

## **BILL ANALYSIS**

Senate Research Center

S.B. 1892  
By: Madla  
Intergovernmental Relations  
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As Filed

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

As proposed, S.B. 1892 establishes the Espada Development District near the southeast intersection of U.S. Highway 281 and Loop 410. All of the property within the district is undeveloped, and there are no residents on the property. Currently, the property is intended to be developed as a master-planned residential community with related commercial development. The district will not have eminent domain powers.

The special district will enable the financing of the water, sewer and drainage facilities, parks and roads needed to serve the property. In this regard, the district will act very similarly to a municipal utility district. The developer will fund the design and construction of utilities to serve the property. As taxable value within the district grows, the district will issue bonds to reimburse the developer. The bonds will be supported by a special tax levied within the district.

The City of San Antonio will appoint the initial board of directors, approve any public improvements to be constructed and the issuance of any bonds by the district and its city manager, director of finance, and director of public works will serve as ex officio board members.

### **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 Subtitle C, Title 4, Special District Local Laws Code, Chapter 3833, as follows:

#### **CHAPTER 3833. ESPADA DEVELOPMENT DISTRICT SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 3833.001. DEFINITIONS. Defines "board," "city," and "district."

Sec. 3833.002. ESPADA DEVELOPMENT DISTRICT. Provides that the Espada Development District (district) is created as a special district under Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Section 52-a (Loan or Grant of Public Money for Economic Development), Article III, Section 1-g (Development or Redevelopment of Property; Ad Valorem Tax Relief and Issuance of Bonds and Notes), Article VIII, and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 3833.003. MUNICIPAL CONSENT REQUIRED. Sets forth certain requirements of the board unless the governing body of the City of San Antonio (governing body) (city) by resolution consents to the creation of the district before January 1, 2007.

Sec. 3833.004. CONFIRMATION ELECTION REQUIRED. Sets forth certain requirements for the district if the creation of the district is not confirmed at a confirmation election held under Section 3833.024 before September 1, 2009. Provides that this chapter expires September 1, 2012, if the district is not confirmed at said election.

Sec. 3833.005. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b) Provides that creation of the district is necessary to develop, encourage, and maintain employment, commerce, economic development, and the public welfare of residents, employers, employees, and consumers in the district and adjacent areas.

(c) Provides that, except as provided by this chapter, the creation of the district is prohibited from being interpreted to relieve the city from providing services to the area of the district. Provides that the district is created to supplement and not to supplant the city services provided in the area of the district.

Sec. 3833.006. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. Sets forth the purpose and intent in the creation of the district.

Sec. 3833.007. DISTRICT TERRITORY. Provides that the district is composed of the territory described by Section 2 of the Act enacting this chapter as that territory may have been modified under certain statutes. Provides that the boundaries and filed notes form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not affect the validity, legality, or certain rights of the district.

Sec. 3833.008. COMPLIANCE WITH MUNICIPAL CONSENT RESOLUTIONS. Requires the district to comply with all applicable requirements of any resolution adopted by the governing body of the city that consents to the creation of the district or to the inclusion of territory in the district.

Sec. 3833.009. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that except as provided by this chapter, Chapter 49, Water Code, does not apply to the district.

Sec. 3833.010. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3833.011-3833.020 for expansion.]

#### SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 3833.021. INITIAL DIRECTORS. (a) Requires the governing body to appoint a board of five initial voting directors if the governing body of the city consents to the creation of the district under Section 3833.003.

(b) Sets forth certain requirements for the governing body pertaining to the appointment of the initial directors.

Sec. 3833.022. ORGANIZATIONAL MEETING OF INITIAL DIRECTORS. Requires, as soon as practicable after the appointment of all the initial directors, the initial directors to meet at a location in the district agreeable to a majority of the directors. Requires, at the meeting, the initial directors to elect officers from among the initial directors and conduct any other district business.

Sec. 3833.023. CHANGE IN DISTRICT TERRITORY BEFORE CONFIRMATION ELECTION. (a) Provides that, except as provided by Subsection (b), Section 49.315 (Adding and Excluding Land Before Confirmation), Water Code, applies to the district.

(b) Requires the governing body to approve by resolution the addition or exclusion of any territory in the district. Authorizes the governing body to include conditions in the resolution, including a condition that certain territory be added to or excluded from the district.

