

BILL ANALYSIS

Senate Research Center
77R1031 KSD-F

H.B. 1990
By: Turner, Sylvester (Whitmire)
Intergovernmental Relations
5/2/2001
Engrossed

DIGEST AND PURPOSE

A recent survey found that residents in the near northwest area of Houston have concerns about public safety and economic decline in the area. Municipal management districts have been used in other parts of the city and around the state to promote and coordinate economic growth and public welfare. H.B. 1990 creates the Near Northwest Management District in the city of Houston.

RULEMAKING AUTHORITY

This bill does not expressly 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 K, as follows:

SUBCHAPTER K. NEAR NORTHWEST MANAGEMENT DISTRICT

Sec. 376.451. CREATION OF DISTRICT. Provides that a special district to be known as the "Near Northwest 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 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. 376.452. DECLARATION OF INTENT. Provides the declaration of intent.

Sec. 376.453. DEFINITIONS. Defines "board," "county," "district," "municipality," and "utility."

Sec. 376.454. BOUNDARIES. Provides that the district includes all the territory contained in the area bounded by T.C. Jester Boulevard on the east, Pinemont Drive on the south, Hollister Drive projected to State Road 249 on the west, and State Road 249 on the north as those roads exist on the effective date of this Act.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. Provides findings relating to boundaries.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Provides findings of benefit and public purpose.

Sec. 376.457. APPLICATION OF OTHER LAW. Provides that, except as otherwise provided by this subchapter, Chapter 375 applies to the district and its governing body and employees.

Sec. 376.458. CONSTRUCTION OF SUBCHAPTER. Requires this subchapter to be liberally construed in conformity with the findings and purposes stated in this subchapter.

Sec. 376.459. BOARD OF DIRECTORS IN GENERAL. Sets forth guidelines regarding the board of directors of the district.

Sec. 376.460. APPOINTMENT OF DIRECTORS; VACANCY. Sets forth guidelines regarding the appointment of directors and vacancies on the board.

Sec. 376.461. POWERS OF DISTRICT. Sets forth guidelines regarding the rights, powers, privileges, authority, and functions of the district.

Sec. 376.462. SALES AND USE TAX. Prohibits the district from imposing a sales and use tax.

Sec. 376.463. EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 376.464. EX OFFICIO BOARD MEMBERS. Sets forth guidelines regarding ex officio directors.

Sec. 376.465. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Provides that, except as provided in this section, a director is authorized to participate in all board votes and decisions; and Chapter 171 governs conflicts of interest for board members.

(b) 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 a director, after the affidavit is filed with the board secretary, to participate in a discussion or vote on that action under certain conditions.

(c) Prohibits a director who is also an officer or employee of a public entity from participating in the discussion of or vote on a matter regarding a contract with that same public entity.

(d) Provides that, for purposes of this section, 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.

Sec. 376.466. EXPENSES AND LIABILITY FOR CERTAIN ACTIONS AFFECTING PROPERTY. Requires the district, if it, in exercising a power conferred by this subchapter, requires a relocation, adjustment, raising, lowering, rerouting, or changing of the grade or the construction of certain items, to take that required action at the sole expense of the district. Requires the district to bear damages that are suffered by owners of the facility or other property.

Sec. 376.467. RELATION TO OTHER LAW. Provides that, if any provision of general law, including a law referenced in this subchapter, is in conflict with or is inconsistent with this subchapter, this subchapter prevails. 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. 376.468. 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. 376.469. NONPROFIT CORPORATION. (a) 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.

(b) Requires the board to appoint the board of directors of a nonprofit corporation created under this section. Requires the board of directors of the nonprofit corporation 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 (Texas Transportation Corporation Act), Transportation Code.

(c) 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.

(d) Authorizes a nonprofit corporation created under this section to implement any project and provide any services authorized by this subchapter.

Sec. 376.470. 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. 376.471. BONDS. (a) Authorizes the district to issue bonds or other obligations payable in whole or in part from ad valorem taxes, assessments, impact fees, revenues, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) Authorizes bonds or other obligations of the district to be issued in the form of bonds, notes, certificates of participation, including other instruments evidencing a proportionate interest in payments to be made by the district, or other obligations that are issued in the exercise of the district's borrowing power and to be issued in bearer or registered form or not represented by an instrument but the transfer of which is registered on books maintained by or on behalf of the district. Authorizes the board to impose and collect an assessment under Chapter 375F, for any purpose authorized by this subchapter or by Chapter 375.

(c) Requires that, except as provided by Subsection (d), the district obtain the municipality's approval of certain plans and actions.

(d) Authorizes the district, if the district obtains the municipality's approval of a capital improvements budget for a specified period not to exceed five years, to finance the capital improvements and issue bonds specified in the budget without further municipal approval.

(e) Requires that before the district issues bonds, the district submit the bonds and the record of proceedings of the district relating to authorization of the bonds to the attorney general for approval as provided by Chapter 1202 (Examination and Registration of Public Securities), Government Code.

Sec. 376.472. ASSESSMENTS. (a) Authorizes the board to impose and collect an assessment for any purpose authorized by this subchapter.

(b) Sets forth provisions relating to assessments, reassessments, or assessments resulting from an addition to or correction of the assessment roll by the district, penalties

and interest on an assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district.

(c) 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 same manner that the board is authorized to enforce an ad valorem tax lien against real property.

Sec. 376.473. PROPERTY EXEMPTED FROM FEE OR ASSESSMENT. (a) Prohibits the district from imposing an impact fee or assessment on a residence homestead as defined by Section 11.13 (Residence Homestead), Tax Code.

(b) Prohibits the district from imposing an impact fee or assessment on the property, equipment, or facilities of a utility.

Sec. 376.474. ELECTIONS. (a) Requires that, in addition to the elections the district must hold under Chapter 375L, the district 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.

(b) Authorizes the board to submit multiple purposes in a single proposition at an election.

Sec. 376.475. IMPACT FEES. Authorizes the district to impose an impact fee for an authorized purpose as provided by Chapter 375G.

Sec. 376.476. MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 376.474, 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.

(b) Requires the board to determine the tax rate.

Sec. 376.477. DISSOLUTION OF DISTRICT. Authorizes the district to be dissolved as provided by Chapter 375M. Requires that if the district has debt and is dissolved, the district remain in existence solely for the limited purpose of discharging its bonds or other obligations according to their terms.

Sec. 376.478. CONTRACTS. (a) Authorizes the district, to protect the public interest, to contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

(b) Authorizes the municipality, the county, or another political subdivision of the state, without further authorization, 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 meet certain criteria.

(c) Authorizes the district to enter into a contract, lease, or other agreement with or make or accept grants and loans to or from certain entities.

(d) 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. 376.479. ANNEXATION. Authorizes the district to annex territory as provided by

Chapter 375C and annex territory located inside the boundaries of a reinvestment zone created by the municipality under Chapter 311 (Tax Increment Financing Act), Tax Code, if the governing body of the municipality consents to the annexation.

Sec. 376.480. AGREEMENTS: GENERAL; DONATIONS, INTERLOCAL AGREEMENTS, AND LAW ENFORCEMENT SERVICES. (a) Authorizes the district to make an agreement with or accept a donation, grant, or loan from any person.

(b) Provides that the implementation of a project is a governmental function or service for the purposes of Chapter 791 (Interlocal Cooperation Contracts), Government Code.

(c) Authorizes the district, to protect the public interest, 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 legislative findings.

SECTION 3. Sets forth the composition of the initial board of directors of the Near Northwest Management District.

SECTION 4. Effective date: upon passage or September 1, 2001.