

BILL ANALYSIS

Senate Research Center

S.B. 1804
By: Jackson, Mike
Intergovernmental Relations
4/25/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 1804 creates the Galveston County Municipal Utility District Number 64. Currently, the land located within the boundaries of the proposed District is undeveloped. The territory of the District will lie within the City of Texas City, or its extraterritorial jurisdiction, and Galveston County. The district will have all of the powers granted to municipal utility districts in Chapters 49 and 54, Water Code, navigation districts in Chapter 60 and 62, Water Code, and road utility districts in Chapter 441, Transportation Code, and will be eligible to be included in a tax increment reinvestment zone created pursuant to Chapter 311, Tax Code.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

(N.B.: Bill as drafted contains no chapter or section numbers)

SECTION 1. Amends Subtitle F, Title 6, Special District Local Laws Code, by adding Chapter ____, as follows:

CHAPTER ____ GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT
NO. 64.

SUBCHAPTER A. GENERAL PROVISIONS

Sec. ____001. DEFINITIONS. Defines "board," "city," and "district."

Sec. ____002. CREATION OF DISTRICT. Provides that the Galveston County Municipal Utility District No. 64 (district) is created as a special district under Section 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, and Section 59 (Conservation and Redevelopment of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. ____003. DECLARATION OF INTENT. Provides that the creation of the district is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act.

Sec. ____004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes of the district form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not in any way affect certain aspects of the district.

Sec. ____005. APPLICABILITY OF OTHER LAW. (a) Provides that, except as otherwise provided by this Chapter, Chapters 49 (Provisions Applicable to All District) and 54 (Municipal Utility Districts), Water Code, apply to the district.

(b) Provides that Chapter 311(Code Construction Act), Government Code, applies to this Act.

(c) Provides that Chapter 1471 (Bonds for County Roads), Government Code, does not apply to the district.

Sec. ____006. CONSTRUCTION OF ACT. (a) Requires this Act to be liberally construed in conformity with the findings and purposes set forth in this Act.

(b) Provides that if any provision of the general law conflicts with this Act, this Act prevails.

(c) Provides that if any provision of the general law conflicts with Chapters 49 and 54, Water Code, Chapters 49 and 54, Water Code prevail.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. ____051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five directors.

(b) Requires each director to be elected and to serve for the term of office provided for directors under Chapter 49, Water Code, and until his successor is elected and has qualified, except for the initial directors.

(c) Requires each director to qualify to serve as director in the manner provided by Chapter 49, Water Code, except for the initial directors.

Sec. ____052. INITIAL DIRECTORS. (a) Provides that the initial board consists of certain individuals.

(b) Provides that of the initial directors, the terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2007, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2009.

(c) Requires the board to hold an election for the directors whose terms expire on the uniform election date in May 2007. Requires the board to hold an election for the directors whose terms expire on the uniform election date in May 2009.

(d) Provides that this section expires September 1, 2009.

Sec. ____053. CONFIRMATION ELECTION. Requires the board of directors to hold an election to confirm the creation of the district as provided by Section 49.102 (Confirmation and Director Election), Water Code.

SUBCHAPTER C. POWERS AND DUTIES

Sec. ____101. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this Act.

(b) Sets forth the purposes of the district.

Sec. ____102. POWERS OF DISTRICT. (a) Requires the district to have the functions, powers, authority, rights and duties which will permit accomplishment of the purposes for which it was created.

(b) Requires the district to have all of the rights, powers, privileges, authority and functions, specifically including but not limited to those relating to the levying of

taxes, issuance of bonds, imposition of standby fees, and exercise of the power of eminent domain, conferred by the general laws of this state applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution, including those conferred by Chapters 49 and 54, Water Code.

Sec. ____103. SPECIFIC ROAD POWERS OF DISTRICT. (a) Authorizes the district to purchase, construct, acquire, own, operate, maintain, improve or extend inside and outside its boundaries certain roads and road facilities.

(b) Provides that the district has the power and authority to issue bonds, notes, and other obligations or otherwise lend its credit and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof for the construction, purchase, maintenance and operation of roads and road facilities in accordance with Section 52, Article III, Texas Constitution. Prohibits the total amount of bonds issued for such purpose from exceeding one-fourth of the assessed market value of real property of the district as determined by the chief appraiser of the appraisal district that appraises property for the district.

(c) Authorizes the roads and road facilities to include drainage, landscaping and pedestrian improvements and lights, signs, or signals that are incidental thereto and their construction, maintenance, or operation.

(d) Requires the roads and road facilities authorized by this section to meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the City of Texas City (city).

(e) Authorizes the district, with consent of the city, to convey that road or road facility to the city, provided the conveyance is free of all indebtedness of the district on completion of a road or road facility authorized by this section. Provides that if the city becomes the owner of a road or road facility, the city is responsible for all future maintenance and upkeep, and the district has no further responsibility for the road or road facility or its maintenance or upkeep, unless otherwise agreed to by the district and the city.

(f) Authorizes a district to contract with a state agency, political subdivision, or corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code, for a joint road or road facility. Authorizes a district to issue bonds to pay all or part of the costs of the road or road facility and any other payments required pursuant to the contract. Authorizes a contract to be a contract under Section 49.108 (Contract Elections), Water Code. Authorizes the contract to accomplish certain items.

