

SUBJECT: Creating the Bee Cave Development District

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Talton, Wong, A. Allen, Blake, Menendez

0 nays

2 absent — Bailey, Rodriguez

SENATE VOTE: On final passage, April 26 — 27-0

WITNESSES: For — Sharlene Collins, Scott Kelley, Hill Country Galleria Ground Master Lease; Joel DeSpain, Opus West Corporation, Hill County Galleria Ground Master Lease; James Fisher, Village of Bee Cave

Against — Sarah Baker, Save Our Springs Alliance

BACKGROUND: Texas Constitution, Art. 3, sec. 52 generally prohibits the Legislature from authorizing local governments to lend their credit or grant public funds to any individual, association, or corporation. One of the exceptions to this general prohibition is found in Texas Constitution, Art. 3, sec. 52-a, adopted in 1987, which authorizes the Legislature to allow loans and grants of public money for economic development purposes.

Texas Constitution Art. 16, sec. 59 governs the creation of conservation and reclamation districts, which are authorized to levy taxes and issue bonds for the purposes of conserving and developing natural resources for such purposes as irrigating land and generating power.

Local Government Code, ch. 375 governs municipal management districts. The purpose of these districts is to promote and maintain employment, commerce, economic development, and the public welfare in the commercial areas of municipalities. They have the powers and authority of conservation and reclamation districts and economic development districts authorized under the Texas Constitution.

DIGEST: SB 1022 would create the Bee Cave Development District, which would

have the authority of a municipal management district to finance development, improvements, and infrastructure within a defined area of Travis County. The district could impose impact fees, assessments, and ad valorem taxes on property within its boundaries, and issue tax exempt bonds. The bill would require the district to hold an election and gain voter approval to impose a maintenance tax or issue bonds payable from assessments and property taxes. The district would not have power of eminent domain and would be prohibited from financing a hotel project.

The district's boundaries would coincide with the 156 acres tract of land under contract between the private property owners and the Opus West Corporation.

The governing body of the Village of Bee Cave would appoint five members to the district's board of directors, who would serve staggered four-year terms. The board could authorize the creation of a nonprofit corporation to oversee and implement district projects.

Improvements could not be financed unless the board of directors received a petition signed by all property owners within the district subject to assessment and with at least 25 signatures of land owners in the district, if there are more than 25 property owners.

The dissolution of the district would be effective when all debt was relieved.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

SB 1022 would create the Bee Cave Development District and authorize it to obtain financing of tax exempt bonds to finance improvements without appropriations from the state. The land within the district would be vacant, so no resident of Bee Cave would pay new taxes. The development, a \$100 million commercial investment, would generate \$20 million in sales taxes and 2,000 new jobs on-site.

Without the management district and authority to assess property, raise taxes, and issue tax-exempt bonds, the developers will not be able to provide necessary infrastructure to accommodate the development. The funding for transportation infrastructure is critical, as it would relieve

traffic congestion that continues to worsen in Bee Cave . The Village of Bee Cave is located at the intersection of five major highways used daily by 40,000 cars. The bonds would help to finance millions of dollars of roadway improvements that would improve the flow of traffic through Bee Cave and to the proposed development . Plans include a \$12 million, 7,300 foot long, four-lane roadway, built in compliance with Texas Department of Transportation (TxDOT) standards, that would bypass Bee Caves Road and State Hwy. 620 to reach the commercial development on a new connecting road. Other roadway improvements include the addition of turning lanes and signals to nearly one mile of State Hwy. 71 for between \$5 million and \$8 million. This scope of improvements would relieve traffic on Highways 71 and 620 that TxDOT otherwise could not afford.

The developers and the Village of Bee Caves have negotiated plans that would integrate a zero degradation environmental standard. The district would create water quality retention/detention ponds that exceed the Bee Cave requirements of ponds to accommodate a two-year statistical flood event. The district's ponds are planned for a 100-year flood event. Also, all on-site water would be re-irrigated to prevent runoff. These water runoff controls would maintain groundwater integrity even in highly sensitive areas.

The developer and the Village of Bee Cave have heard the concerns of residents. Bee Cave held three town hall meetings, two public hearings, several informational meetings, and published notices in local newspapers to inform the citizenry of the development and the creation of a management district. The developers have built a retaining wall to separate development from a nearby neighborhood and to reduce noise pollution. They also plan to donate \$25 million in conservation easements to Bee Cave, as well as a 50-acre park. Such benefits to the community could be lost without the financing tools of the management district.

**OPPONENTS
SAY:**

This 156-acre tract of land is located in the contributing zone of the Barton Springs Watershed. The completed development would have 55 percent impervious cover, forcing excessive runoff and pollution to travel downstream into Barton Creek and eventually contaminate drinking water in the Edwards Aquifer. The development poses a high risk to a known environmentally sensitive area and therefore should not be subsidized by tax-exempt bonds. The developers should assume the risk privately through their corporations because the development itself would spur growth, increase traffic, and necessitate expanded roadways. If the roads

were privately financed and risk was undertaken privately, the individual corporation would be more accountable for the pollution it created.

The same development company recently has commenced construction on a similar commercial development in the same general area off Hwy. 71. This development is only half the size of the development proposed for the management district and yet it already is responsible for added groundwater pollution in the area. The Texas Commission on Environmental Quality has cited the project twice for unauthorized runoff discharges into Little Barton Creek. While the district may take steps to prevent or mitigate pollution, its main purpose still would be to generate commercial development.

Creating a management district would place excessive economic authority in the hands of developers. Although the development would generate new jobs, the jobs it would create likely would be low-paying retail sector opportunities. The bill states that the district is essential to accomplish the purposes of a conservation reclamation district, but commercial shopping centers typically are not related to preservation and conservation of natural resources.