

BILL ANALYSIS

Senate Research Center
79R11851 QS-F

H.B. 3490
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Intergovernmental Relations
5/18/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

H.B. 3490 creates The Lakes Fresh Water Supply District of Denton County (district), and enumerates its powers, duties and obligations. The district is to be located entirely in Denton County, a rapidly growing county adjacent to urban counties in need of suburban housing and utility infrastructure to meet the demands of regional population growth.

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 F, Title 6, Special District Local Laws Code, by adding Chapter 8125, as follows:

CHAPTER 8125. THE LAKES FRESH WATER SUPPLY DISTRICT OF DENTON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8125.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8125.002. NATURE OF DISTRICT. Provides that The Lakes Fresh Water Supply District (district) in Denton County is created under and essential to accomplish the purpose of Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; lending Credit; Grants; Bonds), Article III, and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution. Provides that the district is created to serve a public use and benefit.

Sec. 8125.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8125.023 before September 1, 2007, the district is dissolved with certain exceptions. Provides that if the district is not confirmed, this chapter expires September 1, 2010.

Sec. 8125.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect certain aspects of the district.

[Reserves Sections 8125.005-8125.020 for expansion.]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8125.021. TEMPORARY DIRECTORS. (a) Provides that the temporary board consists of certain persons.

(b) Requires the temporary directors who have qualified, if a temporary director fails to qualify for office, to appoint a person to fill the vacancy. Requires the Texas Commission on Environmental Quality (TECQ), if at anytime there are fewer than three qualified temporary directors, to appoint the necessary number of persons to fill all vacancies on the board.

(c) Provides that temporary directors serve until the earlier of a certain date.

Sec. 8125.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. Requires the meeting, if a location cannot be agreed upon, to be at the Denton County Courthouse.

Sec. 8125.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary directors to hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 8125.024. INITIAL ELECTED DIRECTORS; TERMS. Requires the directors elected under Section 8125.023 to draw lots to determine which two serve until the first regularly scheduled election of directors under Section 8125.052 and which three serve until the second regularly scheduled election of directors.

Sec. 8125.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8125.026-8125.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS.

Sec. 8125.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors who serve staggered four-year terms.

Sec. 8125.053. QUALIFICATIONS. Requires the directors to meet only the qualifications for directors provided by Chapter 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code.

Sec. 8125.052. ELECTION OF DIRECTORS. Requires the appropriate number of directors to be elected, on the uniform election date of directors to be elected.

[Reserves Sections 8125.054-8125.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8125.101. Sec. 8125.101. MUNICIPAL UTILITY DISTRICT AND FRESH WATER SUPPLY DISTRICT POWERS AND DUTIES. (a) Except as provided by Subsections (b) and (c), the district has the powers and duties provided by the general law of this state, including Chapters 49, 53 (Fresh Water Supply Districts), and 54, Water Code, applicable to municipal utility districts and fresh water supply districts created under Section 59, Article XVI, Texas Constitution.

(b) Provides that certain provisions of the Water Code do not apply to the district.

(c) Provides that if a provision of Chapter 53, Water Code, is in conflict or inconsistent with this chapter or Chapter 54, Water Code, this chapter and Chapter 54, Water Code, prevail.

Sec. 8125.102. ROAD PROJECTS. (a) Authorizes the district to construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside or outside the district.

(b) Requires a project authorized by this section to meet only the construction standards adopted by the North Central Texas Council of Governments, or its successor agency.

Sec. 8125.103. ROAD CONTRACTS. Authorizes the district to contract for a road project in the same manner as provided by Subchapter I (Construction, Equipment, Materials, and Machinery Contracts), Chapter 49, Water Code.

Sec. 8125.104. WATER CONTROL AND STORAGE PROJECTS. (a) Authorizes the district to construct, acquire, improve, enlarge, extend, repair, or maintain dams, levees, walls, dikes, embankments, canals, reservoirs, lakes, or other improvements as necessary to control, store, or preserve water in the district for any useful purpose.

(b) Authorizes the district to overflow and inundate district lands and other district property in the district.

(c) Provides that a project authorized by this section is subject to all applicable permitting and regulatory requirements.

Sec. 8125.105. CERTIFICATE OF CONVENIENCE AND NECESSITY. (a) Authorizes the district to pay out of bond proceeds or other available district money all expenses, including legal, engineering, and other fees, related to obtaining a new certificate of convenience and necessity under Chapter 13 (Water Rates and Services), Water Code, authorizing the district to provide retail water or sewer service inside or outside the district.

(b) Authorizes the district to pay out of bond proceeds or other available district money all expenses, including the purchase price, related to acquiring certificate of convenience and necessity rights from another retail public utility to allow the district to provide retail water or sewer service in the district.

Sec. 8125.106. CONTRACT WITH POLITICAL SUBDIVISION FOR WATER OR SEWER SERVICES. (a) Authorizes the district to enter into a contract to allow a political subdivision to provide retail water or sewer service in the district. Authorizes the contract to contain terms the board considers desirable, fair, and advantageous to the district.

(b) Authorizes the contract to provide that the district will construct or acquire and convey or lease to the political subdivision a water supply or treatment system, a water distribution system, or a sanitary sewage collection or treatment system, as necessary to provide water or sewer service in the district.

(c) Authorizes the district to use bond proceeds or other available district money to pay for its obligations and for services and facilities provided under the contract.

(d) Provides that if the contract requires the district to make payments from taxes other than operation and maintenance taxes, the contract is subject to Section 49.108 (Contract Elections), Water Code.

[Reserves Sections 8125.107-8125.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8125.151. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district to impose a tax for any district operation and maintenance purpose in the manner provided by Section 49.107 (Operation and Maintenance Tax), Water Code.

(b) Provides that Section 49.107(f), Water Code, does not apply to reimbursements for projects constructed or acquired under Section 8125.102.

Sec. 8125.152. TAX TO REPAY BONDS. Authorizes the district to impose a tax to pay the principal of and interest on bonds issued under Section 8125.201.

Sec. 8125.153. 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 service providers.

[Reserves Sections 8125.154-8125.200 for expansion.]

SUBCHAPTER E. BONDS

Sec. 8125.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS; TAX. (a) Authorizes the district to issue bonds or other obligations as provided by Chapters 49, 53, and 54, Water Code, and to finance certain projects and obligations.

(b) Prohibits the district from issuing bonds or other obligations secured in whole or in part by ad valorem taxation to finance projects authorized by Section 8125.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Prohibits bonds or other obligations issued or incurred to finance projects authorized by Section 8125.102 from exceeding one-fourth of the assessed value of the real property in the district.

(d) Provides that Sections 49.181 (Authority of Commission Over Issuance of District Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water Code, do not apply to a project undertaken by the district under Section 8125.102 or to bonds issued by the district to finance the project.

SECTION 2. Sets forth the initial area of The Lakes Fresh Water Supply District of Denton County.

SECTION 3. 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 4. Effective date: upon passage or September 1, 2005.