

BILL ANALYSIS

Senate Research Center
84R19339 JXC-F

S.B. 2073
By: Campbell
Intergovernmental Relations
5/11/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Continuing development and growth in Central Texas, including Hays County, has created the need for large-scale, permanent improvements such as water supply and distribution facilities, wastewater collection and treatment facilities, drainage and flood control projects, and major thoroughfare improvements. Certain constitutional provisions provide for the creation of local governmental districts that are authorized to incur indebtedness to provide such permanent improvements and to levy taxes for the maintenance and operation of the improvements and for the repayment of related indebtedness.

The Hays County Commissioners Court created the Hays County Development District No. 1 (district) in 2000. The 77th Legislature in 2001 passed S.B. 1823, which confirmed the district's creation and provided for additional powers. The district includes approximately 591 acres in Hays County. S.B. 2073 seeks to clarify the district's powers and authority. S.B. 2073 is not intended to add any powers but does limit the district's existing eminent domain authority to be within district boundaries only. In addition, S.B. 2073 clarifies that any agreements between district and City of Dripping Springs are not impacted by S.B. 2073.

As proposed, S.B. 2073 amends current law relating to the Hays County Development District No. 1.

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 Section 1, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, by amending Subsections (a) and (c) and adding Subsections (d) and (e), as follows:

(a) Provides that the legislature finds that the creation of Hays County Development District No. 1 (district), the project approved by the Hays County Commissioners Court on January 11, 2000 (project), and other projects described by Section 5A will serve the public purpose of attracting visitors and tourists to Hays County and will result in employment and economic activity in the manner contemplated by Section 52-a (Loan or Grant of Public Money for Economic Development), Article III, Texas Constitution, and Chapter 383 (County Development Districts), Local Government Code.

(c) Provides that the legislature further finds that the creation and operation of the district and the acquisition or financing of the project or another project described by Section 5A by the district serve the purpose of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, and Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, Texas Constitution, and that all steps necessary to create the district have been taken.

(d) Provides that the legislature further finds that the creation and continued operation 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 Act.

(e) Provides that a legislative finding made under this Act is conclusive and the district is not required to offer proof of the purpose or results before exercising a power granted by this Act.

SECTION 2. Amends Section 5, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 5. POWERS. (a) Creates this subsection from existing text. Provides that the district has all of the rights, powers, privileges, authority, functions, and duties provided by Chapters 375 (Municipal Management Districts in General) and 383, Local Government Code, to county development districts and municipal management districts, and by Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, to municipal utility districts.

(b) Provides that the district's rights, powers, privileges, authority, functions, and duties include, but are not limited to:

(1) the authority to levy, assess, and collect ad valorem taxes for the purposes approved at the elections conducted on November 7, 2000, or at an election conducted in the district after that date;

(2) and (3) Makes no change to these subdivisions;

(4) to utilize funds, whether the funds are derived from ad valorem taxes, sales and use taxes, hotel occupancy taxes, assessments, revenues from the project, or any other source, for payment of projects or services in the manner authorized by Section 375.181 (Funds Available for Payment of Projects and Services), Local Government Code, Chapter 383, Local Government Code, and Chapter 54, Water Code;

(5) to enter into obligations, including, but not limited to, lease purchase agreements, certificates of participation in lease purchase agreements, general obligation bonds and notes and revenue bonds and notes, and combination general obligation and revenue bonds and notes and other interest-bearing obligations, in the manner specified in Sections 375.201-375.205 (General Obligation and Revenue Bonds) (Terms And Conditions of Bonds) (Pledges) (Refunding Bonds) (Approval by Attorney General; Registration), rather than Sections 375.201-375.204, Local Government Code. Requires the district, to enter into these obligations, to obtain only those approvals required for the issuance of obligations by Hays County by Chapter 53, Acts of the 70th Legislature, Second Called Session, 1987;

(6) to adopt and exercise the rights, powers, and authority of a road district under Section 52(b)(3) (relating to the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes), Article III, Texas Constitution, in the manner specified in Sections 53.029(c) (relating to the board of a district to order an election) and (d) (prohibiting a district operating as a road district from issuing bonds), Water Code;

(7) to levy, assess, and collect ad valorem taxes to make payments on a contract under Sections 49.108(a)-(d) (relating to contract elections), Water Code, after obtaining those approvals specified in Section 1, Chapter 778, Acts of the 74th Legislature, Regular Session, 1995;

(8) to exercise all of the rights, powers, and authority of a water control and improvement district, rather than of a road district, a municipal

management district, and a water control and improvement district, which are not specifically contradicted by Chapter 383, Local Government Code; and

(9) to exercise all of the rights, powers, and authority granted to the district by this Act, and all of the rights, powers, and authority granted to the district by Chapters 383 and 375, Local Government Code, and to a municipal utility district by Chapters 49 and 54, Water Code, which are not contrary to this Act, to finance, construct, or otherwise acquire the project, any element of the project, or another project described by Section 5A, including, but not limited to, a hotel, a golf course, water, sewer, drainage, and road improvements, organizational costs, and costs of issuance of the obligations of the district.