Sec. 3833.024. CONFIRMATION ELECTION. (a) Requires the initial board to hold an election to confirm the district's creation.

(b) Requires the ballots for a confirmation election to provide for voting "For District" and "Against District."

(c) Requires the initial board to declare that the district is created and enter the result in its minutes if a majority of the votes cast in the election favor the creation of the district. Requires the initial board to declare that the district was defeated and enter the result in its minutes if less than a majority of the votes cast in the election are against the creation of the district. Requires the board to file a copy of the order with the governing body.

(d) Requires the order canvassing the results of the confirmation election to contain a description of the district's boundaries. Requires the initial board to file the order in the district's records and in the deed records of the county or counties in which the district is located.

Sec. 3833.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2012.

[Reserves Sections 3833.026-3833.050 for expansion.]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3833.051. BOARD OF DIRECTORS; TERMS. Provides that the district is governed by a board of five directors who serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

Sec. 3833.052. QUALIFICATIONS. Sets forth qualifications to serve as a director. Provides that a change in the number of individuals who reside in the district does not affect a director's entitlement to serve out the remainder of the director's term.

Sec. 3833.053. APPOINTMENT OF DIRECTORS. Requires the governing body to appoint the district's directors.

Sec. 3833.054. NONVOTING DIRECTORS. (a) Provides that individuals from certain city departments serve as nonvoting directors.

(b) Authorizes the board to appoint a director of the consolidated, renamed, or changed department as a nonvoting director if a department described by Subsection (a) is consolidated, renamed, or changed. Authorizes the board to appoint a representative of another department that performs duties comparable to those performed by the abolished department if a department described by Subsection (a) is abolished.

Sec. 3833.055. QUORUM. Provides that nonvoting directors are not counted for purposes of determining whether a quorum is present.

Sec. 3833.056. VACANCY. Provides that a vacancy on the board is filled for the remainder of the unexpired term in the same manner as the original appointment.

Sec. 3833.057. GENERAL VOTING REQUIREMENTS. Requires, except as provided by Section 3833.251, three directors to approve any official district action.

Sec. 3833.058. COMPENSATION. Provides that director is not entitled to compensation for service on the board but is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3833.059. REMOVAL OF DIRECTORS. Authorizes a board majority to petition the governing body to remove a director for misconduct or failure to carry out the director's duties. Authorizes the governing body, after notice and hearing, to remove the director for the misconduct or failure.

Sec. 3833.060. APPLICABILITY OF OTHER WATER DISTRICTS LAW. Provides that certain sections of the Water Code apply to the district.

[Reserves Sections 3833.061-3833.100 for expansion.]

#### SUBCHAPTER C. PUBLIC IMPROVEMENTS

Sec. 3833.101. GENERAL IMPROVEMENTS POWERS. Provides that the district has all powers necessary to acquire, construct, and maintain improvements specified by this subchapter.

Sec. 3833.102. WATER-RELATED IMPROVEMENTS. Authorizes the district to acquire, construct, or maintain stormwater, drainage and detention facilities, sanitary sewer lines and pump stations, and water lines and pump stations.

Sec. 3833.103. ROAD-RELATED IMPROVEMENTS; REIMBURSEMENT TO PRIVATE PARTY. (a) Authorizes the district to acquire, construct, or maintain streets, including sidewalks, streetscapes, street signs, traffic signals, and street lights.

(b) Authorizes the district to pay a private person for money spent to construct a road or related improvement that will be transferred under Subchapter D or to purchase a road or improvement constructed by the private person for construction that occurs after the district's creation.

Sec. 3833.104. TRANSIT FACILITIES. Authorizes the district to acquire, construct, or maintain transit facilities.

Sec. 3833.105. PUBLIC PARKING FACILITIES. Authorizes the district to acquire, construct, or maintain public parking facilities.

Sec. 3833.106. PUBLIC ART. Authorizes the district to acquire, construct, or maintain public art.

Sec. 3833.107. PARKS AND OPEN SPACES. Authorizes the district to acquire, construct, or maintain parks and open spaces.

Sec. 3833.108. PEDESTRIAN LINKAGES. Authorizes the district to acquire, construct, or maintain pedestrian linkages.

