

BILL ANALYSIS

H.B. 3574
By: Wohlgemuth
Natural Resources
Committee Report (Amended)

BACKGROUND AND PURPOSE

Chapter 65 of the Water Code allows traditional water supply and sewer service corporations to obtain the tax and financing advantages of a district through the creation of a Special Utility District (SUD). Chapter 65 provides a procedural framework for the creation of a SUD through the Texas Commission on Environmental Quality (TCEQ).

Currently, the Johnson County Rural Water Supply Corporation (JCRWSC) provides water service within Johnson, Tarrant, Ellis, and Hill Counties. HB 3574 would allow for the creation of a SUD vested with certain powers granted under Chapter 65 and embodies the terms of a mediated settlement agreement among the parties.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

The bill creates the Johnson County SUD, contingent upon the temporary board calling and holding an election to confirm establishment of the district and to elect its initial directors; establishes the boundaries of the district within certain areas of the present boundaries of JCRWSC's certificate of convenience and necessity (CCN); and recognizes that the land within the district will be benefitted by the works and projects of the district.

The bill confers the rights and powers provided by general law to a SUD, with the following express limitations

- (1) For six years from the effective date of the bill, the district agrees to limit the exercise of its powers with respect to the provision of public water utility service to territory located within the boundaries of the district or as authorized by its Certificate of Convenience and Necessity; and
- (2) For six years from the effective date of the bill, the district shall not have the power to provide wastewater service, solid waste service, fire-fighting service, stormwater, flood control, and drainage services, and shall be prohibited from conversion to or otherwise becoming a municipal utility district, absent the express written consent of any city with extraterritorial jurisdiction (ETJ) that overlaps the district's boundaries.

After six years, the District may apply to TCEQ to expand its powers and notice of such application must be sent to each city whose corporate limits or ETJ overlap the district's boundaries. TCEQ must grant a timely request for a contested case hearing filed by such a city.

The bill provides that if a municipality asserts regulatory authority, including water quality standards, over any geographic area lying within the jurisdiction of the district, the regulation of the municipality shall control over that of the district in the event of a regulatory conflict, except with respect to potable water quality standards or to disputes relating to retail water utility service areas.

The bill recognizes the district's right to obtain tax exempt bond financing and a state sales tax exemption, and does not impair any other right or benefit under Chapter 65 or other applicable law consistent with the powers granted by the bill not in conflict with the bill's express prohibitions.

The bill establishes that the district is governed by an initial board of nine directors, and utilizes the statutory framework for elections in Chapter 65, including provision for a temporary and initial board of directors.

EFFECTIVE DATE

Upon passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 eliminates a provision in SECTION 11 of the Act stating that in adopting rules under the Act, the district is subject to Subchapter B, Chapter 2001, Government Code, as if the district were a state agency.