

BILL ANALYSIS

C.S.H.B. 4343
By: Oliverson
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that an area within the extraterritorial jurisdiction of the city of Houston would benefit from the creation of an improvement district. C.S.H.B. 4343 seeks to provide for the creation of Harris County Improvement District No. 26.

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. 4343 amends the Special District Local Laws Code to create the Harris County Improvement District No. 26 to provide certain improvements, projects, and services for public use and benefit. The bill provides for, among other provisions, public facility corporations, the annexation or exclusion of district land, a strategic partnership agreement, the applicability of certain residential property exemptions and competitive bidding requirements to the district, the establishment of defined areas or designated property by the district, municipal annexation and dissolution of the district, and certain special bond provisions applicable to the district. The bill sets out the district's powers and duties, which include public improvement district powers, road utility district powers, and, subject to certain requirements, the authority to borrow money, issue obligations, impose and collect assessments, and impose sales and use, hotel occupancy, operation and maintenance, property, and contract taxes. The bill prohibits the district from exercising the power of eminent domain and exempts the property of certain utilities from district assessments and fees.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4343 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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3800 to read as follows:

CHAPTER 3800. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 26
SUBCHAPTER A. GENERAL PROVISIONS

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3800.051. GOVERNING BODY; TERMS.

Sec. 3800.052. APPOINTMENT OF VOTING DIRECTORS. The Texas Commission on Environmental Quality shall appoint voting directors from persons recommended by the board.

Sec. 3800.053. NONVOTING DIRECTORS.

Sec. 3800.054. QUORUM.

Sec. 3800.055. COMPENSATION.

Sec. 3800.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of:

Pos. No.	Name of Director:
1	
2	
3	
4	
5	

(b) Of the initial directors, the terms of directors appointed for positions one through three expire June 1, 2019, and the terms of directors appointed for positions four and five expire June 1, 2021.

(c) Section 3800.052 does not apply to this section.

(d) This section expires September 1, 2021.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3800.101. GENERAL POWERS AND DUTIES.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3800 to read as follows:

CHAPTER 3800. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 26
SUBCHAPTER A. GENERAL PROVISIONS

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3800.051. GOVERNING BODY; TERMS.

Sec. 3800.052. APPOINTMENT OF VOTING DIRECTORS. (a) The Texas Commission on Environmental Quality shall appoint voting directors from persons recommended by the board.

(b) Section 49.052, Water Code, does not apply to the directors.

Sec. 3800.053. NONVOTING DIRECTORS.

Sec. 3800.054. QUORUM.

Sec. 3800.055. COMPENSATION.

Sec. 3800.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of:

Pos. No.	Name of Director:
1	Jeff Eastman
2	Mark Urback
3	Lee Burchfield
4	James Warren
5	Jay Lynn Daniel

(b) Of the initial directors, the terms of directors appointed for positions one through three expire June 1, 2019, and the terms of directors appointed for positions four and five expire June 1, 2021.

(c) Section 3800.052 does not apply to this section.

(d) This section expires September 1, 2021.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3800.101. GENERAL POWERS AND DUTIES.

Sec. 3800.102. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3800.103. DEVELOPMENT CORPORATION POWERS.

Sec. 3800.104. NONPROFIT CORPORATION.

Sec. 3800.105. AGREEMENTS; GRANTS.

Sec. 3800.106. LAW ENFORCEMENT SERVICES.

Sec. 3800.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

Sec. 3800.108. ECONOMIC DEVELOPMENT.

Sec. 3800.109. PARKING FACILITIES.

Sec. 3800.110. ANNEXATION OR EXCLUSION OF LAND.

Sec. 3800.111. PUBLIC IMPROVEMENT DISTRICT POWERS.

Sec. 3800.112. ROAD UTILITY DISTRICT POWERS.

Sec. 3800.113. CONDUIT FACILITIES.

(a) The district may finance, acquire, construct, improve, operate, maintain, or charge a fee for the use of district conduits for:

(1) fiber-optic cable and supporting facilities;

(2) electronic transmission lines and supporting facilities; or

(3) other types of transmission lines and supporting facilities.

Sec. 3800.102. IMPROVEMENT PROJECTS AND SERVICES.

Sec. 3800.103. DEVELOPMENT CORPORATION POWERS.

Sec. 3800.104. NONPROFIT CORPORATION.

Sec. 3800.105. PUBLIC FACILITY CORPORATIONS. As provided by Chapter 303, Local Government Code, the board by resolution may authorize the creation of a public facility corporation in the district to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, or placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs.

Sec. 3800.106. AGREEMENTS; GRANTS.

Sec. 3800.107. LAW ENFORCEMENT SERVICES.

Sec. 3800.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.

Sec. 3800.109. ECONOMIC DEVELOPMENT.

Sec. 3800.110. PARKING FACILITIES.

Sec. 3800.111. ANNEXATION OR EXCLUSION OF LAND.

Sec. 3800.112. PUBLIC IMPROVEMENT DISTRICT POWERS.

Sec. 3800.113. ROAD UTILITY DISTRICT POWERS.

