

BILL ANALYSIS

Senate Research Center
79R14428 MSE-F

C.S.S.B. 1814
By: Ellis
Intergovernmental Relations
5/2/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, C.S.S.B. 1814 creates the Southampton Neighborhood Services District (district) as a political subdivision of the Texas to administer and provide funding for neighborhood improvement projects and services in the district, which is located entirely within the City of Houston and Harris County. The district will be a municipal management district similar to those operating pursuant to Chapter 375, Local Government Code, and Title 4, Special District Local Laws 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. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3839, as follows:

CHAPTER 3839. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3839.001. DEFINITIONS. Defines "board" and "district."

Sec. 3839.002. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT. Sets forth that the Southampton Neighborhood Services District (district) is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3839.003. PURPOSE; DECLARATION OF INTENT. Sets forth the purpose and intent in the creation of the district.

Sec. 3839.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Sets forth the public purpose of the district.

Sec. 3839.005. DISTRICT TERRITORY. Provides that the district is composed of the territory described by Section 3 of the Act creating this chapter. Provides that the boundaries and field notes form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not affect the validity, legality, or certain rights of the district.

Sec. 3839.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that except as provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code applies to the district.

Sec. 3839.007. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3839.008-3839.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3839.051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of 18 voting directors who serve staggered terms of two years, with nine directors' terms expiring December 31 of each year.

(b) Authorizes the board of directors (board), by resolution, to change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district. Prohibits the board from consisting of fewer than 11 or more than 21 directors.

Sec. 3839.052. APPOINTMENT OF DIRECTORS. Requires the mayor and members of the governing body of the City of Houston (city) to appoint directors from persons recommended by the board. Provides that a person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

Sec. 3839.053. NONVOTING DIRECTORS. (a) Sets forth that certain department directors of the city are nonvoting members of the board.

(b) Authorizes the board, if a department described in Subsection (a) is consolidated, renamed, or changed, to appoint a director of the consolidated, renamed, or changed department as a nonvoting director. Authorizes the board, if a department described by Subsection (a) is abolished, to appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Sec. 3839.054. QUORUM. Provides that for the purposes of establishing a quorum, certain board positions are not counted.

Sec. 3839.055. INITIAL VOTING DIRECTORS. (a) Provides that the initial board of voting directors is comprised of certain named individuals.

(b) Provides that of the initial voting directors, the terms of directors appointed for positions 1 through 9 expire December 31, 2006, and the terms of directors appointed for positions 10 through 18 expire December 31, 2005.

(c) Provides that Section 3839.052 does not apply to this section.

(d) Provides that this section expires September 1, 2007.

[Reserves Sections 3839.056-3839.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3839.101. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter

(b) Sets forth the authority of a nonprofit corporation under this chapter.

(c) 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 the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code.

Sec. 3839.102. AGREEMENTS; GRANTS. (a) Authorizes a district to enter into an agreement with or accept a gift, grant, or loan from any person.

(b) Sets forth that the implementation of a project is a governmental function or service for the purposes of Chapter 791 (Interlocal Cooperation Contracts), Government Code.

Sec. 3839.103. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with a qualified party, including Harris County (county), the city, or a nonprofit corporation, to provide supplemental law enforcement services in the district for a fee.

Sec. 3839.104. APPROVAL BY CITY OF HOUSTON. (a) Requires the district, except as provided by Subsection (b), to obtain the approval of the city's governing body for certain plans and projects financed by bonds.

(b) Requires the approval obtained for the issuance of bonds under Subsection (a) to be a resolution by the city. Requires the approval obtained for plans and specifications to be a permit issued by the city.

(c) Authorizes the district, if the district obtains the approval of the city'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 city.

Sec. 3839.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to an organization that meets certain criteria.

Sec. 3839.106. CERTIFICATION OF PROPERTY OWNERS' ASSOCIATION. (a) Authorizes the board by resolution, if the board finds that it will benefit district property and it is consistent with the district's purposes, to certify a nonprofit corporation whose members are the property owners of the district as a property owners' association (association) under Chapter 204 (Powers of Property Owners' Association Relating to Restrictive Covenants in Certain Subdivisions), Property Code.

(b) Provides that a nonprofit corporation certified by the board under this section is an association under Chapter 204 and has the powers and duties of an association under that chapter. Provides that certification under this section satisfies all procedural requirements regarding the creation of an association under that chapter, including the requirements of Section 204.006 (Creation of Property Owners' Association), Property Code.

