

BILL ANALYSIS

Senate Research Center
77R2271 MXM-F

S.B. 470
By: Gallegos
Intergovernmental Relations
4/18/2001
As Filed

DIGEST AND PURPOSE

Under current law, Harris County does not have the power to serve many of the needs of Aldine, which is located in Harris County and surrounded by Houston but is excluded from Houston's corporate limits. As proposed, S.B. 470 creates the Aldine Community Improvement District to provide administration and funding for community improvement projects in Aldine so that the community of Aldine can keep pace with the rapid population growth in that 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. ALDINE COMMUNITY IMPROVEMENT DISTRICT

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

Sec. 376.452. DECLARATION OF INTENT. Provides reasons as to why the creation of the district is necessary. Provides that the district is created to supplement and not supplant county services provided in the area in the district and prohibits the creation of the district and this legislation from being interpreted to relieve the county from providing services or to release the county from the obligations the entity has to provide services to that area. 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, Article XVI, and Section 52-a (Loan or Grant of Public Money for Economic Development), Article III, Texas Constitution, and other public purposes stated in this chapter.

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

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

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district form a closure. Prohibits a mistake made in the field notes or in copying the field notes in the legislative process from affecting in any way the district's organization, existence, validity, 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, or its right to impose or collect an assessment or tax, legality or operation.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides findings of benefit.

(b) Provides findings of purpose.

(c) Sets forth guidelines concerning the district's duties and goals.

(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) Prohibits the district from acting 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, 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 concerning the board of directors who govern the district.

Sec. 376.460. APPOINTMENT AND REMOVAL OF DIRECTORS. Provides guidelines for appointment and removal of directors, except that for the purposes of this subchapter references in Sections 375.064 and 375.065 to the governing body of the municipality mean the commissioners court of the county.

Sec. 376.461. QUORUM. Provides that Section 375.071 does not apply to the district. Provides that one-half of the board constitutes a quorum. Provides that, except as provided in Section 376.462, a concurrence of a majority of a quorum is required for any official district action.

Sec. 376.462. VOTE REQUIRED FOR AUTHORIZATION OF ASSESSMENTS, BONDS, IMPACT FEES, AND TAXES. Requires a majority vote of the directors serving to authorize the imposition of an assessment, impact fee, or tax. 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, 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. Sets forth guidelines for a contract under this subsection.

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 a board of directors of a nonprofit corporation created under this section. Requires such a board of directors 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 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 that 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. Requires the district, except as provided by Subsection (b), to obtain certain types of approval from the municipality's governing body. 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. 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. 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. Authorizes the board to impose and collect an assessment for any purpose authorized by this subchapter. Sets forth guidelines concerning 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. 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 a 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) Sets forth circumstances under which an election to adopt a sales and use tax under this subchapter would have no effect.

Sec. 376.471. MAINTENANCE TAX. 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 certain stated purposes. Requires the board to determine the

tax rate.

Sec. 376.472. ELECTIONS. (a) Requires the district, in addition to the elections the district 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. 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. Prohibits the district from imposing an impact fee or assessment under Chapter 375 on a residential property, multiunit residential property, or condominium. Prohibits the district from imposing an assessment or impact fee on an electric utility's property. Defines "electric utility."

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. 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 2. Presents legislative findings.

SECTION 3. 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. Specifies, by name, who will be on the initial board of directors. Provides that, of the initial directors, those appointed for positions one through four serve until June 1, 2003, and those appointed for positions five through nine serve until June 1, 2005.

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