BILL ANALYSIS

Senate Research Center 82R23993 SLB-F

H.B. 3845
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The CLL Municipal Utility District No. 1 (district) encompasses an area of land within Bell and Williamson counties outside the corporate limits and extraterritorial jurisdiction of any city that is planned for residential and commercial development.

The district was created in 2005 and has authority to provide water, sewer, and drainage services, but, in order to facilitate a long-term, coordinated development plan for the district territory, interested parties contend that additional authority needs to be secured for the district.

H.B. 3845 amends current law relating to the powers of the CLL Municipal Utility District No. 1 and provides authority to levy an assessment, 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 A, Chapter 8109, Special District Local Laws Code, by adding Sections 8109.0025 and 8109.0026, as follows:

Sec. 8109.0025. PURPOSE; DECLARATION OF INTENT. (a) Provides that the CCL Municipal District No. 1 (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. Provides that by creating 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 district.

Sec. 8109.0026. 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 the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop commerce.

(d) Provides that the district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing trails, landscaping, and other services that are necessary for the restoration, preservation, and enhancement of the scenic beauty and environment of the area.

SECTION 2. Amends Chapter 8109, Special District Local Laws Code, by adding Subchapters D, E, F, G, H, and I, as follows:

SUBCHAPTER D. POWERS AND DUTIES

Sec. 8109.151. MUNICIPAL MANAGEMENT DISTRICT POWERS. Provides that the district has the powers provided by Chapter 375 (Municipal Management Districts in General), Local Government Code.

Sec. 8109.152. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. Authorizes the district to exercise the powers of a corporation created under Section 380.001(c) (relating to creation of districts) or Chapter 501 (Provisions Governing Development Corporations), Local Government Code.

Sec. 8109.153. AIRPORT.   Authorizes the district to construct, acquire, improve, maintain, and operate an airport and improvements in aid of the airport.

Sec. 8109.154. AUTHORITY FOR ROAD PROJECTS.   (a) Authorizes the district, under Section 52, Article III, Texas Constitution, to design, acquire, construct, finance, issue bonds for, improve, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads described by Section 54.234 (Acquiring Road Powers), Water Code, or improvements, including storm drainage, in aid of those roads.

(b) Authorizes the district to exercise the powers provided by this section without submitting a petition to or obtaining approval from the Texas Commission on Environmental Quality (TCEQ) as required by Section 54.234, Water Code.

Sec. 8109.155. APPROVAL OF ROAD PROJECT.   (a)   Prohibits the district from undertaking a road project authorized by Section 8109.154 unless:

(1) each county that will operate and maintain the road has approved the plans and specifications of the road project, if a county will operate and maintain the road; or

(2) the Texas Transportation Commission (TCC) has approved the plans and specifications of the road project, if the state will operate and maintain the road.

(b) Provides that, except as provided by Subsection (a), the district is not required to obtain approval from TTC to design, acquire, construct, finance, issue bonds for, improve, or convey a road project.

Sec. 8109.156. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. Requires the district to comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 (Consent of City) or 54.0165 (Addition to District of Land in Extraterritorial Jurisdiction of Municipality), Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8109.157. LIMITATION ON USE OF EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8109.154; or

(2) a recreational facility as defined by Section 49.462 (Definitions), Water Code.

SUBCHAPTER E. IMPROVEMENT PROJECTS

Sec. 8109.201. IMPROVEMENT PROJECTS; SERVICES. Authorizes the district to provide, or enter into contracts with a governmental or private entity to provide, the improvement projects and services described by this subchapter or activities in support of or incidental to those projects and services.

Sec. 8109.202. BOARD DETERMINATION REQUIRED. Prohibits the district from undertaking a project under this subchapter unless the board of directors of the district (board) determines the project to be necessary to accomplish a public purpose of the district.

Sec. 8109.203. WATER. Authorizes an improvement project to include a:

(1) wastewater treatment and disposal facility;

(2) water quality protection facility; and

(3) facility to enhance groundwater recharge.

Sec. 8109.204. IRRIGATION AND DRAINAGE. Authorizes an improvement project to include facilities for irrigation and drainage.

Sec. 8109.205. SOLID WASTE SERVICES. Authorizes an improvement project to include solid waste management services, including garbage collection, recycling, and composting.

Sec. 8109.206. CONVENTION CENTER. Authorizes an improvement project to include the planning, design, construction, acquisition, lease, rental, improvement, maintenance, installation, and management of and provision of furnishings for a facility for:

(1) a conference, convention, or exhibition;

(2) a manufacturer, consumer, or trade show;

(3) a civic, community, or institutional event; or

(4) an exhibit, display, attraction, special event, or seasonal or cultural celebration or holiday.

Sec. 8109.207. MISCELLANEOUS DESIGN, CONSTRUCTION, AND MAINTENANCE. Authorizes an improvement project, In addition to the projects and services described by Section 375.112 (Specific Powers Relating to Assessments), Local Government Code, to include the planning, design, construction, improvement, and maintenance of:

(1) highway right-of-way or transit corridor beautification and improvement;

(2) a hiking and cycling path or trail;

(3) a garden, recreational facility, sports facility, open space, scenic area, or related exhibit or preserve; or

(4) a storm water detention improvement.

Sec. 8109.208. SIMILAR IMPROVEMENT PROJECTS. Authorizes an improvement project to include a public improvement, facility, or service similar to a project described by this subchapter.

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 8109.251. ASSESSMENTS. Authorizes the district to levy and collect special assessments in the same manner and for the same purposes as a municipal management district as provided in Subchapter F (Assessments), Chapter 375, Local Government Code.

