

## **BILL ANALYSIS**

Senate Research Center  
77R6714 MXM-F

C.S.H.B. 741  
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Intergovernmental Relations  
5/4/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Aldine is located in Harris County and is surrounded by the city of Houston but excluded from its corporate limits. Harris County is not empowered to serve many of the needs of Aldine. C.S.H.B. 741 creates the Aldine Community Improvement District to administer and provide funding for community improvement projects in Aldine.

### **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. ALDINE COMMUNITY IMPROVEMENT DISTRICT**

Sec. 376.451. CREATION OF DISTRICT. (a) Creates the Aldine Community Improvement District (district) as a special district under Section 59, Article XVI, Texas Constitution (Conservation and Development of Natural Resources; Conservation and Reclamation Districts).

(b) Authorizes the board of directors of the district (board) by resolution to change the district's name.

Sec. 376.452. DECLARATION OF INTENT. (a) Sets forth findings regarding the necessity of the creation of the district.

(b) Provides that the creation of the district and this legislation are not to be interpreted to relieve Harris County (county) from providing the level of services, as of the effective date of this subchapter, to the area in the district or to release the county from the obligations the entity has to provide services to that area. Provides that the district is created to supplement and not supplant the county services provided in the area in the district.

(c) Sets forth findings that the creation of the district is essential to accomplish certain purposes.

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

Sec. 376.454. BOUNDARIES. Sets forth the geographical boundaries of the district.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district form a closure. Provides that if a mistake is made in the field notes

or in copying the field notes in the legislative process, the mistake does not in any way affect the district's organization, existence, or validity, its right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond, its right to impose or collect an assessment or tax, or its legality or operation.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit. Provides that all the land and other property included in the district will be benefited by the improvements and services to be provided by the district.

(b) Provides that the creation of the district is in the public interest and is essential to certain functions.

(c) Sets forth the purposes of the district.

(d) Provides that pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(e) Provides that the district will not act as the agent or instrumentality of any private interest even though many private interests will be benefited by the district, as will the general public.

Sec. 376.457. APPLICATION OF OTHER LAW. Provides that Chapter 375 applies to the district except as otherwise provided by this subchapter.

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 general provisions for the board of directors of the district.

Sec. 376.460. APPOINTMENT AND REMOVAL OF DIRECTORS. Provides for the appointment and removal of board members.

Sec. 376.461. QUORUM. Sets forth provisions regarding a quorum of the board of directors.

Sec. 376.462. VOTE REQUIRED FOR AUTHORIZATION OF ASSESSMENTS, BONDS, IMPACT FEES, AND TAXES. (a) Requires a majority vote of the directors serving to authorize the imposition of an assessment, impact fee, or tax.

(b) Requires the written consent of at least two-thirds of the full membership of the board to authorize the issuance of bonds.

Sec. 376.463. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION.

Authorizes the district to exercise the powers of a corporation created under Section 4B (Corporation in City Located in County With Population of 750,000 or More, or 150,000 or More), Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.).

Sec. 376.464. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. 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.

Sec. 376.465. CONTRACT WITH POLITICAL SUBDIVISION. Authorizes the

municipality, 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: be for a period on which the parties agree; include terms on which the parties agree; be payable from taxes or any other sources of revenue that may be available for such purpose; or provide that taxes or other revenue collected at a district project or from a person using or purchasing a commodity or service at a district project may be paid or rebated to the district under the terms of the contract.

Sec. 376.466. **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, term, and conditions as a 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 service this subchapter authorizes.

Sec. 376.467. **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. 376.468. **MUNICIPAL APPROVAL.** (a) Requires the district, except as provided by Subsection (b), to obtain approval from the municipality's governing body of the issuance of bonds for an improvement project and the plans and specifications of an improvement project financed by the bonds.

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

(c) Requires the district to obtain approval from the municipality's governing body of the plans and specifications of any district improvement project related to the use of land owned by the county, an easement granted by the county, or a right-of-way of a street, road, or highway.

(d) Provides that, except as provided by Section 375.263, a municipality is not obligated to pay any bonds, notes, or other obligations of the district.

Sec. 376.469. **ASSESSMENTS.** (a) Authorizes the board to impose and collect an assessment for any purpose authorized by this subchapter.

(b) Provides that 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 are a first and prior lien against the property assessed, are

superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes, and are the personal liability of and charge against the owners of the property even if the owners are not named in the assessment proceedings.

(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 may enforce an ad valorem tax lien against real property.

Sec. 376.470. SALES AND USE TAX. (a) Authorizes the district to impose a sales and use tax if authorized by a majority of the qualified voters of the district voting at an election called for that purpose. Authorizes revenue from the tax to be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) Prohibits the district from adopting a tax under this subchapter if as a result of the adoption of the tax the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state having territory in the county would exceed two percent at any location in the district.

(c) Provides that if the voters of the county approve the adoption of the tax at an election held on the same election date on which another political subdivision adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the county, the election to adopt a sales and use tax under this subchapter has no effect.

Sec. 376.471. MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 376.472, to impose and collect an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district, improvements constructed or acquired by the district, or the provision of services.

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

Sec. 376.472. ELECTIONS. (a) Requires the district, in addition to the elections the district is required to 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.

(b) Authorizes the board to include more than one purpose in a single proposition at an election.

Sec. 376.473. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT. (a) Prohibits the district from imposing an impact fee or assessment under Chapter 375 on a residential property, multiunit residential property, or condominium.

(b) Prohibits the district from imposing an assessment or impact fee on the property of an electric utility, gas utility, power generation company, or a telecommunications provider. Defines "electric utility," "power generation company," "gas utility," and "telecommunications provider."

Sec. 376.474. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

Sec. 376.475. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBTS. (a) Authorizes the board to vote to dissolve a district that has debt. Requires the district, if the vote is in favor of dissolution, to remain in existence solely for the limited purpose of discharging its debts. Provides that the dissolution is effective when all debts have been discharged.

(b) Provides that Section 375.264 does not apply to the district.

Sec. 376.476. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING BODY OF MUNICIPALITY. (a) Authorizes the governing body of a municipality, if territory in the municipality's limit or extraterritorial jurisdiction is included in the district, to remove that territory from the district if the district does not have bonded indebtedness.

(b) Requires the governing body of the municipality, in order to remove territory under Subsection (a), to notify the secretary of the board of the district in writing that the territory is excluded from the district's territory.

(c) Requires the governing body of a municipality, if the municipality annexes territory that is in its extraterritorial jurisdiction and included in the district, to notify the secretary of the board of the district in writing that the annexed territory is excluded from the district's territory.

SECTION 2. Sets forth legislative findings regarding the fulfillment of procedural requirements with respect to the notice, introduction, and passage of this Act.

SECTION 3. (a) Provides that Sections 375.062 and 376.460, Local Government Code, as added by this Act, do not apply to the initial board of directors of the Aldine Community Improvement District.

(b) Sets forth the names of the members of the initial board of directors.

(c) Provides that of the initial directors, the directors appointed for positions 1 through 4 serve until June 1, 2003, and the directors appointed for positions 5 through 9 serve until June 1, 2005.

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

#### **SUMMARY OF COMMITTEE CHANGES**

Differs from the original by proposing Section 376.476, Local Government Code, and by including telecommunications providers in the entities against whose property the district is prohibited from imposing an assessment or impact fee.