

BILL ANALYSIS

Senate Research Center

H.B. 3578
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Intergovernmental Relations
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Engrossed

DIGEST AND PURPOSE

The Upper Kirby Management District (district) was created by Chapter 275, Acts of the 75th Legislature, Regular Session, 1997. In 1998, by resolution of its board of directors (filed with the Texas Commission on Environmental Quality), the district changed its name to Harris County Improvement District No. 3.

H.B. No. 3578 relates to the powers and duties of the district. The district functions as a municipal management district for the Kirby Drive area within the corporate limits of the City of Houston. It manages a number of government functions in conjunction with the city, including specific improvement projects and programs pertaining to utility systems, public safety, public recreation, mobility, transportation, esthetic maintenance, and economic development. A major initiative of the District is the relocation of overhead utility facilities and lines along its primary corridors.

H.B. 3578 updates the district's enacting statute to reflect the correct name of the district as "Harris County Improvement District No. 3". This bill, in connection with utility facility relocation, augments existing district authority to focus assessment programs only on adjacent landowners who directly benefit from the relocations and improvements, at the request of the landowners.

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 the heading to Subchapter E, Chapter 376, Local Government Code, to read as follows:

SUBCHAPTER E. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 3

SECTION 2. Amends Section 376.151(a), Local Government Code, to provide that a special district to be known as the "Harris County Improvement District No. 3" exists as a governmental agency, body politic and corporate, and political subdivision of the state.

SECTION 3. Amends Section 376.153(2), Local Government Code, to redefine "District."

SECTION 4. Amends Section 376.165, Local Government Code, by adding Subsections (g) and (h), as follows:

(g) Authorizes an assessment to be imposed on only a part of the district if only that part will benefit from the service or improvement.

(h) Prohibits the board from imposing an assessment or financing a service or improvement project under this subchapter unless a written petition requesting the improvement or service has been filed with the board. Requires the petition to be signed by certain individuals.

SECTION 5. Amends Section 376.170, Local Government Code, as follows:

Sec. 376.170. EXEMPTION OF PUBLIC UTILITY FROM FEE OR ASSESSMENT. Prohibits the district from imposing an impact fee or assessment on the property, equipment, or facilities of an electric utility as defined by Section 31.002, Utilities Code, a gas utility as defined by Section 101.003 or 121.001, Utilities Code, a telecommunications provider as defined by Section 51.002, Utilities Code, or a cable operator as defined by 47 U.S.C. Section 522, as amended.

SECTION 6. Amends Subchapter E, Chapter 376, Local Government Code, by adding Section 376.171, as follows:

Sec. 376.171. USE OF ELECTRICAL OR OPTICAL LINES. (a) Authorizes the district to impose an assessment to pay the cost of:

- (1) burying or removing electrical power lines, telephone lines, cable or fiber optic lines, or any other type of electrical or optical line;
- (2) removing poles and any elevated lines using the poles; and
- (3) reconnecting the lines described by Subdivision (2) to the buildings or other improvements to which the lines were connected.

(b) Authorizes the district to acquire, operate, or charge fees for the use of the district conduits for:

- (1) another person's:
 - (A) telecommunications network;
 - (B) fiber-optic cable; or
 - (C) electronic transmission line; or
- (2) any other type of transmission line or supporting facility.

(c) Prohibits the district from requiring a person to use a district conduit.

SECTION 7. Amends Subchapter E, Chapter 376, Local Government Code, by adding Section 376.172, as follows:

Sec. 376.172. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES. (a) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) Requires a petition to be filed with the district requesting the action with regard to a public transit system, before the district may act under Subsection (a). Requires the petition to be signed by owners of property representing a majority of either the total assessed value or the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located. Provides that the determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

(c) Authorizes the district to acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain certain parking facilities.

(d) Requires a parking facility of the district to be either leased to or operated on behalf of the district by a private entity or an entity other than the district. Provides that the district's parking facilities are a program authorized by the

legislature under Section 52-a, Article III, Texas Constitution, and accomplish a public purpose under that section even if leased or operated by a private entity for a term of years.

(e) Provides that the district's public parking facilities and any lease to a private entity are exempt from the payment of ad valorem taxes and state and local sales and use taxes.

(f) Authorizes the district to use any of its resources, including revenues, assessments, taxes, and grant or contract proceeds, to pay the cost of acquiring and operating a public transit system or public parking facilities.

(g) Authorizes the district to adopt rules and regulations covering its public transit system or its public parking facilities except that any rules relating to or affecting the use of the public right-of-way or requirements for off-street parking must be subject to all applicable municipal charter, code, or ordinance requirements.

(h) Authorizes the district to set and impose fees, charges, or tolls for the use of the public transit system or the public parking facilities and to issue bonds or notes to finance the cost of these facilities.

(i) Provides that, except as provided by Subsection (b), if the district pays for or finances the cost of acquiring or operating a public transit system or public parking facilities with resources other than assessments, a petition of property owners or a public hearing is not required.

(j) Requires the district to pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been levied for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property, if the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation.

SECTION 8. (a) Provides that the legislature validates and confirms all acts and proceedings of the Harris County Improvement District No. 3 and the district's board of directors that occurred before the effective date of this Act, including changing the district's name from the "Upper Kirby Management District" to "Harris County Improvement District No. 3."

(b) Provides that this section does not apply to any matter that on the effective date of this Act:

- (1) is involved in litigation, if the litigation ultimately results in the matter being held invalid by a final judgment of a court with jurisdiction; or
- (2) has been held invalid by a court with jurisdiction.

SECTION 9. Effective date: upon passage or September 1, 2003.