

BILL ANALYSIS

Senate Research Center

S.B. 1807
By: Bernsen
Intergovernmental Relations
4/12/1999
As Filed

DIGEST

Under Chapter 375, Local Government Code, the Town Center Improvement District of Montgomery County, Texas (district) is a special district having the powers of a municipal management district with certain powers and authority to encourage and promote economic development and business activity within and adjacent to the downtown area of The Woodlands, in Montgomery County. S.B. 1807 would broaden and strengthen the powers and financial capabilities of the district.

PURPOSE

As proposed, S.B. 1807 sets forth provisions for promoting economic development in the Town Center Improvement District of Montgomery County, Texas.

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 Section 7, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 255, Acts of the 75th Legislature, Regular Session, 1997, to authorize the board of directors (board) of the Town Center Improvement District of Montgomery County, Texas (district) to levy, assess, and apply the proceeds from the limited sales and use taxes authorized in Sections 11 and 11C of this Act for authorized purposes, provided that, during each interval of three calendar years following the commencement of collection of such tax, the board shall, consistent with constitutional limitations and the district's authorized powers and purposes, and in its sound discretion, endeavor to apply an annual average of no less than 10 percent of the net proceeds of all tax collections from the tax imposed pursuant to Section 11 of this Act, toward mitigation of the net negative impact of development within the district on the impact area. Defines "impact area." Makes conforming and nonsubstantive changes.

SECTION 2. Amends Sections 8(a)-(e) and (g), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 255, Acts of the 75th Legislature, Regular Session, 1997, to provide that the district is governed by a board of eleven, rather than eight, directors who shall serve for staggered terms of four years. Sets forth qualifications to serve as a board director, including an individual agent, employee, officer, or director of any individual, corporation, trust, or partnership that owns or leases real property, provided that no more than three members of the board, whether elected or appointed, may at any time be agents, employees, officers or directors of a single individual, corporation, trust, or partnership that owns or leases real property described by Paragraph (B), (C), (D), (E), or (F) of this subdivision, and any person filing a ballot or write in candidate's application or appointment to the board, in order of the time of filing or appointment, whose election or appointment would cause such limitation to be exceeded, shall be ineligible for the election or appointment, except as otherwise provided by this subsection. Requires a person to be a member of The Woodlands Community Association, Inc., to be eligible for appointment under Subsection (c)(3). Requires a person to be a person described in Subdivision (b)(1) of this subsection and a resident of any county commissioners precinct, to be eligible for appointment under Subsection (c)(6) of this section. Requires the board to serve as provided in this Act and to be composed of five elected directors and six appointed directors. Requires the appointed directors to include certain individuals. Requires the board directors to serve until their successors have been elected or appointed and have qualified. Requires a vacancy in the office of director to be filled by appointment of a qualified individual by a majority vote on the remaining directors, except if the number of directors is less than six, rather than five. Requires the board director to organize or reorganize by electing a chairman, rather than president, a vice-chairman, and any other officers of the board. Deletes text regarding

Subdivisions (2) and (3). Deletes text regarding the effective date of this Act. Deletes text regarding appointment of vacancies. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Subsections (e) and (i), Section 11, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 255, Acts of the 75th Legislature, Regular Session, 1997, to provide that a tax imposed under this Act or the repeal or reduction of a tax under this Act takes effect on the first day of the calendar quarter. Deletes text regarding an October 1 deadline. Deletes text regarding a reduction of the district's sales and use tax and an ordinance. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 255, Acts of the 75th Legislature, Regular Session, 1997, by adding Section 11C, as follows:

Sec. 11C. ECONOMIC DEVELOPMENT ZONES. Defines "economic development zone," "governing body," "initial development," and "substantial redevelopment." Provides that the board, on its own motion, or upon receipt of a petition signed by the owners of all real property within a defined area of the district, may by resolution create, designate, describe, assign a name, to and appoint the governing body for an economic development zone within the district to promote initial development or substantial redevelopment of the area, if the board finds that the creation of a zone will further certain public purposes. Requires the board to prepare a preliminary financing plan for such zone to include certain information, before designating an economic development zone. Requires the board to call and conduct a public hearing in the same general procedural manner as provided by Section 311.003, Tax Code, for reinvestment zones designated by a municipality, before designating an economic development zone on its own motion or, if ad valorem taxes are to be used, in whole or in part, in payment of improvement project costs within the economic development zone to be designated in response to a landowner petition. Prohibits an economic development zone from being created, if more than 10 percent of the property in the proposed zone, excluding property that is publicly owned, is used or planned for use for residential purposes. Provides that property is used for residential purposes, if it is occupied by a house having fewer than five living units. Sets forth requirements for a resolution to designate an area as an economic development zone. Requires members of the governing body to be appointed for a term of two years, except for the initial members of the governing body, some of whose terms may be limited to one year in order to achieve staggered terms of office. Requires any vacancy on the governing body of the zone to be filled by appointment for the unexpired term by the district. Requires a member of a governing body to be a member of the board or must be at least 18 years of age, a citizen of the state, and a person described in Subsection 2(b) of this Act. Requires each member to qualify for office by subscribing to the constitutional oath of office for public officers and furnishing a fidelity bond issued by a responsible surety in the amount of \$10,000 in favor of the zone to secure faithful performance of the member's duties. Requires the governing body of the zone to meet and organize by electing a president, a vice-president, a secretary/treasurer and such other officers as the governing body of the zone may deem appropriate, following appointment and qualifications. Provides that the boundaries of an economic development zone may be reduced or enlarged in the same general manner as provided herein for creation of a zone. Requires a zone created by the district pursuant to this section to constitute a body politic and corporate and a political subdivision of the state, separate and apart from the district. Requires the district and the zone to have the same power and authority to carry out this section as are conferred upon a municipality with respect to a reinvestment zone under Section 311.008, Tax Code. Authorizes the board by order to delegate, subject in whole or in part to final approval by the board of the district, any powers and duties relating to the financing and implementation of the project plan for the zone, including without limitation, certain powers and authority, in addition to the powers herein granted to the governing body. Authorizes the board and the governing body to enter into such agreements as may be considered necessary or convenient to implement a project plan and economic development zone financing plan and achieve their purposes. Provides that an agreement may provide for the regulation or restriction of the use of land by imposing conditions, restrictions, or covenants that run with the land. Authorizes an agreement to dedicate revenue from the tax increment fund to pay project costs and to provide that a restriction adopted by the governing body continues in effect after the termination of the zone. Authorizes the district and the zone to enter into agreements whereby the district will provide administration, management, investment, accounting, and other services for the zone in consideration for the benefits to inure to the district through implementation of the project plan for the zone. Requires the governing body to prepare and adopt, and may thereafter amend, a project plan and an economic