(c) Requires the board, not later than the 30th day after the date of the board's resolution, to file a notice of the certification in the real property records of the county. Requires the notice to state that the nonprofit corporation is an association under Chapter 204, Property Code.

(d) Provides that the certification is permanent and is prohibited from being revoked.

Sec. 3839.107. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

Sec. 3839.108. NOTICE OF LAW ESTABLISHING DISTRICT. (a) Requires the district by mail to provide notification of the creation of the district to each person who owns real property in the district, according to the most recent certified tax appraisal roll for the county in which the real property is owned. Requires the notice, properly addressed with paid postage, to be deposited with the United States Postal Service not later than the 90th day after the effective date of the Act enacting this chapter.

(b) Provides that the notice is sufficient if it contains a statement of general purpose and substance of this chapter. Provides that notice of the particular form of this chapter or the terms used in this chapter is not required.

(c) Provides that this section expires September 1, 2007.

[Reserves Sections 3839.109-3839.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3839.151. DISBURSEMENTS AND 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.

Sec. 3839.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. Authorizes the district to acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3839.153. INITIAL SERVICE AND ASSESSMENT PLAN. (a) Requires the district's initial service and assessment plan to include certain provisions.

(b) Provides that this section does not apply to a district service and assessment plan developed after the initial service and assessment plan.

(c) Provides that this section expires September 1, 2012.

Sec. 3839.154. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) Prohibits the board from financing a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) Requires a petition filed under Subsection (a) to be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 3839.155. METHOD OF NOTICE FOR HEARING. Authorizes the district to mail the notice required by Section 375.115(c), Local Government Code, by certified mail or an equivalent service that can provide record of mailing or other delivery.

Sec. 3839.156. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter.

(b) Sets forth 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:

(1) are first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceeding.

(c) Provides that the lien is effective from the date of the board's resolution 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, except that the board is prohibited from foreclosing on a residential homestead.

(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.

(e) Provides that Section 375.161 (Certain Residential Property Exempt), Local Government Code, is not applicable to the district.

Sec. 3839.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits a district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements of certain utilities and service providers.

Sec. 3839.158. CERTAIN RESIDENTIAL PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. (a) Entitles an individual to an exemption from an impact fee or assessment if certain conditions exist.

(b) Requires the individual, to obtain an exemption, to file with the board an affidavit stating the facts required by Subsection (a).

Sec. 3839.159. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations, by competitive bid or negotiated sale, payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, grants, or other money of the district, or combination of those sources of money, to pay for any authorized purpose of the district, except as provided by Subsection (b).

(b) Authorizes the bonds, if the bonds are payable from ad valorem taxes, to only be used to pay for the design, construction, acquisition, improvement, maintenance, repair, reconstruction, and operation of streets, roads, and alleys and improvements in and of those streets, roads, and alleys.

(c) Authorizes the district 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.

Sec. 3839.160. TAXES FOR BONDS AND OTHER OBLIGATIONS. Requires the board and the district to take certain actions relating to ad valorem taxes, at the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued.

Sec. 3839.161. BOND 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 issues bonds payable from ad valorem taxes.

(b) Authorizes the district to only issue bonds and other obligations under Section 52(b)(3), Article III, Texas Constitution, if the issuance is approved by a two-thirds majority of the voters in the district voting at an election held for that purpose.

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

Sec. 3839.162. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

Sec. 3839.163. COMPETITIVE BIDDING. Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, applies only to a district contract that has a value greater than \$25,000.

[Reserves Sections 3839.164-3839.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3839.201. DISSOLUTION BY PETITION BY OWNERS. Requires the board to dissolve the district on written petition filed with the board by the owners of 75 percent or more of the residential households in the district according to the most recent certified tax appraisal roll for the county.

Sec. 3839.202. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT BY BOARD. Authorizes the board to dissolve the district regardless of whether the district has debt. Provides that Section 375.264 (Limitation), Local Government Code, does not apply to the district.

Sec. 3839.203. DEBTS. Requires the district, if the district has debt when it is dissolved under this subchapter, to remain in existence solely for the purpose of discharging its debts. Provides that the dissolution is effective when all debts have been discharged.

SECTION 2. Authorizes the district to reimburse the cost of creating the district from district assessments collected under Section 3839.153, Special District Local Laws Code, as added by this Act.

SECTION 3. Sets forth the boundaries of the Southampton Neighborhood Services District.

SECTION 4. 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 5. Effective date: upon passage or September 1, 2005.