Deletes existing text providing that the district's rights, powers, privileges, authority, functions, and duties include, but are not limited to to exercise all of the rights, powers, and authority granted to the district by this Act, and all of the rights, powers, and authority granted to the district by Chapters 383 and 375, Local Government Code, which are not contrary to any provisions of this Act, to finance, construct, or otherwise acquire the project or any element of the project identified in the Commissioners Court Order Upon Hearing and Granting Petition Requesting the Creation of Hays County Development District No. 1 and Appointing Temporary Directors dated January 11, 2000, including, but not limited to, the hotel, the golf course, the water, sewer, drainage, and road improvements, the organizational costs, and the costs of issuance of the obligations of the district.

SECTION 3. Amends Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, by adding Sections 5A, 5B, and 5C, as follows:

Sec. 5A. DISTRICT PROJECTS. (a) Authorizes the district to provide, or to contract with a governmental or private entity to provide, the following types of projects or activities in support of or incidental to those projects:

(1) the project approved by the Hays County Commissioners Court on January 11, 2000, wholly or partly;

(2) an improvement project that is a public improvement, facility, or service that may be provided by the district under the powers granted to the district of a county development district, municipal management district, municipal utility district, or water control and improvement district, including a water, wastewater, reclamation, drainage, road, trail, or bridge improvement; or

(3) a project, other than the project or an improvement project described by Subdivision (2), that is approved by the board and that the district is authorized to provide under the powers granted to the district by this Act.

(b) Provides that a project, improvement, facility, or service described by Subsection (a)(2) or (3) is not required to have been considered for or included in an order issued by the Hays County Commissioners Court on January 11, 2000.

Sec. 5B. ROAD STANDARDS AND REQUIREMENTS. (a) Requires a road project to meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) Requires the road project to meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road

project is located if a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality.

(c) Requires the Texas Transportation Commission (TTC) to approve the plans and specifications of the road project if the state will maintain and operate the road.

Sec. 5C. LIMIT ON EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain outside the district and in the corporate limits or extraterritorial jurisdiction of a municipality unless the governing body of the municipality consents by ordinance or resolution.

SECTION 4. Amends Section 7, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, by adding Subsection (f), as follows:

(f) Provides that Section 375.070 (Compensation of Directors; Reimbursement of Expenses), Local Government Code, does not apply to the district. Entitles a director to receive fees of office and reimbursement for actual expenses as provided by Section 49.060 (Fees of Office; Reimbursement), Water Code, except that:

(1) a director is entitled to receive fees of office of not more than \$200 a day for each day the director actually spends performing the duties of a director; and

(2) the district may not set the annual limit on the fees of office that a director may receive at an amount greater than \$8,200.

SECTION 5. Amends Section 8, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 8. LEGISLATIVE FINDINGS. Provides that the legislature finds that the district may provide water and sewer, landscaping, road, drainage, and reclamation services to residential retail or commercial customers in the district. Provides that the district is a district described in Section 49.181(h)(4), Water Code.

Deletes existing text providing that the legislature finds that the principal function of the district is to provide for development and operation of the project, to facilitate economic development, and to attract visitors and tourists, which will result in employment and economic activity in Hays County.

SECTION 6. Amends Section 9, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, as follows:

Sec. 9. ADDITION AND EXCLUSION OF LANDS. (a) Authorizes the district, except as provided by Subsection (b), in addition to the authority granted to the district by Section 383.084 (Adding and Excluding Land from the District), Local Government Code, to add lands in the manner provided by Section 49.301 (Adding Land by Petition of Landowner), Water Code, and to exclude lands in the methods provided by Sections 49.303 (Excluding Land or Other Property from District) through 49.308 (Suit to Review Exclusion), Water Code.

(b) Provides that Section 42.0425 (Addition of Land in Extraterritorial Jurisdiction of Municipality to Certain Political Subdivisions), Local Government Code, applies to the annexation of land in the extraterritorial jurisdiction or corporate boundaries of a municipality.

(c) Provides that land added or annexed under this section is not required to be contiguous to the district's territory.

SECTION 7. Provides that this Act does not affect an agreement between the district and a municipality in whose corporate limits or extraterritorial jurisdiction the district is located that

was entered into before the effective date of this Act. Provides that this section does not affect the authority of the district and municipality to amend such an agreement.

SECTION 8. (a) Provides that the legislature confirms and validates all actions of the district that were taken before the effective date of this Act, including any elections conducted by the district, including any election to impose maintenance and operation taxes or to adopt the powers of a road district.

(b) Provides that the district is not required to repeat an election described by Subsection (a) of this section.

SECTION 9. Provides that 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 10. Effective date: upon passage or September 1, 2015.