

BILL ANALYSIS

Senate Research Center

S.B. 2286
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Intergovernmental Relations
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2286 is an act that will update H.B. 3562, which is legislation that was passed during the 78th Legislature in 2003. H.B. 3562 provided for the creation, administration, powers, duties, operation, and financing of the Southwest Montgomery County Improvement District (district). The district is authorized to impose a limited sales and use tax and to issue bonds to provide certain improvements and services that will promote the economic health and vitality of the area as a community and business center and provide for the general welfare of the public.

The district was established to develop, encourage, and maintain employment, commerce, and economic development, enhance the quality of life, and promote the public welfare in the district. In 2002, Montgomery County was the 28th fastest growing county in the United States and the fifth fastest growing county in Texas. Southwest Montgomery County, including the Magnolia, Texas, area, was the fastest growing region in Montgomery County. It is home to Magnolia Independent School District, which, with a growth rate of 10 to 12 percent per year, was the second fastest growing school district of its size in the State of Texas. The school district had doubled in size in the previous eight years and is expected to double again in the next five years. The greatest challenges lay in mobility and infrastructure.

S.B. 2286 codifies the evolution of the district in that it changes the name to the Westwood Magnolia Parkway Improvement District, updates the metes and bounds, the number and qualifications of the board of directors, and adds a section that enables the district to reduce its sales and use tax in overlapping political subdivisions that also impose a local sales and use tax so that the combined rate of the local sale and use taxes will equal two percent.

Since its establishment, the district has adopted its motto as "Building Today's Infrastructure for Tomorrow's Business." The district has extended Research Forest Drive from Branch Crossing Drive to Egypt Road, which aids general traffic flow and provides a convenient route for Woodlands shoppers to patronize district businesses. The development, staffing, and equipping of the Montgomery County Sheriff's Department substation in the Westwood Village Shopping Center, including two full-time deputies and patrol vehicles, improves response times and helps to deter crime in the district. The district has also purchased a ladder truck for the Magnolia Volunteer Fire Department and has installed fireplugs to improve safety and to increase ISO ratings.

Additional road construction has expanded Honea Egypt Road to four lanes, adding a traffic signal and a turning lane. The expansion of Egypt Lane to five lanes will begin this summer, which will enhance the safety of school and shopping traffic.

S.B. 2286 amends current law relating to the powers, duties, and governance of the Westwood Magnolia Parkway Improvement District and authorizes assessments.

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 1(a), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, to provide that the Westwood Magnolia Parkway Improvement District, rather than the Southwest Montgomery County Improvement District, is created as a special district in Montgomery County under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

SECTION 2. Amends Section 2, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 2. DEFINITIONS. Provides that, in this Act:

(1) and (2) makes no changes to these subdivisions;

(3) “county” means Montgomery County, Texas;

(4) “district” means the Westwood Magnolia Parkway Improvement District (district), rather than the Southwest Montgomery County Improvement District. Redesignates existing Subdivision (3) as Subdivision (4); and

(5) redesignates existing Subdivision (4) as Subdivision (5) and makes no further changes to this subdivision.

SECTION 3. Amends Sections 3(a) and (b), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) Provides that the creation of the district is essential to accomplish the purposes of 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), rather than Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in a portion of Montgomery County, rather than in the southwest portion of Montgomery County.

SECTION 4. Amends Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 4A, as follows:

Sec. 4A. DISTRICT TERRITORY. Sets forth the territory included in the district.

SECTION 5. Amends Section 5, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, to provide that the boundaries and field notes of the district as described by Section 4A of this Act form a closure.

SECTION 6. Amends Section 6(b), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, to provide that all land and other property 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, rather than Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this Act.

SECTION 7. Amends Section 9, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 9. BOARD OF DIRECTORS. (a) Provides that, except as provided by this section, rather than except as provided by Section 14 of this Act, the district is governed by a

board of five, rather than 11, directors (board) who serve staggered terms of four years with two or three directors' terms expiring on June 1 of each odd-numbered year.

