

BILL ANALYSIS

Senate Research Center

S.B. 1830
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DIGEST AND PURPOSE

As proposed, S.B. 1830 creates the Greater Southeast Management District in Houston to benefit the southeast part of the city. It also provides to the district the authority to impose a tax and issue bonds.

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. GREATER SOUTHEAST MANAGEMENT DISTRICT

Sec. 376.451. CREATION OF DISTRICT. (a) Provides that a special district to be known as the "Greater Southeast Management District" (district) exists as a political subdivision of the state.

(b) Authorizes the name of the district to be changed by resolution of the board of directors of the district (board).

(c) Provides that the creation of the district is essential to accomplish the purposes of Section 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, Section 59 (Conservation and Development of Natural Resources; Conservation and Reclamation Districts), Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.452. DECLARATION OF INTENT. (a) 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 southeast area of the city of Houston (municipality).

(b) Provides that the creation of the district and this legislation are not to be interpreted to relieve Harris County (county) or the municipality 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 or the municipality from the obligations each entity has to provide services to that area. Provides that the district is created to supplement and not supplant the municipal or county services provided in the area in the district.

(c) Provides that by creating the district and in authorizing the municipality, county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas

Constitution.

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

Sec. 376.454. BOUNDARIES. Sets forth the geographic 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 organization, existence, and validity of the district; the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds; the right of the district to impose and collect assessments or taxes; or the legality or operation of the district or its governing body.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Sets forth legislative findings regarding the benefits and the fulfillment of public purpose of the district.

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. Provides that the district is governed by a board of directors and provides for the number of directors and the terms of the directors. Provides that Chapter 375D applies to the board to the extent that subchapter does not conflict with this subchapter. Provides that the imposition of a tax, assessment, or impact fee requires a vote of a majority of the directors serving. Authorizes the directors to vote on any matter authorized by Chapter 375D, and authorizes action to be taken by the board only if it is approved in the manner prescribed by Chapter 375D.

Sec. 376.460. APPOINTMENT OF DIRECTORS; VACANCY. Provides for the appointment of directors and the filling of a vacancy in the position of director.

Sec. 376.461. POWERS OF DISTRICT. Sets forth certain specific powers retained by the district.

Sec. 376.462. EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 376.463. EX OFFICIO BOARD MEMBERS. Sets forth certain persons who shall serve as nonvoting ex officio directors. Provides for a consolidation, name change, or abolition of a department described in the list of nonvoting ex officio directors. Authorizes the board to appoint the presiding officer of a nonprofit corporation to serve as a nonvoting ex officio director.

Sec. 376.464. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. 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. Provides that a director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action is required to file a one-time affidavit declaring the interest. Provides that an additional affidavit is not required if the director's interest

changes. Provides that after the affidavit is filed with the board secretary, the director is authorized to participate in a discussion or vote on that action if certain conditions 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. 376.465. EXPENSES AND LIABILITY FOR CERTAIN ACTIONS AFFECTING PROPERTY. (a) Provides that if the district, in exercising a power conferred by this subchapter, requires a relocation, adjustment, raising, lowering, rerouting, or changing of the grade or the construction of any of certain stated items, the district is required to take that required action at the sole expense of the district.

(b) Requires the district to bear damages that are suffered by owners of the facility or other property.

Sec. 376.466. 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. 376.467. 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. 376.468. 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. 376.469. 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. 376.470. 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 the district, except as provided by Subsection (d), to obtain the municipality's approval of certain projects and plans.

(d) Authorizes the district, if it 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 the district, before it issues bonds, to 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. 376.471. ASSESSMENTS. (a) Authorizes the board to impose and collect an assessment for any purpose authorized by this subchapter.

(b) Sets forth characterizations of 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 may enforce an ad valorem tax lien against real property.

Sec. 376.472. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT. (a) Prohibits the district from imposing a tax, impact fee, or assessment on a residential property or condominium.

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

Sec. 376.473. ELECTIONS. (a) Requires the district, in addition to the elections it 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.

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

Sec. 376.474. IMPACT FEES. Authorizes the district to impose an impact fee for an authorized purpose as provided by Chapter 375G.

Sec. 376.475. MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 376.473, 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. 376.476. DISSOLUTION OF DISTRICT. Authorizes the district to be dissolved as provided by Chapter 375M. Provides that if the district has debt and is dissolved, the district shall remain in existence solely for the limited purpose of discharging its bonds or other obligations according to their terms.

Sec. 376.477. CONTRACTS. (a) Authorizes the district, in order 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: 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 that 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.

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

Sec. 376.479. 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, in order 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 regarding the fulfillment of requirements regarding the introduction and passage of this Act.

SECTION 3. Sets forth a list of director positions with blanks to insert the names of the initial board of directors. Provides that of the initial board, members in positions 1-9 serve terms that expire June 1, 2005, and members in positions 10-17 serve terms that expire June 1, 2003.

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