

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1807  
By: Bernsen  
Intergovernmental Relations  
4/19/1999  
Committee Report (Substituted)

### **DIGEST**

Under Chapter 375, Local Government Code, the Town Center Improvement District of Montgomery County (district) is a special district having the powers of a municipal management district with certain powers and authority to encourage and promote economic development and business activity within and adjacent to the downtown area of The Woodlands, in Montgomery County. C.S.S.B. 1807 would broaden and strengthen the powers and financial capabilities of the district.

### **PURPOSE**

As proposed, C.S.S.B. 1807 sets forth provisions for promoting economic development in the Town Center Improvement District of Montgomery County.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Town Center Improvement District of Montgomery County board of directors in SECTION 2 (Section 7(n), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to define "impact area." Makes a conforming change.

SECTION 2. Amends Sections 7, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to provide that the board of directors (board) of the Town Center Improvement District of Montgomery County (district) has the powers provided by this section, in addition to the general powers set forth in Section 6 of this Act. Authorizes the board to levy, assess, and apply the proceeds from the limited sales and use taxes authorized by Section 11 of this Act for authorized purposes, consistent with constitutional limitations and to apply an annual average of no less than 10 percent of the net proceeds of the taxes collected under Section 11 of this Act, toward mitigation of the net negative impact of development within the district on the impact area. Provides that direct expenditures made for the district or the impact area are allocable to each area for which the expenditure was made. Provides that expenditures for the general welfare, promotion, or benefit of the district and impact area are allocable between the district and the impact area in the amount, as determined by the board, that is proportionate to the benefit conferred on each area. Authorizes the board to borrow money for the corporate purposes of the district. Authorizes the board to add or exclude territory in the manner provided by Chapter 49J, Section 54.016, Water Code, except for purposes of this subsection, a reference in that section to a tax means an ad valorem tax only, and Section 42.042, Local Government Code and Section 54.016, Water Code, to apply only with respect to the consent of a municipality with a population of 25,000 or less and do not apply to the annexation of land restricted primarily to commercial or business use. Provides that the district may not employ peace officers, but may contract for off-duty peace officers to provide public safety and security services in connection with a special event, holiday, period with high traffic congestion, or similar circumstance. Authorizes the board to exercise the economic development powers and authority that Chapter 380, Local Government Code, and Article 835s, V.T.C.S., to provide a municipality with a population of more than 100,000. Authorizes the board, by rule, to regulate the private use of public roadways, open spaces, parks, sidewalks, and similar public areas. Provides that to the extent the rules of the district conflict with a rule, order, ordinance, or regulation of a county or municipality with jurisdiction in the district's territory, the rule, or order, ordinance, or regulation of the county or municipality controls. Authorizes the rules to provide for the safe and orderly use of public roadways, open spaces, parks, sidewalks, and similar public areas or facilities. Authorizes the board to require a permit for a parade, demonstration, celebration,

entertainment event, or similar nongovernmental activity in or on the public roadways, open spaces, parks, sidewalks, and similar public areas or facilities. Authorizes the board to charge a fee for the permit application and for public safety or security services in an amount the board considers necessary. Authorizes the board to require a permit or franchise agreement with a vendor, concessionaire, exhibitor, or similar private or commercial person or organization of the limited use of the area or facilities on terms and conditions and on payment of a permit or franchise fee the board may impose. Authorizes the board to employ and establish the terms of employment and compensation of a president, vice-president, executive director, general manager, and any other operating officer of the district the board considers necessary. Deletes text regarding Section 11C and the benefits conferred to each impact area. Makes conforming and nonsubstantive changes.