development zone financing plan for the zone containing generally the information and estimates described in Section 311.011, Tax Code, with respect to reinvestment zones, together with an estimate of total and incremental sales and use taxes to be derived from the zone, subject to approval by resolution of the board. Provides that an amendment may be adopted only after a public hearing meeting the procedural requirement of this section has been held, if a plan amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, creates or changes a tax increment to be contributed by a taxing unit, or increases the total estimated project costs. Requires the provisions of Sections 311.012 and 311.013, Tax Code, relative to a city or municipality, or its governing body, to apply to the zone and the governing body of the zone, if the financing plan adopted by the governing body of the zone uses ad valorem taxes, in whole or in part, for payment of project costs. Authorizes the district or adopt or repeal for the use and benefit of one or more economic development zones previously or thereafter created by the district, an incremental sales and use tax of no more than one percent, if approved at an election by a majority of the qualified voters voting in such election. Provides that an election for the purpose of permitting voting for or against the adoption or repeal of the maximum rate of incremental sales and use tax specified by the board in the election proposition to be called and held by the board in general conformity with the procedural requirements of Section 11 of this Act for adoption of the limited sales and use tax therein authorized. Authorizes the governing body to levy, assess, and collect all or any portion of such incremental sales and use tax, in increments of no less than one-eighth percent, within and for the benefit of the zone, by order of the governing body, and such incremental sales and use tax shall be in addition to the limited sales and use tax authorized and levied, assessed, and collected by the district within and for the entire district pursuant to Section 11 of this Act, after adoption at an election and if to the extent authorized by delegation by the district to a zone. Requires the incremental sales and use tax to become effective on the first day of the calendar quarter following written notice to the comptroller of the imposition of same and to be paid into the tax increment fund for such zone. Requires Section 311.002 and Sections 311.014 through 311.017, Tax Code, to apply to the district, except if certain condition exist.

SECTION 5. Amends Section 12A, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 255, Acts of the 75th Legislature, Regular Session, 1997, to authorize the board of the district to issue bonds of the district in the manner provided by Chapter 375J, Local Government Code. Provides that Sections 375.207 and 375.208, Local Government Code, do not apply to bonds issued by the district under this Act. Deletes text regarding repayments to the district by a municipality.

SECTION 6. Amends Section 13, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, as amended by Chapter 255, Acts of the 75th Legislature, Regular Session, 1997, to authorize the district and a municipality situated in whole or in part within the boundaries or impact area of the district to enter into and carry out interlocal agreements with such terms and conditions as the parties may deem advisable, for the accomplishment of improvement projects or the provision of facilities, services, or equipment to be made or pledged by the municipality to the district out of any funds collected by the municipality pursuant to Chapter 351, Tax Code, or any other lawfully available funds, in particular.

SECTION 7. Repealer: Subsection (d), Section 8, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993 (regarding four of the initial directors to serve until the first Saturday in May 1994 or until their successors have been elected or appointed, and four to serve until the first Saturday in May 1996); and Subsection (h), Section 11, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993 (annexation or incorporation of a district into a municipality).

SECTION 8. TERMS OF OFFICE. Requires the additional directors authorized by this Act to be appointed and qualified as soon as practicable after the effective date of this Act. Requires one of the additional directors to serve for a term ending on the first Saturday in May 2000, and the remaining two additional directors to serve for a term ending on the first Saturday in May 2002, as determined by the board by lot or by mutual agreement. Provides that nothing in this Act shall be deemed or construed to affect the terms of office of the existing directors.

SECTION 9. NOTICE AND CONSENT. Provides that the legislature finds that the proper and legal notice and consent of the intention to introduce this Act has been met.

SECTION 10. Severability clause.

SECTION 11. Emergency clause.
Effective date: upon passage.