

BILL ANALYSIS

Senate Research Center
81R31479 SJM-D

H.B. 4828
By: Coleman (Ellis)
Intergovernmental Relations
5/21/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill creates the Harris County Improvement District No. 12 (district). The bill provides the district with general powers and grants specific authority to impose an assessment, a tax, or an impact fee and to issue bonds.

H.B. 4828 relates to the creation of the district and provides authority to impose a tax and issue bonds. This bill prohibits the district from exercising the power of eminent domain.

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. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 21. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3892, as follows:

CHAPTER 3892. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 21

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3892.001. DEFINITIONS. Defines "board," "director," and "district" in this chapter.

Sec. 3892.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 21. Provides that the Harris County Improvement District No. 21 is a special district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 3892.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purposes of Sections 52 (Counties, Cities, or Other Political Organizations or Subdivisions; Lending Credit; Grants; Bonds) and 52-a (relating to legislative authority to lend credit), Article III (Legislative Department), Texas Constitution, and other public purposes stated in this chapter. Provides that by creating the district and in authorizing Harris County, the City of Houston, the Metropolitan Transit Authority of Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

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

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of the effective date of the Act creating this chapter to the area in the district or releasing the county or the city from the obligations of each entity to

provide services to that area. Provides that the district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3892.004. 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 each improvement project or service authorized by this chapter is essential to carry out a public purpose.

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

(e) 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 for the district to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center; promote the health, safety, welfare, and enjoyment of the public by providing public art and pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty; promote and benefit commercial development and commercial areas in the district; and promote and develop public transportation and pedestrian facilities and systems using new and alternative means that are attractive, safe, and convenient, including securing expanded and improved transportation and pedestrian facilities and systems, to address the problem of traffic congestion in the district, the need to control traffic and improve pedestrian safety, and the limited availability of money; and benefit the land and other property in the district and the residents, employers, employees, visitors, and consumers in the district and the public.

(f) 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.

(g) Prohibits the district from acting as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3892.005. DISTRICT TERRITORY. (a) Provides that the district is composed of the territory described by Section 2 of the Act creating this chapter, as that territory may have been modified under Section 3892.251; Subchapter J (Annexation or Exclusion of Land), Chapter 49 (Provisions Applicable to All Districts), Water Code; or other law.

(b) Provides that the boundaries and field notes of the district contained in Section 2 of the Act creating this chapter 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, and validity; the district's right to issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on the bond; the district's right to impose and collect an assessment or tax; or the legality or operation of the district or the board.

(c) Requires that a description of the district's boundaries be filed with the Texas Commission on Environmental Quality (TCEQ). Authorizes TCEQ by order to correct a mistake in the description of the district's boundaries.

Sec. 3892.006. TORT LIABILITY. Provides that the district is a governmental unit under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, and that the operations of the district are essential government functions and are not proprietary functions for any purpose, including the application of that chapter.

Sec. 3892.007. LIBERAL CONSTRUCTION OF CHAPTER. Requires that this chapter be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3892.008-3892.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3892.051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five voting directors appointed by a majority of the members of the governing body, including the mayor, of the City of Houston. Provides that voting directors serve staggered terms of four years with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) Authorizes the board by order or resolution to increase or decrease the number of voting directors on the board, but only if a majority of the voting directors finds that it is in the best interest of the district to do so. Prohibits the board from increasing the number of voting directors to more than nine or decreasing the number of voting directors to fewer than five.

(c) Applies Sections 49.053 (Quorum), 49.054 (Officers), 49.056 (General Manager), 49.057 (Management of District), 49.058 (Conflicts of Interest), and 49.060 (Fees of Office; Reimbursement), Water Code, to the board.

(d) Applies Subchapter D (Administrative Provisions; Board of Directors), Chapter 375 (Municipal Management Districts in General), Local Government Code, to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3892.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. Requires the board to appoint eligible persons to fill the new director positions and to provide for the staggering of terms of the new directors, if the board increases the number of directors under Section 3892.051. Requires that a succeeding director be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code, on expiration of the term of a director appointed under this section. Requires the mayor and members of the governing body of the City of Houston to appoint voting 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. 3892.053. NONVOTING DIRECTORS. (a) Requires the following persons to serve as nonvoting directors:

(1) the directors of the following departments of the City of Houston or a person designated by that director:

(A) parks and recreation,

(B) planning and development, and

(C) public works; and

(2) the City of Houston's chief of police.

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

Sec. 3892.054. QUORUM. (a) Provides that a majority of the voting directors constitutes a quorum of the board.

(b) Provides that nonvoting directors and vacant director positions are not counted for the purposes of establishing a quorum of the board.

Sec. 3892.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Provides that, except as provided by this section a voting director may participate in all board votes and decisions; and Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, governs conflicts of interest for directors.

