

BILL ANALYSIS

Senate Research Center
79R15529 E

S.B. 841
By: Lindsay
Intergovernmental Relations
5/3/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 841 creates the Greater 1960 Improvement District (district) as a political subdivision of the State of Texas to administer and provide funding for community improvement projects and services in the commercial area along FM 1960 in Harris County, Texas. The district will be a municipal management district similar to those operating pursuant to Chapter 375, Local Government Code, and Title 4, Special Districts Code.

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, by adding Chapter 3855, as follows:

CHAPTER 3855. GREATER 1960 IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3855.001. DEFINITIONS. Defines "board" and "district."

Sec. 3855.002. GREATER 1960 IMPROVEMENT DISTRICT NO. 5. Provides that the Greater 1960 Improvement District (district) is a special district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 3855.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purpose of Sections 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds) and 52a (Loan or Grant of Public Money for Economic Development), Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. Provides that by creating the district and in authorizing the City of Houston, Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain certain types of economic development and public welfare and safety.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of the effective date of this Act to the area in the district. Provides that the district is created to supplement and not to supplant the county services provided in the area in the district.

Sec. 3855.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) 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 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that the creation of the district is in the public interest and is essential to promote certain economic developments.

(d) Sets forth the responsibilities of the district.

(e) Provides that pedestrian ways along or across a street, whether at grade or above or below surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3855.005. DISTRICT TERRITORY. (a) 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 codes or laws.

(b) Provides that the boundaries and field noted of the district contained in Section 2 of this Act and form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislature process does not in any way affect certain responsibilities of the district.

Sec. 3855.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in certain special zones.

Sec. 3855.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that, except as otherwise provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district.

Sec. 3855.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purpose stated in this chapter.

[Reserves Sections 3855.009-3855.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS.

Sec. 3855.051. BOARD OF DIRECTORS; TERMS. Sets forth the quantity and terms of the members of the board of directors (board) of the district.

Sec. 3855.052. APPOINTMENT OF DIRECTORS. Requires the members of the Commissioners Court of Harris County to appoint directors from persons recommended by the board. Provides that a person is appointed if a majority of the members of the governing body vote to appoint that person.

Sec. 3855.053. QUORUM. Provides certain exceptions for purposes of determining requirements for a quorum of the board.

Sec. 3855.054. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Provides that, except as provided by this section, a director may participate in all board votes and decisions; and Chapter 171 (Regulation of Conflicts of Interest of Officers of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, governs conflicts of interest for directors.

(b) Provides that Section 171.004 (Affidavit and Abstention from Voting Required), Local Government Code, does not apply to the district. Requires a director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action to file a one-time affidavit declaring the interest. Provides that an additional affidavit is not required if the director's interest changes. Authorizes the director, after the affidavit is filed with the board secretary, to participate in a discussion or vote on that action under certain conditions.

(c) Prohibits a director who is also an officer or employee of a public entity from participating in the discussion of or vote on a matter regarding a contract with that public entity.

(d) Provides that, for purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002 (Substantial Interest in Business Entity), Local Government Code.

Sec. 3855.055. INITIAL VOTING DIRECTORS. (a) Provides that the initial board consists of certain voting directors.

(b) Provides that, of the initial voting directors, the terms of directors appointed for positions 1 through 5 expire June 1, 2006, and the terms of directors appointed for positions 6 through 10 expire June 1, 2007, and the terms of directors appointed for positions 11 through 15 expires June 1, 2008.

(c) Provides Section 3855.052 does not apply to this section.

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

[Reserves Sections 3855.056-3855.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3855.101. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to certain corporations.

Sec. 3855.102. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) Provides that the nonprofit corporation has certain powers.

(c) Requires the board to appoint the board of directors of the nonprofit corporation. Provides that a director of the corporation is not required to reside in the district.

(d) Requires the board of directors of the nonprofit corporation to serve in the same manner as the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code.

