

BILL ANALYSIS

Senate Research Center
81R14594 GCB-F

H.B. 4771
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Harris County Improvement District No. 5 (district), also known as the Brays Oaks Management District, was created by the 79th Legislature in 2005. The purpose of the bill is to clarify provisions governing the district, consistent with legislative provisions currently used for other similar management districts. The bill authorizes the district to establish economic development programs and to make economic development loans and grants. The bill allows the board of directors of the district to establish defined areas and, after approval at an election, levy an ad valorem tax only within the area to pay for services and improvements for the area. Additionally, the bill clarifies the district's ability to annex and exclude land from the district in the same manner as a water district pursuant to Chapter 49 (Provisions Applicable to All Districts), Water Code. The bill clarifies that the procedures for obtaining approval for bonds from the Texas attorney general do not apply to short-term bank loans not secured by ad valorem taxes. Furthermore, the bill increases the competitive bidding limit of the district from \$25,000 to \$50,000, consistent with general law.

H.B. 4771 amends current law relating to the powers and duties of the district and provides 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 Subchapter C, Chapter 3834, Special District Local Laws Code, by adding Sections 3834.110, 3834.111, and 3834.112, as follows:

Sec. 3834.110. ANNEXATION OR EXCLUSION OF LAND. (a) Authorizes the Harris County Improvement District No.5 (district) to annex land as provided by Subchapter J (Annexation or Exclusion of Land), Chapter 49 (Provisions Applicable to All Districts), Water Code.

(b) Authorizes the district to exclude land as provided by Subchapter J, Chapter 49, Water Code. Provides that Section 375.044(b) (relating to a hearing on the exclusion of land or other property before the issuance of bonds), Local Government Code, does not apply to the district.

Sec. 3834.111. ECONOMIC DEVELOPMENT PROGRAMS. (a) 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 to make loans and grants of public money and provide district personnel and services.

(b) Provides that the district has all of the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

Sec. 3834.112. TAX INCREMENT REINVESTMENT ZONE. (a) Provides that the district is authorized to establish and implement tax increment reinvestment zones as

provided in Chapter 311 (Tax Increment Financing Act), Tax Code, in the same manner as a municipality.

(b) Authorizes all or any part of the district to be included in a tax increment reinvestment zone, regardless of the percentage of total value the land represents to the district as a whole, or whether the land is used for residential purposes.

(c) Provides that Section 311.006 (Restrictions on Composition of Reinvestment Zone), Tax Code, does not apply to a reinvestment zone that contains land within the district.

SECTION 2. Amends Section 3834.156(b), Special District Local Laws Code, as follows:

(b) Authorizes the district to borrow money according to terms and conditions determined by the board of directors of the district (board). Provides that Section 375.205 (Approval by Attorney General), Local Government Code, does not apply to a loan, line of credit, or other borrowing from a bank or financial institution secured by revenue other than ad valorem taxes. Deletes existing text authorizing the district, in exercising the district's power to borrow, 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.

SECTION 3. Amends Section 3834.159, Special District Local Laws Code, to provide 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 greater than \$50,000, rather than \$25,000.

SECTION 4. Amends Chapter 3834, Special District Local Laws Code, by adding Subchapter F, as follows:

SUBCHAPTER F. TAXES FOR CERTAIN DEFINED AREAS AND DESIGNATED PROPERTY

Sec. 3834.251. **AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY.** Authorizes the district to define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole.

Sec. 3834.252. **PROCEDURE FOR ELECTION.** (a) Requires the board to call and hold an election as provided by Section 3834.157 (Tax and Bond Elections) only in the defined area or in the boundaries of the designated property, before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes of the area defined or property designated under Section 3834.251.

(b) Authorizes the board to submit the proposition to the voters on the same ballot to be used in another election.

Sec. 3834.253. **DECLARING RESULT AND ISSUING ORDER.** (a) Requires the board, if a majority of the voters at the election approve the proposition or propositions, to declare the results and by order to establish the defined area and describe it by metes and bounds or designate the specific property.

(b) Prohibits a court from reviewing the board's order except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

Sec. 3834.254. **TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY.** Authorizes the district, on voter approval and adoption of the order described in Section 3834.253, to apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct, administer, maintain, and

operate services, improvements, and facilities that primarily benefit the defined area or designated property.

Sec. 3834.255. ISSUANCE OF BONDS AND IMPOSITIONS OF TAXES FOR DEFINED AREA OR DESIGNATED PROPERTY. Authorizes the district, after the order under Section 3834.253 is adopted, to issue bonds to provide for any land, improvements, facilities, plants, equipment, and appliances for the defined area or designated property.

SECTION 5. (a) Provides that the legislature validates and confirms all acts and proceedings of the board that were taken before the effective date of this Act.

(b) Provides that Subsection (a) of this section does not apply to any matter that on the effective date of this Act is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court or has been held invalid by a final judgment of a court.

SECTION 6. 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 have been fulfilled and accomplished.

SECTION 7. Effective date: upon passage or September 1, 2009.