(b) Provides that Section 171.004 (Affidavit and Abstention From Voting Required), Local Government Code, does not apply to the district. Requires a director who has a 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 to participate in a discussion or vote on that action, after the affidavit is filed with the board secretary, if a majority of the directors have a similar interest in the same entity, or all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

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

Sec. 3892.056. COMPENSATION OF VOTING DIRECTORS. Authorizes voting directors to receive fees of office and reimbursement of expenses as provided by Section 49.060 (Fees of Office; Reimbursement), Water Code.

Sec. 3892.057. INITIAL VOTING DIRECTORS. (a) Provides that the initial board consists of five certain named individuals.

(b) Provides that, of the initial directors, the terms of directors serving in positions 1, 2, and 3 expire June 1, 2013, and the terms of directors serving in positions 4 and 5 expire June 1, 2011.

(c) Provides that Sections 3892.051(a) and (b) do not apply to the initial directors.

(d) Provides that this section expires September 1, 2013.

[Reserves Sections 3892.058-3892.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3892.101. DISTRICT POWERS. Authorizes the district to exercise the powers given to a district created under Chapter 375, Local Government Code; a district by

Subchapters H (Powers and Duties) and I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code; a corporation under Chapter 505 (Type B Corporations), Local Government Code, including the power to own, operate, acquire, construct, lease, improve, and maintain the projects described by that chapter; and a housing finance corporation created under Chapter 394 (Housing Finance Corporations in Municipalities and Counties), Local Government Code, to provide housing or residential development projects in the district.

Sec. 3892.102. 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) Provides that the nonprofit corporation has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code, and may implement any project and provide any service authorized by 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, for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 3892.103. 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. 3892.104. ELECTIONS. (a) Requires that district elections be held in the manner provided by Subchapter L (Elections), Chapter 375, Local Government Code.

(b) Authorizes the board to submit multiple purposes in a single proposition at an election.

Sec. 3892.105. CONTRACT FOR LAW ENFORCEMENT AND SECURITY SERVICES. Authorizes the district to contract with Harris County or the City of Houston for the county or city to provide law enforcement and security services in the district for a fee; or a private entity for the private entity to provide supplemental security services.

Sec. 3892.106. ANNEXATION OR EXCLUSION OF TERRITORY. Authorizes the district to annex or exclude land from the district in the manner provided by Subchapter C (Boundaries), Chapter 375, Local Government Code.

Sec. 3892.107. APPROVAL BY CITY OF HOUSTON. (a) Requires the district, except as provided by Subsection (b), to obtain the approval of the City of Houston's governing body for the issuance of a bond for each improvement project; the plans and specifications of the improvement project financed by the bond; and the plans and specifications of any district improvement project related to the use of land owned by the City of Houston, an easement granted by the City of Houston, or a right-of-way of a street, road, or highway.

(b) Authorizes the district to finance, if the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3892.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to an organization that enjoys tax-exempt status under

Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986, and performs a service or provides an activity consistent with promoting a district purpose.

Sec. 3892.109. ROAD POWERS. Authorizes the district to exercise powers given to: a road district created under Chapter 257 (Road Districts), Transportation Code, and a road utility district created under Chapter 441 (Road Utility Districts), Transportation Code.

Sec. 3892.110. AIR RIGHTS; CONSTRUCTION. Authorizes the district to acquire air rights and to construct improvements on property on which it owns only air rights.

Sec. 3892.111. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. Authorizes the district to construct improvements on property on which it only has a leasehold interest and to own undivided interests in buildings and other improvements.

Sec. 3892.112. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3892.113-3892.150 for expansion.]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3892.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) Prohibits the board from acting under Subsection (a) unless a written petition requesting the action has been filed with the board.

(c) Requires that the petition be signed by:

(1) the owners of property representing a majority of the total assessed value of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located; or

(2) the owners of a majority of the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located.

(d) Provides that the determination of a majority, for purposes of Subsection (c), is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

Sec. 3892.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities, including:

(1) lots, garages, parking terminals, or other structures or accommodations for the parking of motor vehicles; and

(2) equipment, entrances, exits, fencing, and other accessories necessary for safety and convenience in the parking of vehicles.

(b) Requires that a parking facility of the district be either leased to or operated on behalf of the district by a private entity or an entity other than the district. Provides that the district's parking facilities are a program authorized by the legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

Sec. 3892.153. RULES. Authorizes the district to adopt rules covering its public transit system or its public parking facilities, except that a rule relating to or affecting the use of the public right-of-way or a requirement for off-street parking is subject to all applicable municipal charter, code, or ordinance requirements.

