

BILL ANALYSIS

C.S.H.B. 3621
By: Brown, Betty
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Kingsborough Municipal Utility District No. 2 of Kaufman County (the “District”) will encompass an area of land outside of the corporate limits of any city and within the extraterritorial jurisdiction of the City of Mesquite, Kaufman County, Texas. The land to be located within the District will be developed into single family residential and commercial development; therefore, water, sewer, and drainage services need to be secured. It is necessary to create the District under Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, in order to purchase, acquire, or construct facilities for such services to serve the future occupants of the land utilizing tax exempt bonds. C.S.H.B. No. 3621 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the District.

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

SECTION 1. DEFINITIONS. Defines “board,” “commission,” and “district.”

SECTION 2. CREATION. Provides that a district to be known as the Kingsborough Municipal Utility District No. 2 of Kaufman County (the “District”), is created in Kaufman County, subject to approval at a confirmation election under Section 13 of this Act. Provides that the District is a governmental agency and a body politic and corporate.

SECTION 3. AUTHORITY FOR CREATION. Provides that the District is created under and is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. Provides that the District is created to serve a public use and benefit and that all of the land included within the District will be benefitted by the works and projects of the District.

SECTION 5. BOUNDARIES. Sets forth the boundaries of the District.

SECTION 6. FINDINGS RELATING TO BOUNDARIES. Sets forth legislative findings relating to the boundaries of the District.

SECTION 7. GENERAL POWERS. Subsection (a) provides that the District has all of the rights, powers, privileges, authority, functions, and duties provided by the general laws of the State including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution, subject to the provisions of Subsection (b). Provides that this Act prevails over any provision of general law that is conflicting or inconsistent with this Act. Subsection (b) provides that the District may not provide retail water service to an area designated by ordinance or resolution of the

governing body of a municipality with a population of less than 5,000 as being within the water service area, extraterritorial jurisdiction, or corporate limits of that municipality unless that municipality has given its express written consent to the provision of retail water service by the District.

SECTION 8. ADDITIONAL POWERS. Provides that the District has the additional rights, powers, privileges, authority, and functions provided in this Section including, to the extent authorized by Section 52, Article III, Texas Constitution, the construction, maintenance, and operation inside or outside the boundaries of the District of paved roads and turnpikes or works, facilities, or improvements related to the roads and turnpikes.

SECTION 9. BONDS. Provides that the District may issue bonds as provided by Chapter 49 and 54, Water Code, and the general laws of this State. Provides that the District may issue bonds, notes, or other obligations of the District to finance construction, maintenance, and operation under Section 8 of this Act and may impose a tax to pay the principal of or the interest on the bonds issued under this Subsection. Provides that the District may not issue bonds unless the issuance is approved by a vote of a two-thirds majority of the qualified voters of the District voting at an election called for that purpose. Provides that bonds, notes, or other obligations issued or incurred may not exceed one-fourth of the assessed value of the real property in the District. Provides that Section 49.181 and 49.182, Water Code, do not apply to projects undertaken by the District under Section 8(b) of this Act or to bonds issued by the District under Subsection (b) of this Section.

SECTION 10. EMINENT DOMAIN. Provides that the District may exercise the right of eminent domain only within the boundaries of the District.

SECTION 11. BOARD OF DIRECTORS. Provides that the District is composed of a five member board of directors. Provides that temporary directors shall serve until initial directors are elected under Section 13 of this Act. Provides that initial directors shall serve until permanent directors are elected under Section 14 of this Act. Provides that permanent directors shall serve staggered four year terms. Provides that each director must qualify to serve as a director in the manner provided under Section 49.055, Water Code.

SECTION 12. APPOINTMENT OF TEMPORARY DIRECTORS. Provides that on or after the effective date of this Act, a person who owns land in the District may submit a petition to the Texas Commission on Environmental Quality requesting that the Commission appoint as temporary directors the five persons named in the petition. Provides that the Commission shall appoint as temporary directors the five persons named in the petition. Provides that the Commission shall appoint a person to fill a vacancy if a temporary director fails to qualify for office. Provides that as soon as practicable after all of the temporary directors have qualified, the temporary directors shall meet and elect officers from among their membership. Provides that if the District is located wholly or in part within an area designated by ordinance or resolution of the governing body of a municipality with a population of less than 5,000 as the water service area, extraterritorial jurisdiction, or corporate limits of that municipality, the Commission may appoint temporary directors as described in this Section only if the municipality has given its express written consent to the creation of the District. Provides that the municipality may give its consent only on the execution of a written agreement between the developer of the District and a school district affiliated with the municipality providing that the District will fund the construction of buildings and improvements for the school district and establish an educational fund for the school district of an amount based on an annually determined transaction fee on the sale and resale of any home within the District boundaries for the duration of the existence of the District.

SECTION 13. CONFIRMATION AND INITIAL DIRECTORS ELECTION. Provides that the temporary board of directors shall call and hold an election to confirm the establishment of the District and to elect five initial directors in the manner provided by Chapter 49, Water Code. Provides that if the District is located wholly or in part within an area designated by ordinance or resolution of the governing body of a municipality with a population of less than 5,000 as the water service area, extraterritorial jurisdiction, or corporate limits of that municipality, the temporary board of directors shall call and hold an election to

confirm the establishment of the District and to elect five initial directors only if the municipality has given its express written consent to the creation of the District. Provides that the municipality may give its consent only on the execution of a written agreement between the developer of the District and a school district affiliated with the municipality providing that the District will fund the construction of buildings and improvements for the school district and establish an educational fund for the school district of an amount based on an annually determined transaction fee on the sale and resale of any home within the District boundaries for the duration of the existence of the District.

SECTION 14. ELECTION OF DIRECTORS. Provides that the initial board of directors shall call and hold an election to elect permanent directors in the manner provided by Chapter 49, Water Code.

SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. Provides that proper and legal notice setting forth the general substance of this Act has been published as provided by law. Provides that the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code. Provides that the Governor has submitted the notice and Act to the Texas Commission on Environmental Quality. Provides that the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the Governor, Lieutenant Governor, and Speaker of the House of Representatives within the required time. 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 have been fulfilled and accomplished.

SECTION 16. EFFECTIVE DATE; EXPIRATION DATE. The effective date is September 1, 2003. The expiration date is September 1, 2005, if the District is not confirmed under Section 13.

EFFECTIVE DATE

September 1, 2003. The expiration date is September 1, 2005, if the District is not confirmed.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Committee substitute to the bill adds a new Subsection 7(b) and qualifies the provisions of Subsection 7(a) thereby; deletes the words “macadamized, graveled or” from Section 8; adds a new Section 10. Eminent Domain, renumbering all sections accordingly; adds a new Subsection 12(e) and qualifies the provisions of previous subsections of Section 12 accordingly; and adds a new Subsection 13(b) and qualifies the provisions of Subsection 13(a) thereby.