SECTION 3. Amends Sections 8(a)-(e), and (g), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to provide that the district is governed by a board composed of 11 directors elected or appointed as provided by Subsection (c) of this section. Provides that directors serve staggered terms of four years. Requires a person to be a resident of the city making the appointment, to be eligible for appointment under Subsection (c)(1) or (c)(2), rather than Subsection (c)(1)(F) or (c)(1)(G), of this section. Requires a person to be a resident described by Subdivision (1) of this subsection and a resident of any county commissioners precinct that includes all or any portion of the boundaries of the district or impact area, to be eligible for appointment under Subsection (c)(3) of this section. Requires a person to be a member of The Woodlands Community Association, Inc., to be eligible for appointment under Subsection (c)(4), rather than Subsection (c)(1)(H) of this section. Requires a person to be a member of The Woodlands Association, Inc., to be eligible for appointment under Subsection (c)(5) of this section. Requires a person to be a member of The Woodlands Commercial Owners Association, to be eligible for appointment under Subsection (c)(6) of this section. Provides that notwithstanding any other provision of this subsection, no more than three members of the board at any time may be agents, employees, officers, or directors of a single individual, corporation, trust, or partnership that owns or leases real property described by Subdivision (1)(B), (C), (D), (E), or (F) of this subsection, regardless of whether the member is elected or appointed under this section. Provides that any person filing a ballot or write-in candidate's application or any person who is to be appointed to the board, whose election or appointment, at the time of filing or appointment, would cause the limitation of this subdivision to be violated, is ineligible for election or appointment. Provides that the board of directors is composed of one individual appointed by the commissioners court of the county in which the majority of the district's territory is located, one individual appointed by the board of directors of The Woodlands Association, Inc., one individual appointed by the board of directors of The Woodlands Commercial Owners Association, and five individuals elected by the voters of the district at large. Provides that directors serve until their successors have been elected or appointed and have qualified. Requires appointed or elected directors to organize or reorganize by electing a chairman, rather than president, a vice chairman, rather than vice-president, a secretary, and any other officers of the board as the board considers necessary. Deletes text regarding vacancies or expired terms of directors. Deletes text regarding the initial directors. Makes conforming changes.

SECTION 4. Amends Sections 11(e) and (i), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to provide that a tax imposed under this Act or the repeal or reduction of a tax under this Act takes effect on the first day of the calendar quarter. Deletes text regarding an October 1 deadline. Deletes text regarding a reduction of the district's sales and use tax and an ordinance. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, by adding Section 11C, as follows:

Sec. 11C. ECONOMIC DEVELOPMENT ZONES. Defines "development zone," "governing body," "initial development," and "substantial redevelopment." Provides that the board, on its own motion, or upon receipt of a petition signed by the owners of all real property in a defined area of the district, by resolution may create, designate, describe, assign a name to, and appoint the governing body for a development zone in the district to promote initial development or substantial redevelopment of the area, if the board finds that the creation of a zone will further certain public purposes. Requires the board to prepare a preliminary financing plan for such zone to include certain information, before designating a development zone. Requires the board to call and hold a public hearing on the creation of the zone in the manner provided by Section 311.003, Tax Code, for reinvestment zones designated by a municipality, before designating a development zone on its own motion or, if ad valorem taxes are to be used, in whole or in part, for the payment of