Sec. 3855.103. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept certain funds from any person.

(b) Provides that the implementation of a project is a governmental function or services for the purposes of Chapter 791 (Interlocal Corporation Contracts), Government Code.

Sec. 3855.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district, to protect the public interest, to contract with Harris County or the

City of Houston for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3855.104. **AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.** Authorizes the district, to protect the public interest, to contract with a qualified party, including Harris County or the City Houston, to provide law enforcement services in the district for a fee.

Sec. 3855.105. **MEMBERSHIP IN CHARITABLE ORGANIZATIONS.** Authorizes the district to join and pay dues to certain organizations.

Sec. 3855.106. **ECONOMIC DEVELOPMENT PROGRAMS AND OTHER POWERS RELATED TO PLANNING AND DEVELOPMENT.** (a) Authorizes the district to establish and provide for the administration certain programs, for a term of one year or less, to promote state or local economic development and to stimulate business and commercial activity in the district.

(b) Provides that the district has all of the powers of municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

Sec. 3855.107. **NO EMINENT DOMAIN.** Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3855.108-3855.150 for expansion.]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3855.151. **DISBURSEMENTS AND TRANSFERS OF MONEY.** Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3855.152. **MONEY USED FOR IMPROVEMENTS OR SERVICES.** (a) Authorizes the district to acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

(b) Provides that an improvement or service may only be financed for a term of one year or less.

Sec. 3855.153. **PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS.** (a) Prohibits a board from financing a service or improvement project under this chapter unless a written petition requesting that services or improvements has been filed with the board.

(b) Requires a petition requesting a project financed by assessment to be signed by a certain number of property owners.

Sec. 3855.154. **METHOD OF NOTICE FOR HEARING.** Authorizes the district to give notice required by Section 375.115 (Municipal Management Districts in General), Local Government Code, by a certain delivery method.

Sec. 3855.155. **ASSESSMENTS; LIENS FOR ASSESSMENTS.** (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter.

(b) Sets forth the legal characteristics of an assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district.

(c) Provides that the lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. Authorizes the board to enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) Authorizes the board to make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3855.156. **FIXED ASSESSMENT RATE.** Provides that an assessment based on taxable value of real property is fixed at 6.5 cents per \$100 of assessed valuation of taxable property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3855.157. **CERTAIN RESIDENTIAL PROPERTY EXEMPT FROM ASSESSMENT.** Prohibits the district from imposing an assessments on a single-family detached residence or residential duplex, triplex, or fourplex.

Sec. 3855.158. **LIMIT ON USE OF MONEY.** Prohibits the district's administrative costs, including salaries and office expenses, from being more than 10 percent of the district's annual receipts from all sources after the first year of operation of the district.

Sec. 3855.159. **UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS.** Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of certain utilities and service providers.

Sec. 3855.160. **MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS.** Provides that a municipality, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, is not required to pay certain obligations of the district.

Sec. 3855.161. **COMPETITIVE BIDDING.** Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.

Sec. 3855.162. **ASSESSMENT ABATEMENTS.** Authorizes the district to grant in the manner authorized by Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, an abatement for an assessment owed to the district.

[Reserves Section 3855.163-3855.200 for expansion.]

SUBCHAPTER E. DISSOLUTION

Sec. 3855.201. **DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT.** (a) Authorizes the board to dissolve the district regardless of whether the district has debt. Provides that Section 375.264 (Limitation), Local Government Code, does not apply to the district.

(b) Requires the district, if the district has debt when it is dissolved, to remain in existence solely for the purpose of discharging its debts. Provides that the dissolution is effective when all debts have been discharged.

SECTION 2. Sets forth the boundaries of the Greater 1960 Improvement District as of the effective date of this Act.

SECTION 3. Authorizes a petition filed under Section 3855.152, Special District Local Laws Code, as added buy this Act, to be dated before the effective date of this Act.

SECTION 4. 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 5. Effective date: upon passage or September 1, 2005.