Sec. 3833.109. LIBRARY, POLICE STATION, FIRE STATION; CITY CONSENT REQUIRED. Authorizes the district to acquire, construct, and maintain a library, police station, or a fire station after obtaining the city's consent by resolution.

Sec. 3833.110. CITY CONSENT REQUIRED FOR CERTAIN ROADS AND CITY PROPERTY. Requires the district to obtain the approval of the city's governing body in the form of a resolution approving the plans and specifications of the project, including a substantial alteration to a plan or specification before the district begins a project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city.

Sec. 3833.111. APPLICATION OF INTERLOCAL COOPERATION ACT. Provides that for purposes of Chapter 791 (Interlocal Cooperation Contracts), Government Code, the implementation of an improvement under this subchapter is a governmental function or service.

Sec. 3833.112. ACQUISITION OF CERTAIN ENCUMBERED PROPERTY PROHIBITED. Prohibits the district from acquiring an improvement under this subchapter that has a lien on it or is otherwise encumbered.

[Reserves Sections 3833.113-3833.150 for expansion.]

#### SUBCHAPTER D. TRANSFER OF PUBLIC IMPROVEMENTS

Sec. 3833.151. TRANSFER OF CERTAIN IMPROVEMENTS REQUIRED. Requires the district to transfer an improvement as provided by this section when the district acquires or completes the improvement and the receiving entity approves the transfer, subject to Section 3833.155. Requires the district to make certain transfers. Provides that the district is not required to make certain transfers if the district and city enter into a written agreement that the transfer is not required. Authorizes the district and the city to agree on other terms under this subsection.

Sec. 3833.152. CONSTRUCTION STANDARDS. Requires a public improvement required to be transferred under this subchapter to be constructed in compliance with the requirements and specifications established by the appropriate receiving entity at the time construction of the improvement begins.

Sec. 3833.153. OPTIONAL TRANSFER FOR CERTAIN IMPROVEMENTS. (a) Authorizes the district to retain bus terminals or to transfer the bus terminals to the VIA Metropolitan Transit Authority or any successor regional transportation authority or district with the agreement of the authority.

(b) Authorizes the district to retain public parking areas, parks and open space improvements and public art, or may transfer these to the city with the agreement of the city.

Sec. 3833.154. PARTIAL TRANSFER IN STAGES. Authorizes the district to transfer part of an improvement as provided by this subchapter if the district constructs the improvement in stages.

Sec. 3833.155. TRANSFER WITHOUT DEBT REQUIRED. Requires the district to convey all improvements that it is required to transfer under this subchapter without debt or other encumbrance.

Sec. 3833.156. OWNERSHIP AND RESPONSIBILITY AFTER TRANSFER. (a) Provides that after a transfer under this subchapter, the receiving entity owns the improvement and has sole jurisdiction and control over the improvement. Provides that the receiving entity is responsible for all maintenance of the public improvement and the district is not responsible for the public improvement or its maintenance.

(b) Provides that this section does not affect any authority of the receiving entity to alter, relocate, close, or discontinue maintenance of an improvement.

Sec. 3833.157. CONTRACT WITH DISTRICT TO MAINTAIN IMPROVEMENT AFTER TRANSFER. Authorizes the district to contract with the receiving entity to provide a higher level of maintenance to an improvement transferred under this subchapter. Requires the district to pay the receiving entity for the higher level of maintenance.

Sec. 3833.158. EFFECT OF CONVEYANCE ON DISTRICT DEBT. Provides that conveyance of a public improvement to the appropriate entity under this subchapter does not affect certain responsibilities of the district.

[Reserves Sections 3833.159-3833.200 for expansion.]

#### SUBCHAPTER E. OTHER GENERAL POWERS AND DUTIES

Sec. 3833.201. CONTRACTS. Authorizes the district to contract with any person for any district purpose, including governmental entities, under terms and conditions the board considers advisable in addition to the powers granted by Section 49.057 (Management of District), Water Code.

Sec. 3833.202. CONTRACT ELECTIONS. Provides that Section 49.108 (Contract Elections), Water Code, applies to the district.

Sec. 3833.203. GRANTS; LOANS. Authorizes the district to accept a grant or loan from any person for any district purpose.

Sec. 3833.204. PROPERTY. Authorizes the district to acquire or dispose of any property right in any manner necessary, convenient, or useful to exercise a district power.