(b) Deletes existing text providing that, except as provided by Section 14 of this Act, six directors are elected by the voters of the district at large. Provides that five directors are appointed as follows from persons recommended by the board:

(1) two directors appointed by the county commissioner of County Commissioners Precinct No. 2, rather than one director appointed by the governing body of the City of Magnolia;

(2) one director appointed by the governing body of the City of Conroe, rather than one director appointed by the governing body of the City of Stagecoach. Redesignates existing Subdivision (3) as Subdivision (2);

(3) redesignates existing Subdivision (4) as Subdivision (3) and makes no further changes to this subdivision;

(4) one director appointed by the county commissioners court, rather than one director appointed by the Montgomery County Commissioners Court. Redesignates existing Subdivision (5) as Subdivision (4).

(c) Authorizes the board by resolution to change the number of directors on the board under certain conditions.

(d) Prohibits the board from consisting of fewer than five or more than nine directors.

(e) Requires a person, to be eligible to serve as a director, to be at least 18 years old and fulfill certain criteria, rather than be at least 18 years old, a resident of the district, and fulfill certain criteria. Redesignates existing Subsection (c) as Subsection (e).

(f) Redesignates existing Subsection (d) as Subsection (f). Prohibits a person from being appointed as a director under Subsection (b) if:

(1) the appointment would cause more than two, rather than three, members of the board to be an agent, employee, officer, or director of the same person or entity that owns or leases property in the district. Creates this subdivision from existing text; or

(2) the proposed director serves on the board of a nonprofit organization, such as a homeowners association or chamber of commerce, that serves any purpose similar to those of the district, including economic development, and serves a geographic territory that encompasses any part of the district.

SECTION 8. Amends Section 10(a), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(a) Provides that a vacancy in an appointed position is filled for the remainder of the unexpired term by the appointment of a person recommended by the board made by the entity that made the original appointment. Deletes existing text providing that a vacancy in an elected position is filled by the remaining members of the board for the unexpired term.

SECTION 9. Amends Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, by adding Sections 11A and 11B, as follows:

Sec. 11A. QUORUM. Provides that, for purposes of determining a quorum of the board, the following are not counted:

- (1) a board position vacant for any reason, including death, resignation, or disqualification; or
- (2) a director who is abstaining from participation in a vote because of a conflict of interest.

Sec. 11B. COMPENSATION. Provides that a director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060 (Fees of Office; Reimbursement), Water Code. Provides that Sections 375.069 (Board Position Not Civil Office of Emolument) and 375.070 (Compensation of Directors; Reimbursement of Expenses), Local Government Code, do not apply to the board.

SECTION 10. Amends Section 13, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

Sec. 13. REMOVAL OF DIRECTOR. Authorizes a governing body or person that appointed a director to the board, on petition of at least two-thirds of the remaining directors and after notice and hearing, to remove the director for misconduct, failure to carry out the director's duties, or failure to attend three consecutive meetings, rather than authorizes the board to remove a director for misconduct or failure to carry out the director's duties by vote of not less than 75 percent of the remaining directors.

SECTION 11. Amends Section 18(b), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, to authorize a project authorized under this section (Improvement Projects) to include, among certain other items, any other public improvements, facilities, or services authorized under this Act or Chapter 375 (Municipal Management Districts in General), Local Government Code, rather than any other public improvements, facilities, or services similar to the projects described in this subsection.

SECTION 12. Amends Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, by adding Sections 19A, 19B, 19C, 19D, and 19E, as follows:

Sec. 19A. TAX AND ASSESSMENT ABATEMENTS. Authorizes the district to designate reinvestment zones and to grant abatements of district taxes or assessments on property within such zones.

Sec. 19B. 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 district money.

Sec. 19C. MONEY USED FOR IMPROVEMENTS OR SERVICES. Authorizes the district to acquire, construct, finance, operate, or maintain any improvement or service authorized under this Act or Chapter 375, Local Government Code, using any money available to the district.

Sec. 19D. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) Prohibits the board from financing a service or improvement project with assessments under this Act unless a written petition requesting that service or improvement has been filed with the board.

- (b) Requires that a filed petition 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.

Sec. 19E. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board, by resolution, to impose and collect an assessment for any purpose authorized by this Act in all or any part of the district.

(b) Sets forth characteristics of 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.

(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.

(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.

SECTION 13. Amends Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, by adding Sections 23A, 23B, 23C, 23D, and 23E, as follows:

Sec. 23A. DEVELOPMENT CORPORATION POWERS. Authorizes the district, using money available to the district, to exercise the powers given to a development corporation under Chapter 505 (Type B Corporations), Local Government Code, including certain powers relating to a project that is authorized to be undertaken in accordance with that chapter.

