

BILL ANALYSIS

Senate Research Center
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H.B. 3799
By: Coleman (Gallegos)
Intergovernmental Relations
5/6/1999
Committee Report (Amended)

DIGEST

Currently, no entity exists to help improve economic development opportunities in the east downtown and Chinatown areas of Houston. H.B. 3799 would establish a special district to be known as the "East Downtown Management District" to improve economic development in certain areas in Houston.

PURPOSE

As proposed, H.B. 3799 creates the East Downtown Management District and provides authority to impose a tax and issue bonds.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 376, Local Government Code, by adding Subchapter H, as follows:

SUBCHAPTER H. EAST DOWNTOWN MANAGEMENT DISTRICT

Sec. 376.301. CREATION OF DISTRICT. Provides that a special district to be known as the "East Downtown Management District" (district) exists as a governmental agency, body politic and corporate, and political subdivision of the state. Authorizes the name of the district to be changed by resolution of the board of directors of the East Downtown Management District (board). Provides that the creation of the district is essential to accomplish the purposes of Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.302. DECLARATION OF INTENT. Sets forth the intent of the legislature relating to the creation of the district.

Sec. 376.303. DEFINITIONS. Defines "board," "county," "district," "municipality," and "utility."

Sec. 376.304. BOUNDARIES. Sets forth the boundaries of the district.

Sec. 376.305. FINDINGS RELATING TO BOUNDARIES. Sets forth certain findings relating to the boundaries.

Sec. 376.306. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Set forth certain findings of benefit and public purpose.

Sec. 376.307. APPLICATION OF OTHER LAW. Provides that Chapter 375 applies to the district and its governing body and employees, except as otherwise provided by this subchapter.

Sec. 376.308. CONSTRUCTION. Requires this chapter to be liberally construed in conformity with findings and purposes stated in this subchapter.

Sec. 376.309. BOARD OF DIRECTORS IN GENERAL. Sets forth certain requirements for the board of directors.

Sec. 376.310. APPOINTMENT OF DIRECTORS; VACANCY. Requires the mayor and members of the governing body of the municipality to appoint directors from persons recommended by the board who meet the qualifications of Chapter 375D. Requires a vacancy in the office of director because of death, resignation, or removal of a director to be filled by the remaining members of the board by appointing a qualified person for the unexpired term.

Sec. 376.311. POWERS OF THE DISTRICT. Sets forth the powers of the district.

Sec. 376.312. EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 376.3125. EX OFFICIO BOARD MEMBERS. Requires certain persons to serve as a nonvoting ex officio director. Authorizes the board to appoint a director of the consolidated, renamed, or changed department as a nonvoting ex officio board member, if the department described by Subsection (a) is consolidated, renamed, or changed. Authorizes the board to appoint a representative of another department of the municipality that performs duties comparable to those performed by the abolished department, if a department described by Subsection (a) is abolished. Authorizes the board to appoint the presiding officer of a nonprofit corporation that is actively involved in activities in the municipality's midtown area to serve as a nonvoting ex officio director.

Sec. 376.3128. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. Authorizes a director to participate in all board votes and decisions. Provides that Chapter 171 governs conflicts of interest for board members. Provides that Section 171.004 does not apply to the district. Requires a director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action to file a one-time affidavit declaring the interest. Provides that an additional affidavit is not required if the director's interest changes. Authorizes the director to participate in a discussion or vote on that action if certain conditions exist, after the affidavit is filed with the board secretary. Prohibits a director who is also an officer or employee of a public entity from participating in the discussion of or voting on a matter regarding a contract with that same public entity. Provides that a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002, for purposes of this section.

Sec. 376.313. EXPENSES AND LIABILITY FOR CERTAIN ACTIONS AFFECTING PROPERTY. Requires the district to take required action at the sole expense of the district for certain items, if the district, in exercising a power conferred by this subchapter, requires construction of certain items. Requires the district to bear damages that are suffered by owners of the facility or other property.

Sec. 376.314. RELATION TO OTHER LAW. Provides that this chapter prevails, if any provisions of general law, including a law referenced in this subchapter, is in conflict with or is inconsistent with this subchapter. Provides that any law referenced in this subchapter that is not in conflict or inconsistent with this subchapter is adopted and incorporated by reference.

Sec. 376.315. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. Prohibits the board from financing services and improvement projects under this subchapter unless a written petition requesting those improvements or services has been filed with the board. Requires the petition to be signed by certain persons.

Sec. 376.316. NONPROFIT CORPORATION. Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this subchapter. Requires the board to appoint the board of directors of a nonprofit corporation (nonprofit board) created under this section. Requires the nonprofit board to serve in the same manner as, for the same term as, and on the conditions of the board of directors of a local government corporation created under Chapter 431, Transportation Code. Provides that a nonprofit corporation created under this section has the powers of and is considered for purposes of this subchapter to be a local government corporation created under Chapter 431, Transportation Code. Authorizes a nonprofit corporation created under this section to implement any project and provide any services authorized by this subchapter.