Sec. 3833.205. SURPLUS PROPERTY. (a) Authorizes the district to sell, lease, or otherwise dispose of any property right that is not necessary for or, if the property right is a lease, that is inconsistent with the efficient operation and maintenance of the district's improvements.

(b) Authorizes the district sell, lease, or otherwise dispose of any surplus property that is not necessary to implement a district purpose.

Sec. 3833.206. RECREATIONAL FACILITIES. (a) Provides that, in addition to the district's powers under Section 3833.106 or 3833.107, Subchapter N (Recreational Facilities), Chapter 49, Water Code, applies to the district.

(b) Provides that Section 49.454 (Notice of Unpaid Standby Fees), Water Code, does not apply to the district.

Sec. 3833.207. HEARINGS. Authorizes the district to conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to implement a district purpose.

Sec. 3833.208. NOTICES, REPORTS, AND BANKRUPTCY. (a) Provides that, except as provided by Subsection (b), Subchapter M (Notices, Reports, and Bankruptcy), Chapter 49, Water Code, applies to the district.

(b) Provides that Section 49.454, Water Code, does not apply to the district.

Sec. 3833.209. ANNEXATION OF DEVELOPER'S PROPERTY; TAX INCREMENT REINVESTMENT ZONE; SERVICES. (a) Defines "developer."

(b) Authorizes the developer to petition the city to annex the developer's property in the district and for the formation of a tax increment reinvestment zone in the annexed property under Chapter 311 (Tax Increment Financing Act), Tax Code.

(c) Authorizes the developer and the city to negotiate the terms and levels of services to be provided in the annexed area based on the developer's projected development plan. Authorizes the plan to provide that one or more city services is not required unless and until the property actually develops sufficiently to justify the service.

(d) Authorizes the parties to make certain agreements in negotiating an agreement for services under this section.

(e) Provides that the terms and conditions of the negotiated service plan bind the city for a specific period and the developer, the developer's heirs, successors, and assigns, and any person taking title to all or a portion of the property annexed under the annexation petition for that period.

(f) Authorizes the developer and the city to amend the negotiated service plan. Provides that an amendment binds only the property owned or controlled by the developer at the time of the approval of the amendment by the developer and the city.

(g) Requires the developer and the city to forward the negotiated service plan and any later amendments to the board.

Sec. 3833.210. PROHIBITION ON UTILITY SERVICES. Prohibits the district from providing water, sewer, drainage, or flood control services to residential, retail, or commercial customers in or outside the district.

Sec. 3833.211. USE AND ALTERATION OF PUBLIC WAYS. (a) Prohibits the district from taking certain steps without having first obtained certain consent.

(b) Authorizes the district make certain reimbursements for certain contracted alterations.

Sec. 3833.212. NO EMINENT DOMAIN POWER. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3833.213-3833.250 for expansion.]

#### SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 3833.251. BOARD VOTE REQUIRED TO IMPOSE ASSESSMENTS, TAXES, OR BONDS. Prohibits the district from imposing an assessment or tax, or issuing bonds, unless four directors vote in favor of the assessment, tax, or issuance of bonds.

Sec. 3833.252. BORROWING MONEY. Authorizes the district to borrow money on terms and conditions the board determines.

Sec. 3833.253. APPLICABILITY OF WATER DISTRICTS LAW ON GENERAL FISCAL PROVISIONS. Provides that, except as provided by Subsection (b), Subchapter E (Fiscal Provisions), Chapter 49, Water Code, applies to the district. Provides that Section 49.153 (Revenue Notes), Water Code, does not apply to the district.

Sec. 3833.254. INSURANCE. Authorizes the district to obtain insurance and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

Sec. 3833.255. DISADVANTAGED BUSINESSES. Provides that Section 375.222 (Disadvantaged Businesses), Local Government Code, applies to the district.

Sec. 3833.256. AUDIT. Requires the board to have the district's fiscal accounts and records audited annually. Sets forth requirements for the audit.

Sec. 3833.257. STATE AUDITOR. Authorizes the state auditor to audit the financial transactions of the district if the state auditor determines the audit is necessary.

Sec. 3833.258. FINANCIAL REPORTS. (a) Requires the district to keep a full and itemized account of district money. Requires the account to be available for audit.

