

BILL ANALYSIS

Senate Research Center

S.B. 1805
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Intergovernmental Relations
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1805 creates Galveston County Municipal Utility District No. 1 (district). Currently, the land located within the boundaries of the proposed district is undeveloped. The territory of the district lies within the City of League City, or its extraterritorial jurisdiction, and Galveston County. The district will be a municipal management district similar to those operating pursuant to Chapter 375 (Municipal Management Districts in General), Local Government Code, and Title 4 (Development and Improvement), Special Districts Code.

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. CREATION OF DISTRICT. Provides that the Galveston County Municipal Utility District No. 1 (district) is created as a special district under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution. Authorizes the board of directors of the district (board) to change the name of the district.

SECTION 2. DEFINITIONS. Defines "board," "city," "commission," "county," and "district."

SECTION 3. DECLARATION OF INTENT. Provides that the creation of the district is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act. Sets forth the legislative intent in the creation of the district.

SECTION 4. BOUNDARIES. Sets forth the boundaries of the territory contained in the district.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. Provides that the boundaries and field notes of the district form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not in any way affect the district's organization, existence, or validity, certain right to take action, or legality or operation.

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Sets forth the findings of benefit and public purpose for the creation of the district.

SECTION 7. APPLICATION OF OTHER LAW. (a) Provides that Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district, except as otherwise provided by this chapter.

(b) Provides that Chapter 311 (Code Construction Act), Government Code, applies to this Act.

SECTION 8. CONSTRUCTION OF ACT. Requires this Act to be liberally construed in conformity with the findings and purposes set forth in this Act.

SECTION 9. BOARD OF DIRECTORS IN GENERAL. Sets forth the number and terms of the directors and the determination of a quorum of the board if the position of director is vacant for any reason.

SECTION 10. APPOINTMENT OF DIRECTORS. Requires the Texas Commission on Environmental Quality (commission) to appoint voting directors from persons recommended by the board.

SECTION 11. NONVOTING DIRECTORS. (a) Authorizes the board to appoint persons to serve as nonvoting directors.

(b) Provides that nonvoting directors are not counted for the purposes of determining the requirements for or establishing a quorum of the board.

SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Authorizes a director to participate in all board votes and decisions; and provides that Chapter 171 (Regulations of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, except as provided by this section.

(b) Provides that Section 171.004 (Affidavit and Abstention From Voting), Local Government Code, does not apply to the district. Requires a director who has 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 the director, after the affidavit is filed with the board secretary, to participate in a discussion or vote on that action if certain conditions exist.

(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 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 business entity under Section 171.002 (Substantial Interest in Business Interest), Local Government Code.

SECTION 13. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to certain entities.

SECTION 14. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain, notwithstanding the provisions of any other law.

SECTION 14[sic]. AGREEMENTS; GRANTS. Authorizes a district to make an agreement with or accept a donation, 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.

SECTION 15. LAW ENFORCEMENT SERVICES. Authorizes the district, to protect the public interest, to contract with a qualified party to provide law enforcement services to the district for a fee.

SECTION 16. 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 Act.

(b) Requires the board to appoint the board of directors of the nonprofit corporation. 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, provided that they need not live in the district.

(c) Provides that a nonprofit corporation created under this section has the powers of and is considered for the purposes of this Act 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 authorized by this Act.

SECTION 17. ASSESSMENTS. (a) Authorizes the board, by resolution, to impose and collect an assessment in all or part of the district for any purpose authorized by this Act.

(b) Provides that an assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district are a first and prior lien. Sets forth specific characteristics of said liens.

(c) Provides that the lien is effective from the date of the resolution of the board imposing the assessment until the date 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.

(d) Authorizes the board to make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

SECTION 18. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS.

(a) Authorizes the district to take certain actions pursuant to this Act under Chapter 375, Local Government Code, using all funds available to the district. Provides that a petition is only required to finance a service or improvement if such service or improvement is to be financed with assessments. Requires a written petition requesting the improvement or service, in such event, to be filed with the board. Sets forth the signature requirements of petition.

(b) Authorizes the required notice of public hearings to be mailed to property owners subject to assessment to be mailed or delivered by certified mail, or an equivalent service providing a record of delivery.

SECTION 19. UTILITIES. Prohibits the district from imposing an impact fee or assessment on the property, equipment, rights of way, facilities, or improvements of certain utilities. Requires the relocation, rerouting, or removal, if the district, in the exercise of the powers conferred on it by this Act, requires or requests the relocation, rerouting, or removal of certain utilities, as defined by Sections 31.002 (Definitions), 101.003 (Definitions), 121.001 (Definition of Gas Utility), or 51.002 (Definitions), Utilities Code, to be at the sole expense of the district.

SECTION 20. BONDS. (a) Authorizes the district to issue bonds, notes, or other obligations payable in whole or in part from ad valorem taxes, impact fees, revenue, 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 the district, in exercising the district's borrowing power, to issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) Requires the board, at the time bonds payable in whole or in part from ad valorem taxes are issued, to levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the district in sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting taxes.

SECTION 21. ELECTIONS. (a) Requires the district to hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax or issues bonds payable from ad valorem taxes.

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

(c) Provides that Section 375.243 (Dissolution by Municipal Order), Local Government Code, does not apply to the district.

SECTION 22. AD VALOREM TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 21, to impose an annual ad valorem tax on taxable property in the district for the acquisition, construction, financing, 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.

SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that a municipality, except as provided by Section 375.263, Local Government Code, is not required to pay to pay a bond, note, or other obligation of the district.

SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. 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.

SECTION 25. COMPETITIVE BIDDING LIMIT. Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, applies only to the district for a contract that has a value greater than \$25,000.

SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (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. Sets forth that the dissolution is effective when all debts have been discharged.

(b) Provides that Section 375.264 (Limitation), Local Government Code, does not apply to the district.

SECTION 27. INITIAL DIRECTORS. (a) Sets forth the names of the initial board members.

(b) Provides that of the initial directors, the terms of the directors appointed for positions 1 through 3 (a) expire June 1, 2009, and the terms of directors appointed for positions 4 and 5 expire on the uniform election date in May 2009.

(c) Provides that Section 10 does not apply to this section.

(d) Provides that this section expire on June 1, 2007.

SECTION 28. TAX AND ASSESSMENT ABATEMENTS. Authorizes the district, without further authorization or other procedural requirement, to grant, consistent with Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, an abatement for a tax or assessment owed to the district.

SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to certain organizations.

SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in certain tax or enterprise zones.

SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS. Authorizes the district to establish and provide for the administration of one or more programs to promote state or local

economic development and to stimulate business and commercial activity in the district, including programs that serve certain purposes. Provides that, for purposes of this section, the district has all of the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

SECTION 32. LEGISLATIVE FINDINGS. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 33. EFFECTIVE DATE: Effective date: upon passage or September 1, 2005.