improvement project costs in a development zone to be designated in response to a landowner petition. Authorizes a development zone to be created, if more than 10 percent of the property in the proposed zone, other than property that is publicly owned, is used or planned for use for residential purposes. Provides that property is used for residential purposes, if the property occupied by a house that has fewer than five living units, for purposes of this section. Sets forth requirements for a resolution designating an area a development zone. Requires members of the governing body to be appointed for a term of two years, except for the initial members of the governing body, some of whose terms may be limited to one year in order to achieve staggered terms of office. Requires the district by appointment to fill a vacancy on the governing body of the zone for the unexpired term by the district. Requires a member of a governing body to be at least 18 years of age, a citizen of the state, and a person described in Subsection 8(b) of this Act. Requires a member of the board of directors of the district to be appointed to the governing body. Requires each member to qualify for office by subscribing to the constitutional oath of office for public officers and furnishing a fidelity bond issued by a responsible surety in the amount of \$10,000 in favor of the development zone to secure faithful performance of the member's duties. Requires the governing body of the development zone to meet and organize by electing a president, a vice-president, a secretary/treasurer, and other officers the governing body considers appropriate, following appointment and qualifications. Authorizes the boundaries of a development zone to be reduced or enlarged in the manner provided by this section for creation of a zone. Provides that a development zone created by the district under this section is a body politic and corporate and a political subdivision of the state, separate from the district. Provides that the district and the development zone have the same power and authority to carry out this section as Section 311.008, Tax Code, provides a municipality to carry out Chapter 311, Tax Code. Authorizes the board by order to delegate, subject in whole or in part to final approval by the board of directors, any powers and duties relating to the financing and implementation of the project plan for the zone, including the power and authority to impose certain taxes, in addition to the powers granted to the governing body by this section. Authorizes the board and the governing body to each enter into an agreement considered necessary or convenient to implement a project plan and development zone financing plan and achieve their purposes. Provides that an agreement may provide for the regulation or restriction of the use of land by imposing conditions, restrictions, or covenants that run with the land. Authorizes an agreement to dedicate revenue from the tax increment fund to pay project costs and to provide that a restriction adopted by the governing body continues in effect after the termination of the zone. Authorizes the district and the development zone to agree that the district will provide administration, management, investment, accounting, and other services for the zone in consideration for the benefits received by the district through the implementation of the project plan for the zone. Requires the governing body to prepare and adopt, and may amend, a project plan and a development zone financing plan for the development zone containing generally the information and estimates described by Section 311.011, Tax Code, with respect to reinvestment zones, together with an estimate of total and incremental sales and use taxes to be derived from the zone, subject to approval by resolution of the board. Authorizes the amendment to be adopted only after a public hearing meeting the procedural requirements of this section for a meeting on the creation of a development zone has been held, if a plan amendment reduces or increases the geographic area of the zone, increases the amount of bonded indebtedness to be incurred, creates or changes a tax increment to be contributed by a taxing unit, or increases the total estimated project costs. Requires the provisions of Sections 311.012 and 311.013, Tax Code, to apply to the development zone as if the zone were a taxing unit under those sections and to the governing body were the governing body of a taxing unit under those sections, if the financing plan adopted by the governing body of the development zone uses ad valorem taxes, in whole or part, for payment of project costs. Authorizes the district or adopt or repeal for the use and benefit of one or more development zones created by the district before or after the election an incremental sales and use tax of no more than one percent, if approved at an election by a majority of the qualified voters voting in an election called and held for that purpose. Authorizes an election on the adoption or repeal of the maximum rate of incremental sales and use tax to be called and held by the board as provided by Section 11 of this Act for an election on the adoption of the limited sales and use tax authorized by Section 11. Authorizes the governing body to impose, assess, and collect all or any portion of the incremental sales and use tax, in increments of no less than one-eighth of one-percent, for the benefit of the zone, by order of the governing body, after adoption at an election, to the extent the district has delegated the authority to the zone. Provides that the incremental sales and use tax is in addition to the limited sales and use tax authorized and imposed assessed, and collected by the district under Section 11 of this Act. Requires the incremental sales and use tax becomes effective on the first

day of the calendar quarter following the date the comptroller receives written notice of the imposition of the tax and to be paid into the tax increment fund for the development zone. Provides that Sections 311.002 and 311.014 through 31.017, Tax Code, apply to the district, except that purposes of this subsection certain references.

SECTION 6. Amends Sections 12A(a) and (c), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to authorize the board of the district to issue bonds in the manner provided by Chapter 375J, Local Government Code. Provides that Sections 375.207 and 375.208, Local Government Code, do not apply to bonds issued by the district under this Act. Deletes text regarding repayments to the district by a municipality.

SECTION 7. Amends Section 13, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to authorize the district and a municipality any part of which is located in the boundaries of the district or impact area of the district to enter into and carry out interlocal agreements for the accomplishment of an improvement project or the provision of a facility, a service, or equipment by the district in or for the benefit of the municipality. Provides that notwithstanding any other law, payment for the improvement project, facility, service, or equipment to be made or pledged by the municipality to the district out of any money the municipality collects under Chapter 351, Tax Code, or out of any other available money. Makes a conforming change.

SECTION 8. Repealer: Section 11(h), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993 (annexation or incorporation of a district into a municipality).

SECTION 9. Requires the additional directors authorized by this Act to be appointed and qualified as soon as practicable after the effective date of this Act. Requires one of the additional directors to serve for a term ending on the first Saturday in May 2000, and the remaining two additional directors to serve for a term ending on the first Saturday in May 2002, as determined by the board by lot or by mutual agreement. Provides that nothing in this Act shall be deemed or construed to affect the terms of office of the existing directors.

SECTION 10. Provides that the legislature finds that the proper and legal notice and consent of the intention to introduce this Act has been met.

SECTION 11. Emergency clause.  
Effective date: upon passage.

## **SUMMARY OF COMMITTEE CHANGES**

Relating clause.

Amends the relating clause to relating to the administration, powers, including taxing powers, operations, and financing of the Town Center Improvement District of Montgomery County.

SECTION 1.

Adds Section 2, regarding the definitions of “board,” “commission,” “district,” and “impact area.”  
Makes a conforming change. Redesignates proposed SECTION 1 as SECTION 2.

SECTION 2.

