

BILL ANALYSIS

C.S.H.B. 1141
By: Flynn
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The purpose of the bill is to enable the conversion of the Verandah Fresh Water Supply District of Hunt County to a municipal utility district (“MUD”), and to enumerate its powers, duties and obligations.

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

This Act adds Chapter 8110 to the Special District Local Laws Code, which shall be titled the Verandah Municipal Utility District of Hunt County.

In **Section 1** of the bill, the Act establishes that Verandah Fresh Water Supply District of Hunt county is converted to Verandah Municipal Utility District of Hunt County. The bill provides that Section 54.034, Water Code, applies to the district.

Section 2 of the bill declares that the Special District Local Laws Code is amended by adding a new Chapter 8110, and sets forth the district’s powers, duties and obligations. **Subchapter A** sets forth certain definitions, and provides that the nature of the district is a MUD with road powers. The district is subject to all applicable laws, including specifically Chapters 49 and 54, Water Code.

Subchapter B provides for the POWERS AND DUTIES of the district. The district created by the Act is empowered to build and maintain roads, including related appurtenances such as drainage, landscaping, lighting, signs, and hiking and biking trails. The district may contract for a road project in the same manner as provided by Chapter 49, Water Code.

The district may pay for expenses relating to certificates of convenience and necessity to provide retail water or sewer service from the proceeds of bonds or other available funds. Alternatively, the district may enter into a contract to allow a political subdivision to provide retail water or sewer to the district, and the district may contract to provide certain components of utility infrastructure to such provider.

Subchapter C provides for GENERAL FINANCIAL PROVISIONS. The district may impose a maintenance and operation tax as provided in Section 49.107, Water Code, and Section 49.107(f) shall not apply to road projects the district participates in acquiring or building. The district may impose a debt service tax.

The district shall not have authority to impose an impact fee or assessment on utilities in the rights-of-way within the district.

Subchapter D provides for BONDS. The district has authority to issue bonds for water, sewer drainage and other projects authorized by Chapters 49 and 54, Water Code, and to issue bonds for road projects authorized in the Act. Payments to service the bonded indebtedness may be from ad valorem taxes, impact fees, revenue, grants, or other district monies, or combinations thereof.

The district is prohibited from issuing bonds or other obligations secured wholly or partly by ad valorem taxes for road projects unless the issuance is approved by a vote of a two-thirds majority of the voters. In addition, bonds for road projects may not exceed one-fourth of the assessed value of the real property in the district.

Section 3 of the Committee Substitute validates the creation of the Ve randah Fresh Water Supply District of Hunt County and acts taken by it that are not the subject of litigation or were a misdemeanor or felony at the time the act occurred.

Section 4 of the Committee Substitute contains findings of compliance with all procedural requirements relating to introduction and passage of a local law.

Section 5 of the Committee Substitute sets forth the effective date of the Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 1141 differs from the original in ten areas, all but the first of which are in Section 3 of the Substitute.

1. In Section 2 of the bill as filed, findings related to the establishment of a reinvestment zone for tax increment purposes was included. The Committee Substitute does not contain authorization for tax increment financing and the findings related thereto were eliminated from Section 2 of the bill. All of Section 2 of the bill as filed was removed from the Committee Substitute.
2. In Section 3 of the bill as filed, in Section 8110.002, a finding of purpose related to Article VIII, Section 1-g, Texas Constitution, was removed because it related to the findings in Section 2 of the bill as filed, which was removed from the Committee Substitute.
3. Section 8110.003, providing for applicability of other law was deleted in the Committee Substitute. References to the Transportation Code have been deleted from the Substitute. The language relating to the applicability of other laws to this district has been included in Section 8110.051 of the Committee Substitute.
4. Section 8110.004, a provision prohibiting the impairment of the ability of the district to exercise its powers by a local government, has been eliminated from the Committee Substitute.
5. Section 8110.052 has been re-written and now includes the language awarding road project powers. Subsection (b) and (d) of Section 8110.051 as filed have been deleted.
6. Section 8110.052, a provision allowing joint road projects with a state agency, a political subdivision or a corporation, was deleted from the Committee Substitute.
7. In Section 8110.053, the reference to Chapter 257, Transportation Code, was deleted from the Committee Substitute.
8. Section 8110.056 was deleted from the Committee Substitute. This provision granted to the district the power to exercise eminent domain for any district project or purpose.
9. Section 8110.057 was removed from the Committee Substitute, deleting from the powers granted in the bill the authorization to enter into tax increment agreements.
10. A new Section 8110.103 is added to the Committee Substitute, to prohibit the district from imposing an impact fee or assessment on the property of certain utilities within the district.