

BILL ANALYSIS

Senate Research Center
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S.B. 1104
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Transportation & Homeland Security
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In the 80th Legislature, H.B. 3011 created the nation's first ship channel security district (district). The district is a cooperative effort between public and private entities to ensure the security of the Houston Ship Channel and the numerous petrochemical and manufacturing facilities located in the district.

Through assessments, the county and facilities within the district have been able to implement and maintain a robust security infrastructure protecting the assets found along the Houston Ship Channel.

S.B. 1104 is intended to enhance the efficiency of the district by modifying the definition of "facility." The bill updates the district's reporting requirements to provide relevant financial information detailing the expenditures of the district to the board of directors of a district (board), to ensure assessments collected are enhancing security initiatives. Additionally, S.B. 1104 prescribes instructions for the payment of facility assessments to the district.

S.B. 1104 adds protocol for the addition or exclusion of facilities to the district, modifies the board's structure, and allows the board to meet elsewhere in the state rather than solely in the district.

As proposed, S.B. 1104 amends current law relating to the operation, powers, and duties of ship channel districts.

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 Section 68.001, Water Code, by adding Subdivision (2-a) to define "facility."

SECTION 2. Amends Section 68.051(c), Water Code, to authorize the commissioners court that created the ship channel security district (district), after the district is created, to, by order, provide for this chapter to apply to any other type of facility that the district by petition requests the court to add, except as provided by Subsection (d) (relating to facilities to which this chapter does not apply). Makes a nonsubstantive change.

SECTION 3. Amends Sections 68.152(a) and (b), Water Code, as follows:

(a) Requires the commissioners court of the county to appoint as directors for each security zone the two nominees who received the highest number of votes in a vote by the facility owners in each security zone. Requires each person nominated as a director to be employed by a facility owner at a facility in the zone. Deletes existing text requiring the commissioners court of the county to appoint two directors for each security zone from a list of two persons nominated by a majority vote of the facility owners in each security zone. Makes a nonsubstantive change.

(b) Requires the commissioners court, after reviewing the list of persons nominated to be directors, to approve or disapprove the nominations for each security zone.

SECTION 4. Amends Section 68.156, Water Code, by adding Subsection (c), to provide that when a director's term expires, the successor director is appointed in the manner provided by this subchapter for that director position.

SECTION 5. Amends Section 68.161(b), Water Code, to require the board of directors of a district (board) to conduct its meetings in this state, rather than in the district.

SECTION 6. Amends Section 68.301, Water Code, as follows:

Sec. 68.301. AUTHORITY TO IMPOSE ASSESSMENT. Authorizes the board to impose one or more assessments, rather than an assessment, against one or more facilities for any district purpose, including for general district purposes or for a specific security project or security service. Authorizes the board to impose the assessments against all facilities or against a specific facility or group of facilities.

SECTION 7. Amends Section 68.303(a), Water Code, as follows:

(a) Requires the district, not later than the 30th day before the date of the hearing, to provide notice of the hearing by certified mail, return receipt requested, to each facility owner:

(1) at the current address of each facility according to the appraisal record maintained by the appraisal district for that facility under Section 25.02 (Form and Content), Tax Code; or

(2) if the appraisal records do not accurately reflect that address, at the facility's physical location as reflected by any other information available.

Makes nonsubstantive changes.

SECTION 8. Amends Section 68.307(c), Water Code, as follows:

(c) Requires the board, after all objections have been heard and action has been taken with regard to those objections, to by resolution impose the assessments on the facilities and to specify the method of payment of the assessments. Requires a facility to pay assessments in one lump sum on the date designated by the board, unless the board allows the assessments to be paid in periodic installments. Deletes existing text authorizing the board, after all objections have been heard and action has been taken with regard to those objections, to provide that those assessments be paid in periodic installments.

SECTION 9. Amends Section 68.313(b), Water Code, as follows:

(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 facility assessed, rather than against the property assessed;

(2) Makes no changes to this subdivision; and

(3) are the personal liability of and a charge against the owners of the facility, rather than of the property, even if the owners are not named in the assessment proceedings.

SECTION 10. Amends Subchapter G, Chapter 68, Water Code, by adding Section 68.316, as follows:

Sec. 68.316. FACILITY OWNER'S OBLIGATIONS. (a) Provides that an assessment imposed by the board is a continuing and direct obligation of the owner of the facility on which the assessment is imposed regardless of whether the person owned the facility at the time the assessment was imposed.