Amends Section 7, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to provide that the board of directors (board) of the Town Center Improvement District of Montgomery County (district) has the powers provided by this section, in addition to the general powers set forth in Section 6 of this Act. Provides that direct expenditures made for the district or the impact area are allocable to each area for which the expenditure was made. Provides that expenditures for the general welfare, promotion, or benefit of the district and impact area are allocable between the district and the impact area in the amount, as determined by the board, that is proportionate to the benefit conferred on each area. Authorizes the board to exercise the economic development powers and authority that Chapter 380, Local Government Code, and Article 835s, V.T.C.S., to

provide a municipality with a population of more than 100,000. Authorizes the board, by rule, to regulate the private use of public roadways, open spaces, parks, sidewalks, and similar public areas. Provides that to the extent the rules of the district conflict with a rule, order, ordinance, or regulation of a county or municipality with jurisdiction in the district's territory, the rule, or order, ordinance, or regulation of the county or municipality controls. Authorizes the rules to provide for the safe and orderly use of public roadways, open spaces, parks, sidewalks, and similar public areas or facilities. Authorizes the board to require a permit for a parade, demonstration, celebration, entertainment event, or similar nongovernmental activity in or on the public roadways, open spaces, parks, sidewalks, and similar public areas or facilities. Makes conforming changes. Redesignates proposed SECTION 2 as SECTION 3.

#### SECTION 3.

Amends Sections 8(a)-(e) and (g), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to provide that the district is governed by a board composed of 11 directors elected or appointed as provided by Subsection (c) of this section. Requires a person to be a resident of the city making the appointment, to be eligible for appointment under Subsections (c)(1) or (c)(2) of this section. Requires a person to be a resident described by Subdivision (1) of this subsection and a resident of any county commissioners precinct that includes all or any portion of the boundaries of the district or impact area, to be eligible for appointment under Subsection (c)(3) of this section. Provides that notwithstanding any other provision of this subsection, no more than three members of the board at any time may be agents, employees, officers, or directors of a single individual, corporation, trust, or partnership that owns or leases real property described by Subdivision (1)(B), (C), (D), (E), or (F) of this subsection, regardless of whether the member is elected or appointed under this section. Provides that any person filing a ballot or write-in candidate's application or any person who is to be appointed to the board, whose election or appointment, at the time of filing or appointment, would cause the limitation of this subdivision to be violated, is ineligible for election or appointment. Provides that the board of directors is composed of one individual appointed by the commissioners court of the county in which the majority of the district's territory is located, one individual appointed by the board of directors of The Woodlands Commercial Owners Association, and five individuals elected by the voters of the district at large. Deletes text regarding three members elected or appointed to serve on the board. Deletes text regarding boundaries of the district of the impact area. Deletes text requiring five elected directors and six appointed directors to serve on the board and the effective date of this Act. Makes conforming changes. Redesignates proposed SECTION 3 as SECTION 4.

#### SECTION 4.

Amends Section 11(e) and (i), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes. Redesignates proposed SECTION 4 as SECTION 5.

#### SECTION 5.

Amends Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to define "development zone," "governing body," "initial development," and "substantial redevelopment." Provides that the district and the development zone have the same power and authority to carry out this section as Section 311.008, Tax Code, to provide a municipality to carry out Chapter 311, Tax Code. Requires the provisions of Sections 311.012 and 311.013, Tax Code, to apply to the development zone as if the zone were a taxing unit under those sections and to the governing body were the governing body of a taxing unit under those sections, if the financing plan adopted by the governing body of the development zone uses ad valorem taxes, in whole or part, for payment of project costs. Authorizes an election on the adoption or repeal of the maximum rate of incremental sales and use tax to be called and held by the board as provided by Section 11 of this Act for an election on the adoption of the limited sales and use tax authorized by Section 11. Makes conforming changes. Redesignates SECTION 5 as SECTION 6.

#### SECTION 6.

Amends Sections 12A(a) and (c), Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to make conforming changes. Redesignates SECTION 6 as SECTION 7.

SECTION 7.

Amends Section 13, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993, to make a conforming change. Redesignates SECTION 7 as SECTION 8.

SECTION 8.

Deletes Subsection (d), Section 8, Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993. Redesignates proposed SECTION 8 as SECTION 9.

SECTION 9.

Redesignates proposed SECTION 9 as SECTION 10.

SECTION 10.

Deletes severability clause. Redesignates proposed SECTION 10 as SECTION 11.

SECTION 11.

Adds the effective date: upon passage.