

BILL ANALYSIS

Senate Research Center
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S.B. 647
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DIGEST AND PURPOSE

The unincorporated retail area of Old Town Spring, made up of more than 150 stores and shops, has grown tremendously in recent years. As proposed, S.B. 647 establishes an Improvement District governed by a board of directors to manage and maintain Old Town Spring, and authorizes the board to impose and collect a limited sales and use tax, impose and collect other fees, and apply the proceeds to maintain the district. The bill sets out specific legal boundaries for the district.

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 Chapter 376, Local Government Code, by adding Subchapter K, as follows:

SUBCHAPTER K. OLD TOWN SPRING IMPROVEMENT DISTRICT

Sec. 376.451. **CREATION OF DISTRICT.** Creates the Old Town Spring Improvement District as a special district under Section 59, Article XVI (Conservation and Development of Natural Resources; Conservation and Reclamation Districts). Authorizes the board of directors of the district (board) by resolution to change the district's name.

Sec. 376.452. **DECLARATION OF INTENT.** Declares legislative intent.

Sec. 376.453. **DEFINITIONS.** Defines "board," "county," and "district."

Sec. 376.454. **BOUNDARIES.** Sets the boundaries of the district.

Sec. 376.455. **FINDINGS RELATED TO BOUNDARIES.** Provides that any 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, or validity; its right to issue any type of bond for the district's purposes; its right to impose or collect an assessment or tax; or its legality or operation.

Sec. 376.456. **FINDINGS OF BENEFIT AND PUBLIC PURPOSE; GENERAL DUTIES.** Sets forth the benefits of the district's creation and purposes of the district. Prohibits the district from acting as the agent or instrumentality of any private interest even though private interests as well as the public are benefitted by the district.

Sec. 376.457. **BOARD OF DIRECTORS.** Defines "commissioners court." Establishes a board of five directors. Makes criteria for the board members. Sets terms and term limits for the directors.

Sec. 376.458. ADMINISTRATION OF BOARD. Provides that Sections 375.066-375.070 apply to the board as if it were established under Chapter 375.

Sec. 376.459. RESTRICTION ON VOTING. Prohibits the president of the board from voting except to break a tie vote.

Sec. 376.460. ELECTION OF DIRECTORS. Provides for the election of the elected directors.

Sec. 376.461. GENERAL POWERS. Establishes powers and duties of the district.

Sec. 376.462. SPECIFIC POWERS AND LIMITATIONS. Sets forth specific authorizations and prohibitions of the district.

Sec. 376.463. SPECIFIC POWERS RELATING TO IMPROVEMENTS. Sets forth specific authorizations related to improvement projects or services provided by the district.

Sec. 376.464. RELATION TO OTHER LAW. Provides that this subchapter prevails in any conflict or inconsistency with Subchapter E, Chapter 375. Adopts and incorporates by reference a law referenced in Section 376.461 or Subchapter E that is not in conflict with or inconsistent with this subchapter. Authorizes the district to use a nonconflicting law independently of this subchapter or Subchapter E.

Sec. 376.465. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

Sec. 376.466. SALES AND USE TAX; EXCISE TAX. Defines “taxable items” and “use.” Authorizes the district to impose a sales and use tax for the benefit of the district if authorized by the voters. Imposes certain taxes if the district adopts the tax. Sets forth the rate formula for the taxes.

Sec. 376.467. TAX ELECTION PROCEDURES. Sets forth requirements and authorizations for an election to adopt, change the rate of, or abolish a sales and use tax.

Sec. 376.468. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF TAX. Provides that Chapter 323 (County Sales and Use Tax Act), Tax Code, to the extent not inconsistent with this subchapter, governs the application, collection, and administration of the tax under this subchapter, except for certain sections, which do not apply. Provides that Subtitles A (General Provisions) and B (Enforcement and Collection), Title 2, and Chapter 151 (Limited Sales, Excise, and Use Tax), Tax Code, govern the administration and enforcement of the taxes under this subchapter. Provides that Chapter 323, Tax Code, does not apply to the use and allocation of revenues under this subchapter. Provides that in the application of Chapter 323, Tax Code, the district’s name shall be substituted for references in that chapter to “the county” and the board is substituted for references in that chapter to “commissioners court.”

