865.102. MUNICIPAL MANAGEMENT DISTRICT POWERS AND DUTIES. Provides that the district has the powers and duties provided by the general law of this state, including Chapter 375 (Municipal Management Districts in General), Local Government Code, applicable to municipal management districts created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, except the district is prohibited from constructing, acquiring, maintaining, or operating a turnpike or toll road.

Sec. 3865.103. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. Authorizes the district to exercise the powers of a corporation created under Chapter 505 (Type B Corporations), Local Government Code.

Sec. 3865.104. SPORTS VENUE. Authorizes the district to construct, acquire, improve, maintain, and operate a sports venue, including an arena, coliseum, stadium, or other type of area or facility used for one or more professional or amateur sports or athletics events.

Sec. 3865.105. ECONOMIC DEVELOPMENT. Authorizes the district to create economic development programs and exercise the economic development powers that Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code, provides to a municipality with a population of more than 100,000 and Chapter 1509 (Obligations for Other Municipal Purposes), Government Code, provides to any municipality, except the district is prohibited from creating the programs or exercising the powers provided by Subchapter E (Bonds for Acquisition of Property by Municipality Operating Toll Bridge over Rio Grande) of that chapter.

Sec. 3865.106. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3865.107-3865.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3865.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Authorizes the district to issue, without an election, bonds and other obligations secured by revenue or contract payments from any source other than ad valorem taxation.

(b) Requires the district to hold an election in the manner provided by Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, to obtain voter approval before the district is authorized to impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Prohibits the district from issuing bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 3865.152. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district to impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, if authorized at an election held under Section 3865.151.

(b) Requires the board to determine the tax rate. Prohibits the rate from exceeding the rate approved at the election.

Sec. 3865.153. CONTRACT TAXES. (a) Authorizes the district, in accordance with Section 49.108 (Contract Elections), Water Code, to make payments under a contract from taxes other than operation and maintenance taxes after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) Authorizes a contract approved by the district voters to contain a provision stating that the contract is authorized to be modified or amended by the board without further voter approval.

Sec. 3865.154. HOTEL OCCUPANCY TAX. Authorizes the district to impose a hotel occupancy tax in the manner provided in Section 351.002 (Tax Authorized), Tax Code. Prohibits a tax imposed under this section from exceeding the maximum rate provided in Section 351.003(a) (related to authorizing that tax to be imposed at any rate not to exceed seven percent), Tax Code.

Sec. 3865.155. 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 the election to adopt a sales and use tax under this chapter has no effect 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.

(d) Provides that Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, applies to the imposition, computation, administration, enforcement, and collection of the sales and use tax imposed by this section except to the extent it is inconsistent with this chapter.

[Reserves Sections 3865.156-3865.200 for expansion.]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 3865.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, hotel occupancy taxes, sales and use taxes, revenue from economic development agreements under Chapter 380 or 381 (County Development and Growth), Local Government Code, other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 3865.202. TAXES FOR BONDS. (a) Requires the board to provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601 (Tax Levy for Bonds), Water Code, at the time the district issues bonds payable wholly or partly from ad valorem taxes.

(b) Requires the board to impose the tax while all or part of the bonds are outstanding. Provides that Sections 54.601 and 54.602 (Establishment of Tax Rate in Each Year), Water Code, govern the amount and rate of the tax.

Sec. 3865.203. BONDS FOR ROAD PROJECTS. Prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects from exceeding one-fourth of the assessed value of the real property in the district.

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

SECTION 3. (a) Provides that 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) Provides that the governor, one of the required recipients, has submitted the notice and Act to TCEQ.

(c) Provides that TCEQ 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.

(d) Provides that all requirements of the constitution and laws of this state and rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. Effective date: upon passage or September 1, 2009.