

SUBJECT: Creating the Brazoria County Management District No. 2

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 6 ayes — Coleman, Stucky, Anderson, Lopez, Spiller, J. Turner

1 nay — Cason

2 absent — Longoria, Stephenson

WITNESSES: For — (*Registered, but did not testify:* Howard Cohen, The Cardon Group, LLC)

Against — None

BACKGROUND: It has been suggested that an area within Brazoria County would benefit from the creation of a management district.

DIGEST: HB 4612 would create the Brazoria County Management District No.2 and establish its purposes, structure, and powers.

Purposes. The district would:

- promote the health, safety, and general welfare of residents, employers, employees, and the general public;
- provide needed funding to preserve and enhance the economic health and vitality of the district's territory as a community and business center;
- promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways, transit and parking facilities, and public art objects, and by landscaping and developing for scenic beauty purposes; and
- provide for water, sewer, road, and recreational facilities.

The district would be created to serve a public use and benefit, and would

not act as the agent or instrumentality of any private interest.

Board of directors. The district would be governed by a board of five directors serving staggered four-year terms. Directors would be entitled to receive fees of office and reimbursement for expenses.

On or after the bill's effective date, the owners of a majority of the assessed value of real property in the district would be able to submit a petition to the Texas Commission on Environmental Quality naming five persons to be appointed by the commission as temporary directors for the district. The temporary directors or their successors would have to hold an election to elect permanent directors. Temporary directors would serve until permanent directors were elected or the fourth anniversary after the bill's effective date, whichever was earlier. If permanent directors had not been elected before the temporary directors' terms expired, successor temporary directors would be appointed following the same procedure as for the initial appointment. Successor temporary directors' terms would expire upon election of permanent directors or four years after appointment, whichever was earlier.

The election and compensation of directors would be conducted in accordance with provisions governing general law districts under the Water Code.

Powers and duties. The district would have the powers and duties necessary to accomplish its purposes, including the power to:

- provide, operate, or finance an improvement project or service;
- develop or finance recreational facilities;
- own, operate, maintain, construct, and finance roads and convey roads to the state or a political subdivision;
- establish a nonprofit corporation to assist the district in implementing a project or providing a service;
- contract for or employ its own peace officers with power to make arrests under certain circumstances;
- join a charitable or nonprofit organization that performed a service

- or provided an activity consistent with a district purpose;
- engage in economic development activities, including the establishment of programs to make loans and grants of public money and provide district personnel and services;
- negotiate and enter into a strategic partnership or regional participation agreement with a municipality;
- acquire, lease, construct, and operate parking facilities;
- add or exclude land in the manner provided for by general law district provisions of the Water Code;
- establish procedures for a disbursement or transfer of district money; and
- complete an annual financial report in lieu of an annual audit under certain conditions.

The district expressly would not have the power of eminent domain.

Assessments. The district board by resolution could impose and collect an assessment for any purpose authorized for the district. The board could not finance a service or improvement project with assessments unless a written petition signed by the owners of a majority of the assessed value of real property in the district subject to assessment had been filed with the board requesting that service or improvement.

Property taxes and bonds. The district could impose an operation and maintenance tax on property in the district for any district purpose. Before imposing such a tax the district would have to hold an election in accordance with current law and obtain voter approval. The board would determine the tax rate, which could not exceed that approved at the election.

The district would be able to borrow money on terms determined by the board, and could issue bonds or other obligations payable from property taxes, assessments, and other district money to pay for any authorized district purpose. Bonds secured by revenue other than property taxes could be issued without an election. If authorized at an election, the board could issue bonds payable from property taxes, but the board could not

issue its first bonds payable from property taxes until each municipality in whose limits or extraterritorial jurisdiction the district was located had consented to the creation of the district and to the inclusion of land in the district.

Sales and use tax. The district would be able to adopt a sales and use tax if authorized by a majority of district voters at an election held for that purpose. The board could call an election to authorize the adoption of such a tax. After election results were declared, the board would have to determine and adopt by resolution or order the rate of the tax. The rate could not exceed a maximum rate set by the voters at the election or a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum rate allowed by current law at any location in the district. Revenue from the sales and use tax could be used for any district purpose.

Hotel occupancy tax. The district also could impose a hotel occupancy tax for specified purposes, including to promote tourism and the convention and hotel industry. The board could abolish the imposed hotel occupancy tax without an election, but the board could not abolish the tax if doing so would impair the repayment of an outstanding debt secured by the tax.

Dissolution. The board would have to dissolve the district on written petition filed by the owners of at least two-thirds of the assessed value of the property subject to assessment or taxation by the district based on the most recent certified county property tax rolls. The board also could dissolve the district by majority vote at any time. The district could not be dissolved if it:

- had any outstanding bonded indebtedness;
- had a contractual obligation to pay money; or
- owned, operated or maintained public works, facilities, or improvements, unless the district contracted with another person for the ownership, operation, or maintenance of the works, facilities, or improvements.

Other provisions. The bill would specify the territory initially included in the Brazoria County Management District No. 2.

The 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, 2021.