

## **BILL ANALYSIS**

Senate Research Center  
77R13237 MXM-F

C.S.S.B. 1226  
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Intergovernmental Relations  
4/25/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, Chapter 375 of the Local Government Code allows for the creation of municipal management districts in order to promote and benefit commercial development and commercial areas throughout the state. C.S.S.B. 1226 creates the Energy Corridor Management District encompassing a commercial area in Houston. Many energy sector businesses and corporations have offices in the area, giving the area its nickname “the Energy Corridor.” Representatives of businesses in the area, together with the West Houston Association, have joined with their elected representatives to create this special financing district, which will assess property owners to finance improvements and services to the area, such as the provision of additional security services, landscaping and tree planting, street cleaning, and a coordinated marketing effort for the area.

### **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. ENERGY CORRIDOR MANAGEMENT DISTRICT**

Sec. 376.451. **CREATION OF DISTRICT.** Creates the Energy Corridor Management District (district). Authorizes the board of directors of the district (board) by resolution to change the district's name.

Sec. 376.452. **DECLARATION OF INTENT.** Provides that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, and the public welfare in the area of the district. Provides that the creation of the district and this legislation are not to be interpreted to relieve Harris County (county) or the City of Houston (municipality) from providing the level of services, as of the effective date of this subchapter, each entity has to provide to the area in the district. Provides that the district is created to supplement and not supplant the municipal or county services provided in the area in the district. Provides that the creation of the district is essential to accomplish the purposes of Sections 52 (Counties, Cities, or other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds) and 52-a (Loan or Grant of Public Money for Economic Development), Article III, and Section 59 (Conservation and Development of Natural Resources: Conservation and Reclamation Districts), Article XVI, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.453. **DEFINITIONS.** Defines “board,” “county,” “district,” “municipality,” and “utility.”

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

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

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

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

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 district's board of directors.

Sec. 376.460. APPOINTMENT OF DIRECTORS. Sets forth guidelines regarding the appointment of directors.

Sec. 376.461. NONVOTING DIRECTORS. Requires certain persons to serve as nonvoting directors. Authorizes the board, if an agency, department, or division described by this section is consolidated, renamed, or changed, to appoint a director of the consolidated, renamed, or changed agency, department, or division, as a nonvoting board member. Authorizes the board, if an agency, department, or division described by this section is abolished, to appoint a representative of another agency, department, or division of the municipality that performs duties comparable to those performed by the abolished entity.

Sec. 376.462. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Authorizes a director, except as provided in this section, to participate in all board votes and decisions and provides that, except as provided in this section, Chapter 171 governs conflict of interests for board members.

(b) Provides that Section 171.004 does not apply to the district. Requires certain directors with certain substantial interests 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, after the affidavit is filed with the board secretary, to participate in a discussion or vote on that action if certain requirements are met.

(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. 376.463. ELECTRONIC TRANSMISSIONS. Authorizes the district to acquire, operate, or charge fees for the use of district conduits for certain purposes. Prohibits the district from requiring a person to use a district conduit.

Sec. 376.464. ADDITIONAL POWERS OF DISTRICT. (a) Authorizes the district to exercise the powers given to a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.).

(b) Authorizes the district to exercise the powers given to a housing finance corporation created under Chapter 394 to provide housing or residential development projects in the district.

Sec. 376.465. AGREEMENTS: GENERAL; DONATIONS, INTERLOCAL AGREEMENTS, AND LAW ENFORCEMENT SERVICES. Authorizes the district to make an agreement with or accept a gift, 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 (Interlocal Cooperation Contracts), Government Code. Authorizes the district, to protect the public interest, to contract with the municipality or the county to provide law enforcement services in the district for a fee.

Sec. 376.466. NONPROFIT CORPORATION. Sets forth guidelines regarding 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.

Sec. 376.467. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. Prohibits the board from financing a service or improvement project under this subchapter unless a written petition requesting the improvement or service has been filed with the board. Requires the petition to be signed by certain persons.

Sec. 376.468. ELECTIONS. Requires the district, in addition to the elections the district as 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. Authorizes the board to include more than one purpose in a single proposition at an election.

Sec. 376.469. MAINTENANCE TAX. Authorizes the district, if authorized at an election held in accordance with Section 376.468. , 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. 376.470. ASSESSMENTS. Authorizes the board to impose and collect an assessment for any purpose authorized by this subchapter. Sets forth guidelines regarding assessments, reassessments, penalties and interest on an assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district. Provides that the lien is effective from the date of the resolution of the board imposing 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. 376.471. UTILITIES. Prohibits the district from imposing an assessment or impact fee in certain cases.

Sec. 376.472. BONDS. Sets forth guidelines regarding the issuance of certain bonds or other obligations by the district.

