

BILL ANALYSIS

Senate Research Center
81R6594 GCB-F

H.B. 1300
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Like many other cities in the North Texas region, Kennedale, a town with a population of nearly 6,000, is growing at a fast pace. Although the population is growing, there is a shortage of mixed-use and commercial space within the city limits. As a result, many residents must leave the city limits to shop and work, causing the city to lose much-needed sales tax and related revenue.

Currently, a future development site with an existing 44,000 square-foot building is adjacent to the Kennedale city campus, which includes the city hall, police station, library, and senior citizen center. It is the vision of the city to develop this into a mixed-use facility for retail and other uses and make it the central focus of Kennedale. This legislation gives the city the tools to accomplish this goal. Once complete, the district will include eight buildings for retail and office use, a park, a special event area, and the local chamber of commerce headquarters.

H.B. 1300 creates the Kennedale TownCenter Development District and provides it the authority to impose taxes and issue bonds to develop the area for mixed use.

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 3866, as follows:

CHAPTER 3866. KENNEDALE TOWNCENTER DEVELOPMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3866.001. DEFINITIONS. Defines "board" and "district."

Sec. 3866.002. CREATION AND NATURE OF DISTRICT. (a) Provides that Kennedale TownCenter Development District (district) is created as a special district under 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 (Legislative Department), and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

(b) Authorizes the board of directors of the district (board) by resolution to change the district's name.

Sec. 3866.003. PURPOSE; LEGISLATIVE FINDINGS. (a) Provide that the creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain transportation, safety, employment, commerce, housing, tourism, recreation, the arts, entertainment, economic development, and the public welfare in the area of the district.

Sec. 3866.004. BOUNDARIES. Sets forth the territory of the district.

Sec. 3866.005. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that the creation of this district is in the public interest and is essential to further the public purposes of the development and diversification of the economy of the state, eliminate unemployment and underemployment, and develop or expand transportation and commerce.

(d) Provides that the district will promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district and of the public; provide needed funding to preserve, maintain, and enhance the economic health and vitality of the district as a community; and promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) 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 the necessary components of a street and are considered to be a street or road improvement.

(f) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3866.006. LIBERAL CONSTRUCTION OF CHAPTER. Requires that this chapter be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3866.007-3866.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 3866.021. INITIAL DIRECTORS. (a) Provides that the initial board consists of certain persons.

(b) Provides that of the initial directors, the terms of the first three directors named in Subsection (a) expire on January 1, 2011, and the terms of the last two directors named in Subsection (a) expire on January 1, 2010. Requires Bob Hart to serve as the ex officio nonvoting member for a term to be specified by the governing body of the City of Kennedale (governing body).

Sec. 3866.022. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires January 1, 2011.

[Reserves Sections 3866.023-3866.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3866.051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five voting directors (board) appointed under Section 3866.052 who serve staggered two-year terms.

(b) Authorizes the governing body of the City of Kennedale (governing body) to appoint one nonvoting director to serve a term prescribed by the governing body. Requires the nonvoting director to be an employee of Kennedale and serve as an ex officio member in an advisory capacity to provide assistance on matters in the district that involve the city.

Sec. 3866.052. APPOINTMENT OF DIRECTORS. (a) Requires the governing body to appoint directors to the board.

(b) Provides that Section 375.063 (Qualifications of Director), Local Government Code, and Section 49.052 (Disqualification of Directors), Water Code, do not apply to the district.

Sec. 3866.053. REMOVAL OF DIRECTOR. Provides that the members of the board serve at the pleasure of the governing body. Authorizes the governing body to remove any board member by majority vote.

Sec. 3866.054. VACANCIES. Requires that a vacancy on the board be filled by the governing body.

Sec. 3866.055. CONFLICTS OF INTEREST. Authorizes a director, except as provided by Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, to participate in all board votes and decisions.

Sec. 3866.056. 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.

[Reserves Sections 3866.057-3866.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3866.101. POWERS OF DISTRICT. Provides the district has all powers provided by the general laws on road districts and road utility districts created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, including Chapter 257 (Road Districts) and 441 (Road Utility Districts), Transportation Code; Chapter 375 (Municipal Management Districts in General), Local Government Code; and Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code.

Sec. 3866.102. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept a gift, 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.

Sec. 3866.103. CONTRACT FOR LAW ENFORCEMENT SERVICES. Authorizes the district, to protect the public interest, to contract with a municipality or county to provide law enforcement services in the district for a fee.

[Reserves Sections 3866.104-3866.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3866.151. **COMPETITIVE BIDDING.** Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, applies to the district only for a contract that has a value of more than \$25,000.

Sec. 3866.152. **AUTHORITY TO IMPOSE AD VALOREM TAXES, ASSESSMENTS, AND IMPACT FEES.** Authorizes the district to impose an ad valorem tax, assessment, or impact fee and use the proceeds of the tax, assessment, or impact fee for any district purpose, including the payment of debt or other contractual obligations or the payment of maintenance and operating expenses.

Sec. 3866.153. **ELECTIONS REGARDING TAXES OR BONDS.** (a) Requires the district to hold an election in the manner provided by Chapter 49 and 54, Water Code, to obtain voter approval before the district imposes a maintenance tax or issues bonds payable for ad valorem taxes.

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

(c) Provides that the district is exempt from the election requirements under Subsection (a) and is authorized to cancel an election called under Subsection (a), if the district obtains the written consent of all property owners in the district to impose a maintenance tax or issue bonds payable from ad valorem taxes or assessments.

Sec. 3866.154. **MAINTENANCE TAX.** (a) Authorizes the district to impose an annual ad valorem tax on taxable property in the district for any district purpose, including to maintain and operate the district, including improvements constructed or acquired by the district; or provide a service.

(b) Requires the board to determine the tax rate.

Sec. 3866.155. **ASSESSMENTS.** (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter.

(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:

(1) are a 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 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.

Sec. 3866.156. **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 that a petition requesting a project financed by assessment 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 in which the property is located.

Sec. 3866.157. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, assessments, 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.

Sec. 3866.158. APPROVAL OF CERTAIN IMPROVEMENT PROJECTS. Requires the district to obtain the approval of the governing body for:

- (1) the issuance of bonds for an improvement project;
- (2) the plans and specifications of an improvement project financed by the bonds; and
- (3) the plans and specifications of a district improvement project related to the use of land owned by the City of Kennedale, an easement granted by the City of Kennedale, or a right-of-way of a street, road, or highway.

[Reserves Sections 3866.159-3866.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3866.201. DISSOLUTION. (a) Authorizes the district to be dissolved by the governing body on a vote of not less than two-thirds of its membership and adoption of an ordinance dissolving the district; or majority vote of the board of directors.

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

(c) Requires the district to remain in existence solely for the purpose of discharging its debts if the district has debt when it is dissolved. Provides that the dissolution is effective when all debts have been discharged.

SECTION 2. Provides that the legislature finds that:

- (1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;
- (2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;
- (3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and
- (4) 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 have been fulfilled and accomplished.

SECTION 3. Effective date: upon passage or September 1, 2009.