Sec. 3892.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR PARKING FACILITIES. (a) Authorizes the district to use any of its resources, including revenue, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(b) Authorizes the district to set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and to issue bonds or notes to finance the cost of these facilities.

(c) Provides that if the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required, except as provided by Section 3892.151.

Sec. 3892.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. Requires the district to pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property, if the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation.

Sec. 3892.156. AGREEMENT WITH RAPID TRANSIT AUTHORITY. (a) Provides that in this section, "authority" means a rapid transit authority created under Chapter 451 (Metropolitan Rapid Transit Authorities), Transportation Code.

(b) Authorizes the district and an authority to agree to jointly construct, own, operate, and maintain a transit facility or a parking facility under the terms the authority and district desire.

(c) Authorizes the agreement to provide that the district and the authority exchange or trade land provided that each party to the agreement receives fair market value. Provides that the authority is not required to offer any property that it proposes to trade to the district for sale to the public or for sale to any abutting property owner.

[Reserves Sections 3892.157-3892.200 for expansion.]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3892.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. Authorizes the district to impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49, Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function of the district or to accomplish a purpose or duty for which the district was created.

Sec. 3892.202. 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. 3892.203. ASSESSMENT IN PART OF DISTRICT. Authorizes an assessment to be imposed on only a part of the district if only that part will benefit from the service or improvement.

Sec. 3892.204. PETITION REQUIRED FOR ASSESSMENT AND FOR FINANCING SERVICES AND IMPROVEMENTS. (a) Prohibits the board from imposing an assessment or financing a service or improvement project under this chapter unless a written petition requesting the improvement or service has been filed with the board.

(b) Requires that the petition be signed by:

(1) 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 Harris County; or

(2) at least 25 owners of real property in the district that will be subject to the assessment, if more than 25 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.

(c) Authorizes the board to act upon a petition, required under this section, signed by qualified petitioners prior to or subsequent to the enactment of this chapter.

Sec. 3892.205. ASSESSMENTS CONSIDERED TAXES. Provides that for purposes of a title insurance policy issued under Title 11 (Title Insurance), Insurance Code, an assessment is a tax.

Sec. 3892.206. MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held in accordance with Section 3892.104, to impose an annual ad valorem tax on taxable property in the district to administer the district, maintain and operate the district, construct or acquire improvements, or provide a service.

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

(c) Provides that an owner of real property in the district, except property exempt under the Texas or United States Constitution or under the Tax Code, is liable for the payment of ad valorem taxes imposed by the district on the property.

Sec. 3892.207. ASSESSMENTS; LIENS FOR 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 a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(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 may 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.

Sec. 3892.208. **PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES.** Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

- (1) an electric utility or a power generation company as defined by Section 31.002 (Definitions), Utilities Code;
- (2) a gas utility as defined by Section 101.003 (Definitions) or 121.001 (Definition of Gas Utility), Utilities Code;
- (3) a telecommunications provider as defined by Section 51.002 (Definitions), Utilities Code; or
- (4) a person who provides the public cable television or advanced telecommunications services.

Sec. 3892.209. **USE OF ELECTRICAL OR OPTICAL LINES.** (a) Authorizes the district to impose an assessment to pay the cost of:

- (1) burying or removing electrical power lines, telephone lines, cable or fiber-optic lines, or any other type of electrical or optical line;
- (2) removing poles and any elevated lines using the poles; and
- (3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) Authorizes the district to acquire, operate, or charge fees for the use of the district conduits for:

- (1) another person's telecommunications network, fiber-optic cable, or electronic transmission line; or
- (2) any other type of transmission line or supporting facility.

(c) Prohibits the district from requiring a person to use a district conduit.

Sec. 3892.210. **BONDS AND OTHER OBLIGATIONS.** (a) Authorizes the district to issue bonds, notes, or other obligations in accordance with Subchapter J (Bonds), Chapter 375, Local Government Code, payable wholly or partly from assessments, impact fees, revenue, grants, or other money of the district, or any combination of these sources of money, to pay for any authorized district purpose.

(b) 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, in exercising the district's power to borrow.

Sec. 3892.211. **LIMITS ON PARKS AND RECREATION BONDS.** Prohibits bonds issued to finance parks and recreational facilities from exceeding one percent of the assessed value of the real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3892.212. **TAX AND 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 imposes a maintenance tax or issues bonds payable from ad valorem taxes.

(b) Prohibits the board from including more than one purpose in a single proposition at an election to impose a maintenance tax or issue bonds payable from ad valorem taxes.

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

Sec. 3892.213. **POWERS OF MUNICIPAL UTILITY DISTRICT TO ESTABLISH DEFINED AREAS AND DESIGNATED PROPERTY; TAXES; BONDS.** (a) Provides that the district has the powers of a municipal utility district under Subchapter J, Chapter 54, Water Code, including the power to implement a plan, issue bonds, and impose a tax in a defined area established under that subchapter.