Sec. 376.473. MUNICIPAL APPROVAL. (a) Requires the district, except as provided by Subsection (b), to obtain approval from the municipality's governing body of certain items.

(b) Authorizes the district, if the district 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) 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. 376.474. 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. 376.475. COMPETITIVE BIDDING LIMIT. Provides that Section 375.221 applies to the district only for a contract with a value greater than \$25,000.

Sec. 376.476. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBTS. 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. Provides that Section 375.264 does not apply to the district.

Section 376.477. INITIAL DIRECTORS. Provides that the initial board consists of certain persons and sets forth guidelines regarding directors' terms. Provides that Section 376.460 does not apply to this section. Provides that this section expires September 1, 2006.

SECTION 2. Presents legislative findings relating to procedural requirements.

SECTION 3. Effective date: upon passage or September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

Amends As Filed S.B. 1226 as follows:

SECTION 1. Amends text to fill in blanks in the original As Filed version. New Subchapter \_\_ is now new Subchapter K, Chapter 376, Local Government Code. Fills in the blank Section numbers and amends text as follows:

**[NOTE: The titles have been added to the section numbers for clarification purposes, but for most of the sections the title has not changed from the original]:**

Sec. 376.451. CREATION OF DISTRICT. Omits original Subsection (c).

Sec. 376.452. DECLARATION OF INTENT. Replaces the text "to the area in the district or to release the county or the municipality from the obligations each entity has to provide services to that area" with "each entity has to provide to the area in the district." Omits original Subsection (c) and adds a new Subsection (c).

Sec. 376.453. DEFINITIONS. (rather than Sec. 276.303) Makes nonsubstantive changes.

Sec. 376.454. BOUNDARIES. Redefines the boundaries of the district.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. Replaces "does not affect" with "the mistake does not affect." Provides that a mistake does not affect the district's right to impose or collect a tax.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Makes a nonsubstantive change. Omits the text "for the area in the district." Replaces the text "of the area" with "of the district." Omits the text "aesthetic."

Sec. 376.457. APPLICATION OF OTHER LAW. Omits the text "its governing body, and its employees." Omits text providing that the district has rights and powers of a district created

under Chapter 375.

Sec. 376.458. Amends the heading to read as follows: CONSTRUCTION OF SUBCHAPTER.

Sec. 376.459. BOARD OF DIRECTORS IN GENERAL. Provides that the district is governing by a board of nine voting directors appointed under Section 376.460 and nonvoting directors as provided by Section 376.461. Provides that voting directors serve certain terms.

Sec. 376.460. APPOINTMENT OF DIRECTORS. Limits this section to the appointment of voting directors. Replaces “members” with “directors.” Deletes original Subsection (c).

376.461. Amends the heading to read as follows: NONVOTING DIRECTORS. Omits the text “ex officio.” Adds “agency” and “division” to the list of entities included in this section.

376.462. CONFLICTS OF INTEREST. No changes in text.

Adds a new Section 376.463. ELECTRONIC TRANSMISSION.

Sec. 376.464. ADDITIONAL POWERS OF DISTRICT. No changes in text.

Sec. 376.465. AGREEMENTS: GENERAL; DONATIONS, INTERLOCAL AGREEMENTS, AND LAW ENFORCEMENT SERVICES. Replaces the text “donation” with “gift.” Omits the text “for the municipality or county.”

Sec. 376.466. NONPROFIT CORPORATION. Omits the text “term, and conditions.”

Sec. 376.467. Amends the heading to read as follows: REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS.

Sec. 376.468. ELECTIONS. No changes in text.

Sec. 376.469. MAINTENANCE TAX. Clarifies reference to 376.468.

Sec. 376.470. ASSESSMENTS. No changes in text.

Sec. 376.471. UTILITIES. Prohibits the district from imposing an impact fee or assessment on certain property, equipment, rights of way, facilities, or improvements.

Sec. 376.472. BONDS. No changes in text.

Sec. 376.473. MUNICIPAL APPROVAL. Adds to the items for which the district must obtain approval from the municipality’s governing body. Omits original Subsection (c) and redesignates original Subsection (d) as Subsection (c).

Sec. 376.474. DISBURSEMENTS OR TRANSFERS OF FUNDS. No changes in text.

Sec. 376.475. COMPETITIVE BIDDING LIMIT. Provides that Section 375.221 applies to the district only for a contract with a value greater than \$25,000, rather than providing that Section 375.221 does not apply to the district unless the contract is for more than \$25,000.

Sec. 376.476. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBTS. No changes in text.

Adds new Section 376.477 (INITIAL DIRECTORS), containing some redesignated text from

original SECTION 3.

SECTION 2. No change.

SECTION 3. Omits original SECTION 3. Redesignates original SECTION 4 as SECTION 3.  
Omits the title of the SECTION.