(b) Requires financial statements to be prepared in accordance with generally accepted accounting principles.

Sec. 3833.259. APPLICABILITY OF WATER DISTRICTS LAW ON CONSTRUCTION, EQUIPMENT, MATERIALS, AND MACHINERY CONTRACTS. (a) Provides that, except as provided by Subsection (b), Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code, applies to the

district. Provides that Section 49.279 (Prevailing Wage Rates), Water Code, does not apply to the district.

Sec. 3833.260. PREVAILING WAGE RATES; CITY. Requires the district to use the prevailing wage rate in the city for compliance purposes.

Sec. 3833.261. HIGH TECHNOLOGY PROCUREMENT. Requires the district to comply with certain statutes, in making a high technology procurement in the same manner as a municipality governed by that subsection.

Sec. 3833.262. ASSESSMENT ELECTION NOT REQUIRED. Authorizes the district to impose an assessment without approval at an election.

[Reserves Sections 3833.263-3833.300 for expansion.]

#### SUBCHAPTER G. TAXES

Sec. 3833.301. AD VALOREM TAXES FOR MAINTENANCE AND OPERATION OR TO PAY BONDS. Authorizes the district to impose ad valorem taxes for maintenance and operation or to pay bonds in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code, and Subchapter G (Audit of Districts), Chapter 54, Water Code.

Sec. 3833.302. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a) Provides that all or any part of the area of the district is eligible to be included in a tax increment reinvestment zone created by the city under Chapter 311, Tax Code.

(b) Authorizes the city, for the area in the district, delegate certain powers to the district to the district if the city includes all or part of the district in a tax increment reinvestment zone.

Sec. 3833.303. NO SALES TAX. Prohibits the district from imposing a sales tax.

Sec. 3833.304. NO TAX PHASE-INS AND ABATEMENTS. Prohibits the district from granting a tax abatement or phase-in.

[Reserves Sections 3833.305-3833.350 for expansion.]

#### SUBCHAPTER H. BONDS

Sec. 3833.351. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds payable wholly or partly from ad valorem taxes, assessments, 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.

Sec. 3833.352. CITY CONSENT FOR PUBLIC IMPROVEMENTS BONDS. Requires the district, before issuing any bonds in connection with an improvement under Subchapter C, to obtain certain approvals of the city's governing body by a resolution.

Sec. 3833.353. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that except as provided by Section 3833.452, the city is not required to pay a bond, note, or other obligation of the district.

Sec. 3833.354. APPLICABILITY OF MUNICIPAL UTILITY DISTRICTS BONDS LAW. Provides that certain statutes apply to the district.

Sec. 3833.355. BOND SALES. Provides that Section 49.183 (Bond Sales), Water Code, applies to the district.

Sec. 3833.356. BOND ELECTIONS; GENERAL. Provides that Section 49.106 (Bond Elections), Water Code, applies to the district.

Sec. 3833.357. BOND ELECTION REQUIRED. Prohibits the district from issuing bonds payable in whole or in part from taxes unless the issuance is approved by a majority of the registered voters in the district voting at an election held for that purpose.

Sec. 3833.358. BOND ELECTION NOT REQUIRED. Authorizes the district to issue bonds payable only from sources other than taxes without an election.

[Reserves Sections 3833.359-3833.400 for expansion.]

#### SUBCHAPTER I. ADDITIONAL ELECTION PROVISIONS

Sec. 3833.401. TIME OF ELECTION. Authorizes an election held under this chapter to be held at the same time and in conjunction with any other election.

Sec. 3833.402. ELECTION CALLED BY BOARD. Authorizes the board to call an election for the purpose of voting on any measure.

[Reserves Sections 3833.403-3833.450 for expansion.]

#### SUBCHAPTER J. DISSOLUTION

Sec. 3833.451. DISSOLUTION BY CITY VOTE. Authorizes the governing body, by a vote of not less than two-thirds of its membership, to by resolution dissolve the district.

Sec. 3833.452. ASSETS AND LIABILITIES TO CITY. Provides that after a dissolution under this subchapter, the city assumes all debts and assets of the district.

SECTION 2. Sets forth the territory contained in district, except as provided by Section 3833.023, Special District Local Laws Code, as added by this Act.

SECTION 3. Provides that all requirements of the constitution and law 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.