(b) Authorizes the district to exercise the powers described by Subsection (a) regardless of whether the district is composed of the minimum number of acres provided by Section 54.801 (Authority to Establish Defined Areas or Designated Property), Water Code.

Sec. 3892.214. **MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS.** Provides that a municipality is not required to pay a bond, note, or other obligation of the district, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code.

Sec. 3892.215. **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 greater than \$50,000.

[Reserves Sections 3892.216-3892.250 for expansion.]

SUBCHAPTER F. CONSOLIDATION

Sec. 3892.251. **CONSOLIDATION WITH MUNICIPAL MANAGEMENT DISTRICT.** (a) Authorizes the district to consolidate with one or more other municipal management districts that are adjoining or have a boundary that is within a two-mile radius of any boundary of the district. Authorizes the board to consolidate with one or more other districts only if none of the districts to be consolidated has issued bonds or notes secured by assessments or ad valorem taxes or has imposed taxes.

(b) Requires the board of a district, to initiate consolidation, to adopt a resolution proposing a consolidation and deliver a copy of the resolution to the board of each district with which consolidation is proposed.

Sec. 3892.252. **TERMS AND CONDITIONS FOR CONSOLIDATION.** Requires the districts to enter into an agreement specifying the terms and conditions for consolidation, not later than the 30th day after districts are consolidated under Section 3892.251. Requires that the terms and conditions for consolidation include:

- (1) adoption of a name for the consolidated district;
- (2) the number and apportionment of directors to serve on the board of the consolidated district;
- (3) the effective date of the consolidation;
- (4) an agreement on finances for the consolidated district, including disposition of funds, property, and other assets of each district; and
- (5) an agreement on governing the districts during the transition period, including selection of officers.

Sec. 3892.253. NOTICE AND HEARING ON CONSOLIDATION. (a) Requires each district's board to publish notice and hold a public hearing in its district regarding the terms and conditions for consolidation of the districts. Requires the board to publish notice at least once in a newspaper with general circulation in the affected districts at least seven days before the hearing.

(b) Requires each board by resolution, after the hearing, to approve the terms and conditions for consolidation by majority vote and enter an order consolidating the districts.

(c) Provides that if the board of each involved district adopts a resolution containing the terms and conditions for the consolidation, the involved districts become consolidated.

Sec. 3892.254. GOVERNING CONSOLIDATED DISTRICTS. (a) Provides that after two or more districts are consolidated, they become one district and are governed as one district.

(b) Requires the officers of each district to continue to act jointly as officers of the original districts to settle the affairs of their respective districts, during the period before the terms and conditions of the agreement under Section 3892.252 take effect.

Sec. 3892.255. DEBTS OF ORIGINAL DISTRICTS. Requires the consolidated district, after two or more districts are consolidated, to protect the debts and obligations of the original districts and to ensure that the debts and obligations are not impaired. Authorizes the debts to be paid by taxes imposed on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement, if the consolidated district has taxing authority.

Sec. 3892.256. ASSESSMENT AND COLLECTION OF TAXES. Requires the district to impose and collect taxes on all property in the district uniformly, for maintenance and operation of the district, if the consolidated district has taxing authority.

Sec. 3892.257. FILING OF ORDER WITH COUNTY CLERK AND EXECUTIVE DIRECTOR. Requires the board to keep in the records of the consolidated district, recorded in the office of the county clerk in each of the counties in the consolidated district, a consolidation order issued by the board. Requires the board to file the consolidation order with the executive director of TCEQ.

[Reserves Sections 3892.258-3892.300 for expansion.]

SUBCHAPTER G. DISSOLUTION

Sec. 3892.301. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) Authorizes the district to be dissolved as provided by Subchapter M (Dissolution), Chapter 375, Local Government Code, except that Section 375.264 (Limitation), Local Government Code, does not apply to the district. Authorizes the board to dissolve the district regardless of whether the district has debt.

(b) Requires the district to remain in existence solely for the purpose of discharging its bonds or other obligations according to their terms, if the district has debt when it is dissolved. Provides that the dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. Sets forth the boundaries of the Harris County Improvement District No. 21, on the effective date of this Act.

SECTION 3. REIMBURSEMENT FOR COST OF CREATION. Authorizes the Harris County Improvement District No. 21 to reimburse the cost of creating the district from assessments or

other revenue created by the district or consolidated district under Section 3892.251, Special District Local Laws Code, as added by this Act.

SECTION 4. LEGISLATIVE FINDINGS. 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 TCEQ;
- (2) TCEQ 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 5. EFFECTIVE DATE. Effective date: upon passage or September 1, 2009.