(b) Provides that the obligation to pay an assessment is not affected by a change in the:

- (1) ownership of the facility;
- (2) type of facility;
- (3) improvements that are part of the facility; or
- (4) district's territory.

SECTION 11. Amends Chapter 68, Water Code, by adding Subchapter I, as follows:

SUBCHAPTER I. ADDITION AND EXCLUSION OF TERRITORY AND FACILITIES

Sec. 68.401. ADDITION OF TERRITORY AND FACILITIES BY BOARD. (a) Authorizes a board to petition the commissioners court of the county that created the district to add to the district territory that contains a facility in the county if the board finds that a security project or security service in the district benefits or will benefit the facility.

(b) Requires that the petition recommend a security zone in which the facility to be added should be included. Authorizes the board to recommend modifying a security zone as necessary to add the facility. Authorizes the board of a district that has four security zones to also recommend adding a fifth security zone as necessary to add the new facility. Requires that the recommendation also note whether the security zone of any facilities will change if the petition is granted.

(c) Requires that the petition describe the portion, amount, and terms of the assessment if any part of an assessment imposed by the board is allocable to the facility to be added.

(d) Provides that the commissioners court:

- (1) is required to publish notice and conduct a hearing on the petition under Sections 68.104 (Notice of Hearing; Contents of Notice) and 68.105 (Hearing); and
- (2) is authorized to grant the petition if the commissioners court determines that a security project or security service in the district benefits or will benefit the facility.

Sec. 68.402. ADDITION OF TERRITORY AND FACILITIES BY FACILITY OWNER. (a) Authorizes the owner of a facility in the county to petition the board of a district to add to the district territory that contains the facility in the county. Requires that the petition describe the territory and facility to be added and be signed by each owner of the facility.

(b) Requires the board, if the board grants the petition, to forward the petition to the commissioners court and make recommendations to the court under Subsection (c).

(c) Requires the board to recommend the security zone in which the facility to be added should be included. Authorizes the board to recommend modifying a security zone as necessary to add the facility. Authorizes the board of a district that has four security zones to also recommend adding a fifth security zone as necessary to add the new facility. Requires that the recommendation also note whether the security zone of any facilities will change if the petition is granted.

(d) Requires the board to include with the petition it forwards to the commissioners court a description of the portion, amount, and terms of the assessment if any part of an assessment imposed by the board is allocable to the facility to be added.

(e) Requires the commissioners court to grant the petition.

Sec. 68.403. MODIFICATION OF ORDER. Requires a commissioners court that adds territory under this subchapter to modify the order that created the district under Section 68.107 (Order Creating District; Changes) to:

(1) modify the territory;

(2) add the facility;

(3) describe any security zones created or modified under this section, including the location of any facilities whose zone has changed;

(4) identify the security zone in which the added facility is located; and

(5) describe the portion, amount, and terms of payment of an assessment imposed by the board that is allocable to the facility.

Sec. 68.404. EXCLUSION OF TERRITORY AND FACILITIES BY BOARD. (a) Authorizes a board to petition the commissioners court of the county that created the district to exclude territory from the district that contains a facility. Requires that the petition include a finding by the board that excluding the territory is practical, just, and desirable.

(b) Authorizes the petition to include recommendations to:

(1) modify or eliminate a security zone, including whether to change the location of any facilities that will remain in the district, provided that the district may not have fewer than four security zones; and

(2) modify assessments that the facility has not paid.

(c) Provides that the commissioners court:

(1) is required to publish notice and conduct a hearing on the petition under Sections 68.104 and 68.105; and

(2) is authorized to grant the petition if the commissioners court finds that exclusion of the territory that contains the facility is practical, just, and desirable.

(d) Requires a commissioners court that excludes territory under this section to modify the order that created the district under Section 68.107 to:

(1) modify the territory;

(2) exclude the facility;

(3) describe any security zones modified or eliminated under this section, including the location of any facilities whose zone has changed; and

(4) modify unpaid assessments, as applicable.

SECTION 12. Makes application of Section 68.152, Water Code, as amended by this Act, prospective.

SECTION 13. Effective date: upon passage or September 1, 2011.