Sec. 3800.114. PROPERTY OF CERTAIN

UTILITIES EXEMPT FROM ASSESSMENTS AND FEES. The district may not impose an assessment, impact fee, or standby fee on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility, as defined by Section 101.003 or 121.001, Utilities Code, or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas;

(3) a person who owns pipelines used for the transportation or sale of carbon dioxide;

(4) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(5) a cable service provider or video service provider as defined by Section 66.002, Utilities Code.

Sec. 3800.115. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

(1) burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line;

(2) removing poles and any elevated lines using the poles; and

(3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) The district may finance, acquire, construct, improve, operate, maintain, or charge fees for the use of the district conduits for another person's:

(1) telecommunications network; or

(2) fiber-optic cable.

(c) Consistent with Title 2, Utilities Code, the district may finance, construct, or maintain conduits for:

(1) electronic transmission and distribution lines and supporting facilities; or

(2) other types of transmission and distribution lines and supporting facilities.

(d) The district may not require a person to use a district conduit.

(b) The district may not require a person to use a district conduit.

Sec. 3800.114. STRATEGIC PARTNERSHIP AGREEMENT.

Sec. 3800.116. STRATEGIC PARTNERSHIP AGREEMENT.

Sec. 3800.115. NO EMINENT DOMAIN POWER.

Sec. 3800.117. NO EMINENT DOMAIN POWER.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

SUBCHAPTER E. TAXES AND BONDS

SUBCHAPTER F. DEFINED AREAS

SUBCHAPTER G. SALES AND USE TAX

SUBCHAPTER H. HOTEL OCCUPANCY TAXES

SUBCHAPTER I. MUNICIPAL ANNEXATION AND DISSOLUTION

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

SUBCHAPTER E. TAXES AND BONDS

SUBCHAPTER F. DEFINED AREAS

SUBCHAPTER G. SALES AND USE TAX

SUBCHAPTER H. HOTEL OCCUPANCY TAXES

SUBCHAPTER I. MUNICIPAL ANNEXATION AND DISSOLUTION

SUBCHAPTER Z. SPECIAL BOND PROVISIONS

Sec. 3800.901. APPLICABILITY. This subchapter applies to bonds payable wholly or partly from revenue derived from assessments on real property in the district.

Sec. 3800.902. CONFLICT OF LAWS. In the event of a conflict between this subchapter and any other law, this subchapter prevails.

Sec. 3800.903. WRITTEN AGREEMENT REGARDING SPECIAL APPRAISALS. Before issuing bonds, the district and any person to whom the board intends that proceeds of the bonds be distributed, including a developer of or owner of land in the district, and any entity acting as a lender to a developer of or owner of land in the district for the purpose of a project relating to the district, must enter into a written agreement that:

(1) waives for the term of the agreement the right to a special appraisal with respect to taxation by the district under Subchapters B, C, D, E, F, and H, Chapter 23, Tax Code; and

(2) remains in effect for 30 years and is binding on the parties, on entities related to or affiliated with the parties, and on their successors and assignees.

Sec. 3800.904. REQUIREMENTS FOR ADVERTISING BOND ISSUE. A district may not advertise for an issuance of bonds until the completion of at least 25 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and

necessary to support the district bonds.

Sec. 3800.905. REQUIREMENTS FOR BOND ISSUE. The district may not issue bonds until:

(1) the district submits to the commission:

(A) an engineer's report describing the project for which the bonds will provide funding, including data, profiles, maps, plans, and specifications related to the project; and

(B) a cash flow analysis to determine the projected rate of assessment, which includes the following assumptions:

(i) each ending balance for debt service in the analysis is not less than 25 percent of the following year's debt service requirement;

(ii) interest income is only shown on the ending balance for debt service for the first two years; and

(iii) the projected rate of assessment is level or decreasing for the life of the bonds issued by the district;

(2) the completion of at least 75 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds; and

(3) the district has obtained an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property that is liable for district assessments and necessary to support the district bonds.

Sec. 3800.906. REQUIREMENTS FOR COLLECTION OF REVENUE TO PAY BONDS. The district may not collect an assessment to be used for the payment of bonds until:

(1) the completion of at least 95 percent of the underground water, wastewater, and drainage facilities financed from bond proceeds that are necessary to serve the projected build-out, as certified by the district's engineer;

(2) the district or other appropriate party has secured the groundwater, surface water, and water discharge permits that are necessary to secure capacity to support the projected build-out;

(3) the completion of at least 95 percent of lift station, water plant, and sewage treatment plant capacity sufficient to serve the connections constructed in the project for a period of not less than 18 months, as

certified by the district's engineer; and
(4) the completion of at least 95 percent of
the streets and roads that are necessary to
provide access to the areas served by
utilities and financed by the proceeds of
bonds issued by the district, as certified by
the district's engineer and constructed in
accordance with city or county standards.

SECTION 2. Sets out the metes and bounds of the district.

SECTION 2. Sets out different metes and bounds.

SECTION 3. (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.

SECTION 3. Same as introduced version.

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

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) 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 have been fulfilled and accomplished.

SECTION 4. 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, 2017.

SECTION 4. Same as introduced version.