Sec. 376.317. DISBURSEMENTS OR TRANSFERS OF FUNDS. Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 376.318. BONDS. Sets forth the requirements for the issuance of bonds. Requires the district to obtain the municipality's approval of certain items, except as provided by Subsection (d). Authorizes the district to finance the capital improvements and issue bonds specified in the budget without further municipal approval, if the district obtains the municipality's approval of a capital improvement budget for a specified period not to exceed five years. Requires the district to submit the bonds and records of proceedings of the district relating to authorization of the bonds to the attorney general for approval as provided by Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987, before the district issues bonds.

Sec. 376.319. ASSESSMENTS. Authorizes the board to impose and collect an assessment for any purpose authorized by this subchapter. Provides that certain assessments resulting from an addition to or correction of the assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district are certain liens and liability. Provides that the lien is effective from the date of the resolution of the board levying the assessment until the assessment is paid. Authorizes the board to enforce the lien in the manner that the board may enforce an ad valorem tax lien against real property.

Sec. 376.320. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT. Prohibits the district from imposing a tax, impact fee, or assessment on a residential property, multiunit residential property, or condominium. Prohibits the district from imposing an impact fee or assessment on the property, equipment, or facilities of a utility.

Sec. 376.321. ELECTIONS. Requires the district, in addition to the elections the district must hold under Chapter 375L, to hold an election in the manner provided by that subchapter to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes or assessments. Authorizes the board to submit multiple purposes in a single proposition at an election.

Sec. 376.322. IMPACT FEES. Authorizes the district to impose an impact fee for an authorized purpose as provided by Chapter 375G.

Sec. 376.323. MAINTENANCE TAX. Authorizes the district to impose and collect an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services. Requires the board to determine the tax rate.

Sec. 376.325. DISSOLUTION OF DISTRICT. Authorizes the district to be dissolved as provided by Chapter 375M. Requires the district to remain in existence solely for the limited purpose of discharging its bonds or other obligations according to their terms, if the district has debt and is dissolved.

Sec. 376.326. CONTRACTS. Authorizes the district to contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee. Authorizes other organizations to contract with the district to implement a project of the district or assist the district in providing the services authorized under this subchapter. Authorizes a contract under this subsection to include certain terms. Authorizes the district to enter into a contract, lease, or other agreement with or make or accept grants and loans from certain entities. Authorizes the district to perform all acts necessary for the full exercise of the powers vested in the district on terms and for the period the board determines advisable.

Sec. 376.327. COMPETITIVE BIDDING UNIT. Provides that Section 375.221 does not apply to the district unless the contract is for more than \$25,000.

Sec. 376.328. ANNEXATION. Authorizes the district to annex certain territory if the governing body of the municipality consents to the annexation.

Sec. 376.329. AGREEMENTS: GENERAL; DONATIONS, INTERLOCAL AGREEMENTS,

AND LAW ENFORCEMENT SERVICES. Authorizes the district to make an agreement with or accept a donation, grant, or loan from any person. Provides that the implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code. Authorizes the district to contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

SECTION 2. Sets forth certain findings of the legislature.

SECTION 3. Provides that notwithstanding Section 376.309, Local Government Code, as added by this Act, the initial board of directors of the East Downtown Management District consists of certain persons. Provides that certain members' terms expire June 1, 2003 and June 1, 2001.

SECTION 4. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 376.304, Local Government Code, to set forth additional boundaries of the district.

Amends Section 376.306, Local Government Code, to delete text requiring the district to eliminate unemployment and underemployment. Makes conforming changes.

Amends Section 376.307, Local Government Code, to provide that Chapter 375 applies to the district and its governing body and employees.

Amends Section 376.311, Local Government Code, to provide that the district has certain powers, including the powers given to a housing finance corporation created under Chapter 394 to provide housing or residential development projects in the district. Makes conforming changes.

Adds a new Section 376.3125, Local Government Code, regarding ex officio board members.

Adds a new Section 376.3128, Local Government Code, regarding conflicts of interest and a one-time affidavit.

Deletes proposed Section 376.324, Local Government Code, regarding workforce development services and projects.

Adds a new Section 376.327, Local Government Code, regarding a competitive bidding unit.

Adds a new Section 376.328, Local Government Code, regarding annexation.

Adds a new Section 376.329, Local Government Code, regarding certain agreements.

SECTION 3.

Amends SECTION 3 to provide that the initial board of directors of the East Downtown Management District consists of certain persons, including Alferd H. Bennett, rather than Alfred Bennet and Harold A. Odom, III, rather than Al Odam.