SUBCHAPTER G. BONDS AND OTHER OBLIGATIONS

Sec. 8109.301. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, hotel occupancy taxes, sales and use taxes, other district money, or any combination of those sources to pay for any authorized district purpose.

Sec. 8109.302. TAXES FOR BONDS. (a) Requires the board, at the time the district issues bonds payable wholly or partly from ad valorem taxes, to provide for the annual imposition of an ad valorem tax, without limit as to rate or amount, as required by Section 54.601, Water Code.

(b) Requires the board to annually impose the tax while all or part of the bonds are outstanding. Provides that Sections 54.601 (Tax Levy for Bonds) and 54.602 (Establishment of Tax Rate in Each Year), Water Code, govern the amount and rate of the tax.

Sec. 8109.303. BONDS FOR ROAD PROJECTS. Provides that at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SUBCHAPTER H. SALES AND USE TAX

Sec. 8109.351. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Provides that Chapter 321 (Municipal Sales and Use Tax Act), Tax Code, governs the imposition, computation, administration, enforcement, and collection of the sales and use tax authorized by this subchapter except to the extent Chapter 321, Tax Code, is inconsistent with this chapter.

(b) Provides that a reference in Chapter 321, Tax Code, to a municipality or the governing body of a municipality is a reference to the district or the board, respectively.

Sec. 8109.352. ELECTION; ADOPTION OF TAX. (a) Authorizes the district to adopt a sales and use tax if authorized by a majority of the voters of the district voting at an election held for that purpose.

(b) Authorizes the board by order to call an election to authorize the adoption of the sales and use tax. Authorizes the election to be held on any uniform election date and in conjunction with any other district election.

(c) Requires the ballot to be printed to provide for voting for or against the proposition: "Authorization of a sales and use tax in the CLL Municipal Utility District No. 1 at a rate not to exceed ____ percent" (insert rate of one or more increments of one-eighth of one percent).

Sec. 8109.353. SALES AND USE TAX RATE. (a) Requires the board, not later than the 10th day after the date the results are declared of an election held under Section 8109.352, at which the voters approved imposition of the tax authorized by this subchapter, to determine the initial rate of the tax, which must be in one or more increments of one-eighth of one percent.

(b) Authorizes the board, after the election held under Section 8109.352, to decrease the rate of the tax by one or more increments of one-eighth of one percent. Prohibits the board from decreasing the rate of the tax if the decrease would impair the repayment of any outstanding debt or obligation payable from the tax.

(c) Prohibits the initial rate of the tax or any rate resulting from subsequent decreases from exceeding the lesser of:

(1) the maximum rate authorized by the district voters at the election held under Section 8109.352; or

(2) a rate that, when added to the rates of all sales and use taxes imposed by other political subdivisions with territory in the district, would result in the maximum combined rate prescribed by Section 321.101(f) (relating to increase in sales tax by municipality), Tax Code, at any location in the district.

(d) Requires the board to notify the comptroller of any changes made to the tax rate in the same manner the municipal secretary provides notice to the comptroller under Section 321.405(b) (relating to copy of resolution of ordinance), Tax Code.

Sec. 8109.354. USE OF REVENUE. Provides that revenue from the sales and use tax imposed under this subchapter is for the use and benefit of the district and may be used for any district purpose.

SUBCHAPTER I. HOTEL OCCUPANCY TAX

Sec. 8109.401. APPLICABILITY OF CERTAIN TAX CODE PROVISIONS. (a) Provides that in this subchapter:

(1) a reference in Subchapter A (Imposition and Collection of Tax), Chapter 351 (Municipal Hotel Occupancy Taxes), Tax Code, to a municipality is a reference to the district; and

(2) a reference in Subchapter A, Chapter 351, Tax Code, to the governing body of a municipality is a reference to the board.

(b) Provides that, except as inconsistent with this subchapter, Subchapter A, Chapter 351, Tax Code, governs a hotel occupancy tax authorized by this

subchapter, including the collection of the tax, subject to the limitations prescribed by Sections 351.002(b) and (c), Tax Code.

Sec. 8109.402. TAX AUTHORIZED; USE OF REVENUE. Authorizes the district to impose a hotel occupancy tax for any purpose authorized by Section 351.101 (Use of Tax Revenue), Tax Code.

Sec. 8109.403. TAX RATE. (a) Prohibits the amount of the hotel occupancy tax from exceeding the maximum rate provided by Section 351.003(a) (relating to imposition of tax rates), Tax Code.

(b) Prohibits the district from adopting a hotel occupancy tax at a rate that would cause the combined rate of all hotel occupancy taxes imposed by the district and other political subdivisions of this state at a location in the district to exceed 15 percent. Provides that if a political subdivision's adoption of a hotel occupancy tax rate causes the combined hotel occupancy tax rate imposed at a location in the district to exceed 15 percent, the district's hotel occupancy tax rate in the entire district is automatically reduced to bring the combined rate imposed at that location down to not more than 15 percent.

(c) Requires the district to notify each hotel in the district of any change in the hotel occupancy tax rate under this section.

(d) Provides that any change in the hotel occupancy tax rate takes effect on the first day of the next calendar month following the change.

SECTION 3. (a) Provides that the legislature validates and confirms all governmental acts and proceedings of the district relating to the exclusion of land, the annexation of land, and the establishment of the district's boundaries that were taken before the effective date of this Act.

(b) Provides that this section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act that was a misdemeanor or felony at the time it occurred;

(3) an annexation or attempted annexation of land in the boundaries or extraterritorial jurisdiction of a municipality that occurred without the consent of the municipality; and

(4) 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 court judgment, or has been held invalid by a final court judgment.

SECTION 4. Provides that all requirements of the constitution and the 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, 2011.