Sec. 376.469. EFFECTIVE DATE OF TAX OR TAX CHANGE. Provides that the adoption of a tax rate or change in the tax rate takes effect after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

Sec. 376.470. TAX RATES. Authorizes the district to impose the sales and use tax under this subchapter in increments of one-eighth of one percent, with a minimum tax of one-half percent and a maximum tax of one percent.

Sec. 376.471. ABOLITION OF TAX RATE. Authorizes the board by order to abolish the local sales and use tax rate without an election.

Sec. 376.472. USE OF TAX. Authorizes the use of taxes collected under this subchapter only for the purposes for which the district was created.

Sec. 376.473. SUBMISSION OF ANNEXATION INFORMATION. Requires the board, not later than the 10th day after the date on which the district annexes or excludes territory, to send to the comptroller a certified copy of any resolution, order, or ordinance relating to the annexation or exclusion.

Sec. 376.474. BONDS. Authorizes the board to issue bonds as provided by Chapter 375J. Authorizes the bonds to be additionally secured and made payable by proceeds from the sales and use tax, with restrictions. Provides that Sections 375.207 and 375.208 do not apply to bonds issued under this section.

Sec. 376.475. CONTRACTING AUTHORITY. Authorizes the district to contract with any person to carry out the purposes of this subchapter, and any person to contract with the district to carry out the purposes of this subchapter.

Sec. 376.476. DISSOLUTION BY BOARD ORDER. Authorizes the board by order to dissolve the district at any time unless the district has outstanding indebtedness or contractual obligations.

Sec. 376.477. DISSOLUTION BY PETITION OF OWNERS. Requires the board by order to dissolve the district if the board receives a written petition signed by 75 percent or more of the individuals who own real property in the district. Prohibits the district, after the date it is dissolved, from levying taxes. Requires the board, not later than 30 days after dissolution, to certify each outstanding liability of the district. Requires the county to assume the outstanding liabilities. Requires the county to collect the sales and use tax for the district for the remainder of the calendar year. Authorizes the county to continue to collect the tax for an additional calendar year if the commissioners court finds that the tax revenue is needed to retire the liabilities. Authorizes the district to continue to operate for two months after carrying out the responsibilities required by Subsection (c). Continues the district in effect for the purpose of satisfying these responsibilities. Provides that if the district is continued in effect, the district is dissolved entirely on the first day of the month following the month in which the board certifies to the secretary of state that the district has satisfied the responsibilities regarding dissolution.

Sec. 376.478. ADMINISTRATION OF DISTRICT PROPERTY FOLLOWING DISSOLUTION. Requires the board, after it orders the dissolution of the district, to transfer ownership of all district property to the county, with an exception. Requires the board, if on the date on which the board orders the dissolution more than 50 percent of the district territory is in a municipality, to transfer ownership of the district's property to the municipality.

SECTION 2. Sets forth legislative findings.

SECTION 3. Sets forth a list of the initial members of the Old Town Spring Improvement District board. Provides for the expiration of board member terms. Requires Vance Fellers to serve as the president of the initial board. Provides that this subsection prevails over Section 375.068 to the extent of any inconsistency with that section.

SECTION 4. Requires the initial board to meet as soon as practicable. Requires the board to call an election to confirm the creation of the district. Requires the board to call the confirmation election at the first meeting unless the board calls a hearing to exclude territory from the district. Makes requirements regarding the manner and the date on which the election shall be held. Prohibits the board from calling

or holding another confirmation election until six months after the most recent election if a majority of votes are against confirmation. Prohibits the district from borrowing money or imposing taxes before the confirmation. Authorizes the district to carry on other business as the board determines.

SECTION 5. Effective date: September 1, 2001.