(g) Authorizes the district to agree to certain reimbursements or purchases.

(h) Sets forth certain guidelines for the amount paid for the reimbursement or purchase of a road or road facility.

(i) Authorizes that district to enter into an agreement to use the proceeds of a subsequent bond sale for reimbursing all construction costs, engineering and other expenses, and financing costs incident to construction or acquisition of a road or an interest in a road to a private person who constructs or acquires a road or road facility that benefits the district pursuant to the agreement. Authorizes the agreement to provide the terms and conditions under which the road or road facility will be dedicated or transferred for the benefit of the public and to pay or reimburse the cost of constructing or acquiring the road.

Sec. ____104. SPECIFIC NAVIGATION POWERS OF DISTRICT. Authorizes the district to purchase, construct, acquire, own, operate, maintain, improve or extend inside and outside its boundaries canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the authorized navigation purposes of the district.

(Bill as drafted does not contain a Section ____105.

Sec. ____106. TAX INCREMENT REINVESTMENT ZONE. (a) Provides that all or any part of the area of the district is eligible, regardless of other statutory criteria, to be included in a tax increment reinvestment zone created pursuant to Chapter 311 (Tax Increment Financing Act), Tax Code.

(b) Authorizes the district to enter into a contract with the board of directors of a reinvestment zone created pursuant to Chapter 311, Tax Code, and the governing body of the city for the district to manage or assist in managing the reinvestment zone or implement or assist in implementing the reinvestment zone's project plan and reinvestment zone financing plan for the term of the contract in the same manner as a local government corporation pursuant to Section 311.010(f). Authorizes the contract to provide that the district shall issue bonds, notes or other obligations and pledge the contract revenues to the payment thereof. Authorizes the district to issue bonds payable in whole or in part from the revenue of the contract to pay for the implementation of the reinvestment zone's project plan and reinvestment zone financing plan. Provides that such bonds and the projects financed by the bonds are not subject to Sections 49.181 (Authority of Commission Over Issuance of Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water Code.

Sec. ____107. EMINENT DOMAIN. (a) Authorizes the district to exercise the power of eminent domain in accordance with Section 49.222 (Eminent Domain), Water Code.

(b) Requires the district to obtain the written consent of the city prior to exercising its power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. ____151. ELECTIONS REGARDING TAXES OR BONDS. (b) Authorizes the district to issue bonds, notes, and other obligations secured by revenues or contract payments from any lawful sources other than ad valorem taxation without an election.

(b) Requires the district to hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

(c) Authorizes the district to include more than one purpose in a single proposition at an election.

(d) Authorizes the district to issue certain bonds, notes, and other obligations to finance roads and road facilities under, secured in whole or in part by ad valorem taxation and impose ad valorem taxes to pay the principal of and interest on those obligations and provide a sinking fund for the redemption thereof only if the issuance is approved by a two-thirds majority of the voters of the district voting at an election called and held for that purpose.

Sec. ____152. AD VALOREM TAX. Authorizes the district to impose an annual ad valorem tax on taxable property in the district for the acquisition, construction, financing, maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services if authorized at an election held in accordance with Section ____151. Requires the board to determine the tax rate.

SUBCHAPTER E. BONDS OR OTHER OBLIGATIONS

Sec. ____201. OBLIGATIONS. (a) Authorizes the district to issue bonds, notes, or other obligations payable in whole or in part from ad valorem taxes, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) Authorizes the district to issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation in exercising the district's borrowing power.

(c) Requires the board to levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the district in [a] sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting taxes at the time bonds payable in whole or in part from ad valorem taxes are issued.

Sec. ____202. AUTHORITY OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY OVER ISSUANCE OF DISTRICT BONDS. (a) Provides that Sections 49.181 and 49.182, Water Code, apply to all water, wastewater, drainage and recreational facility projects of the district and bonds issued therefor.

(b) Provides that Section 49.181, Water Code, applies to all road and road facility projects and navigation projects and bonds issued therefor; however, the review of the Texas Commission on Environmental Quality of such projects shall be limited to the financial feasibility of such projects and bonds, and shall not include the review or approval of the design and construction of such projects or the engineering feasibility of such projects, and the requirements of written applications for investigation of feasibility shall be adjusted accordingly.

(c) Provides that Section 49.182, Water Code, does not apply to any road and road facility projects and navigation projects and bonds issued therefor.

(d) Provides that projects and bonds of the district are not subject to the review and approval of the Texas Transportation Commission or the rules promulgated by the Texas Transportation Commission.

(e) Prohibits, to the extent that the district issues bonds secured solely by revenues provided under a contract described in Section ____104(b), Sections 49.181, 49.182, and 49.4645 (District in Certain Counties: Bonds for Recreational Activities), Water Code, from applying to the issuance of such bonds and restricting the types of facilities or improvements that may be financed with such bonds.

SECTION 2. Sets forth the territory initially contained in the district.

SECTION 3. Provides that all requirements of the constitution and 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 4. Effective date: upon passage or September 1, 2005.