Sec. 23B. NONPROFIT CORPORATION. (a) Authorizes the board, by resolution, to authorize the creation of a nonprofit corporation (corporation) to assist and act for the district in implementing a project or providing a service authorized by this Act.

(b) Provides that the corporation has each power of and is considered to be a local government corporation created under Subchapter D (Local Government Corporations), Chapter 431 (Texas Transportation Corporation Act), Transportation Code, and authorizes the corporation to implement any project and provide any service authorized by this Act.

(c) Requires the board to appoint the board of the corporation and requires the corporation's board to serve in the same manner as the board of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 23C. AGREEMENTS; GRANTS. (a) Authorizes the district, as provided in Chapter 375, Local Government Code, 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. 23D. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 23E. ECONOMIC DEVELOPMENT PROGRAMS. (a) Authorizes the district to engage in activities that accomplish the economic development purposes of the district.

(b) 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 with certain functions.

(c) Authorizes the district to create economic development programs and exercise the economic development powers provided to municipalities by Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code, and Subchapter A (Bonds for Facilities to be Sold or Leased to Public or Private Entities), Chapter 1509 (Obligations for Other Municipal Purposes), Government Code.

SECTION 14. Amends Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 25A, as follows:

Sec. 25A. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311 (Tax Increment Financing Act), Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code;

(3) an enterprise zone created under Chapter 2303 (Enterprise Zones), Government Code; or

(4) an industrial district created under Chapter 42 (Extraterritorial Jurisdiction of Municipalities), Local Government Code.

SECTION 15. Amends Section 26(c), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(c) Provides that, if as a result of the imposition or increase in a sales and use tax by the district in an area in which there is located all or part of a political subdivision that has adopted a sales and use tax or as a result of the annexation by the district of all or part of the territory in a political subdivision that has adopted a sales and use tax the overlapping local sales and use taxes in the area will exceed a total of two percent, the district's sales and use tax is automatically reduced in that area to a rate that when added to the combined rate of local sales and use taxes will equal two percent.

SECTION 16. Amends Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, by adding Section 27A, as follows:

Sec. 27A. AUTHORITY TO BORROW MONEY. Authorizes the district to borrow money on terms as determined by the board. Provides that Section 375.205 (Approval by Attorney General; Registration), 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.

SECTION 17. Amends Section 28(c), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as follows:

(c) Authorizes the district's bonds, to pay for any district purpose authorized by law, and in addition to the sources of money described by Subchapter J (Bonds), Chapter 375, Local Government Code, to be secured and made payable, wholly or partly, by a pledge of any part of any source of money for the district, including certain sources. Deletes existing text authorizing the district's bonds, in addition to the sources of money described by Subchapter J, Chapter 375, Local Government Code, to be secured and made payable, wholly or partly, by a pledge of any part of the net proceeds the district receives from a specified portion of the sales and use tax authorized by this Act. Makes a nonsubstantive change.

SECTION 18. REPEAL. Provides that the following provisions of Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, are repealed:

- (1) Section 4 (Boundaries);
- (2) Section 10(b) (relating to requiring the Montgomery County Commissioners Court to make appointments to fill certain vacancies on petition of a property owner of the district);
- (3) Section 11 (Election Date for Directors);
- (4) Section 15 (Confirmation Election);
- (5) Section 16 (Borrowing Money Before Confirmation Election);
- (6) Section 19 (Payment of Expenses); and
- (7) Section 23 (Economic Development Powers).

SECTION 19. (a) Provides that an elected or appointed director of the district's board who is serving on September 1, 2017, continues to serve until the expiration of the director's term. Requires that the vacancy, if the position of a director who is serving on that date subsequently becomes vacant before the expiration of the director's term, be filled in the same manner as Section 10 (Vacancy), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, provided immediately before September 1, 2017.

(b) Requires the county commissioner serving for County Commissioners Precinct No. 2 for the Montgomery County Commissioners Court, on the expiration of the terms of the directors who are continuing to serve on September 1, 2017, as described by Subsection (a), to appoint two members in the manner provided by Section 9 (Board of Directors), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, as amended by this Act.

(c) Provides that this section expires January 2, 2025.

SECTION 20. (a) Provides that the legislature validates and confirms all acts and proceedings of the district's board that were taken before the effective date of this Act.

(b) Provides that Subsection (a) does not apply to any matter than 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 21. 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 22. Effective date: September 1, 2017.