

## **BILL ANALYSIS**

C.S.H.B. 3523  
By: Denny  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Committee Substitute House Bill 3523 creates the Smiley Road Water Control and Improvement District (WCID) to provide water, sewer, drainage and road improvements to a 637-acre tract of land. All of the land within the District is located in Denton County, outside of the corporate limits or extraterritorial jurisdiction of any city. The City of Celina, the nearest municipality, has provided formal consent, and has voted unanimously in support of the creation of the Smiley Road WCID.

The proposed Smiley Road WCID will contain mixed use development and will abide by the rules and regulations of Denton County. The bond issue for road improvements will be reviewed by the Attorney General of Texas. The road bonds must be approved by a two-thirds vote at an election within the district and may not exceed 25% of the amount of the ad valorem tax base in the district. Additionally, the district does not have the authority to divide itself into two or more districts in the manner specified in Section 53.029, Texas Water Code and may only add land upon petition by the adjacent landowners.

The district is essential to the financing of the infrastructure of the development. Upon completion of build-out, the ad valorem tax base attendant to the development will have increased by approximately \$400 million. This will provide direct benefits to the school district and Denton County.

### **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. Adds Chapter 9001 to the Special District Local Laws Code, Subtitle I, Title 6, as follows:

#### **SUBCHAPTER A. GENERAL PROVISIONS.**

SECTION 9001.001. DEFINITIONS. Defines "Board", "Directors" and "District"

SECTION 9001.002. NATURE OF THE DISTRICT. Provides that a district to be known as the Smiley Road Water Control and Improvement District (the "District"), is created in Denton County. Provides that the district is essential to accomplish the purposes of Section 52, Art. III, and Section 59, Art. XVI, Texas Constitution. Provides that the district is created to serve a public use and benefit.

SECTION 9001.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the District is not confirmed at a confirmation election held under Section 9001.023 before September 1, 2007, the District is dissolved except that (a) any debts incurred shall be paid; (b) any assets that remain after the payment of debts shall be transferred to Denton County; and (c) the organization of the District shall be maintained until all debts are paid and remaining assets are transferred. Provides that in the event of the dissolution of the District as provided in this section, the Chapter expires on September 1, 2010.

SECTION 9001.004. INITIAL DISTRICT TERRITORY. Provides that the District is initially composed of the territory described by Section 2 of the Act. Sets forth legislative findings relating to the boundaries of the District.

SECTION 9001.005. APPLICABILITY OF OTHER LAW. Provides that Chapters 49 and 51, Water Code, apply to the District except as provided by this Chapter.

#### SUBCHAPTER A-1. TEMPORARY PROVISIONS.

SECTION 9001.021. TEMPORARY DIRECTORS. Provides that the temporary board consists of the five persons named. Provides that the Texas Commission on Environmental Quality shall appoint a person to fill a vacancy if a temporary director fails to qualify for office. Provides that the temporary directors shall serve until the earlier of the date directors are elected under Section 9001.023 or the date this Chapter expires.

SECTION 9001.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Provides that the temporary directors shall meet as soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code. Provides that the temporary directors shall elect officers from among their membership at the meeting.

SECTION 9001.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides that before September 1, 2007, the temporary board of directors shall hold an election to confirm the establishment of the District and to elect five initial directors in the manner provided by Section 49.102, Water Code.

SECTION 9001.024 INITIAL ELECTED DIRECTORS; TERMS. Provides that the temporary directors elected under Section 9001.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 9001.052 and which three shall serve until the second regularly scheduled election of directors.

SECTION 9001.025. EXPIRATION OF SUBCHAPTER. Provides that this Subchapter expires September 1, 2010.

#### SUBCHAPTER B. BOARD OF DIRECTORS.

SECTION 9001.051. DIRECTORS; TERMS. Provides that the District is governed by a board of five directors. Provides that the directors serve staggered four-year terms.

SECTION 9001.052. ELECTION OF DIRECTORS. Provides that the appropriate number of directors shall be elected on the uniform election date in May of each even-numbered year.

#### SUBCHAPTER C. POWERS AND DUTIES.

SECTION 9001.101 GENERAL POWERS. Provides that (a) the District has (1) all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this State, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution; and (2) Subject to Section 9001.105, related to rights, authority, privileges and functions of a road district under Section 52 (b)(3), Article III, Texas Constitution, Chapter 257, Transportation Code, and other general state laws relating to road districts. (b) Provides that the District may provide services, subject to Section 9001.105 to parts of the District not receiving such services on the effective date of the Act.

SECTION 9001.102. AUTHORITY TO CONTRACT WITH OWNERS OF REAL PROPERTY IN DISTRICT. Provides that the District may enter into contracts with a real property owner in the district for projects described in Section 9001.101(b).

SECTION 9001.103. CONTRACTS WITH THE CITY OF CELINA. Provides that the District shall enter into contracts with the City of Celina to provide services to the city.

SECTION 9001.104. PROHIBITION ON DIVISION OF DISTRICT. Provides that the District may not divide in the manner specified by Section 53.029, Water Code.

SECTION 9001.105. VOTER APPROVED ROAD DISTRICT POWERS. Provides that the district shall assume road district powers upon voter approval and may provide for such roads not including a turnpike or toll road. The District must obtain permission from the commissioners court for a road construction contract under Section 257.003(c), Transportation Code. Section 49.182, Water Code does not apply to a project under this section.

SECTION 9001.106. ADDITION OF LAND TO DISTRICT. Provides that the District may add land under Section 49.301, Water Code.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS.

SECTION 9001.151. AD VALOREM PLAN OF TAXATION. Provides that the District shall use the ad valorem plan of taxation subject to voter approval.

SECTION 9001.152. AD VALOREM TAX FOR ROAD PROJECTS. Provides that the District may impose an ad valorem tax toward bonds used to finance projects under Section 9001.105.

SECTION 9001.153. UTILITY EXEMPTION FROM IMPACT FEES AND ASSESSMENTS. Provides the district may not impose an impact fee or assessment on electric utilities, gas utilities, telecommunications providers or cable operators.

#### SUBCHAPTER E. BONDS.

SECTION 9001.201. AUTHORITY TO ISSUE BONDS. Provides that the District may issue bonds as provided by Chapter 49 or 51, Water Code, or Section 53.029, Water Code. Except as provided in Subsection (c) and Section 9001.202, bonds may be issued to finance projects under Section 9001.105. These bonds may not be issued unless authorized by two-thirds of the voters. Section 49.181, Water Code, does not apply to a bond issued under Section 53.029, Water Code.

SECTION 9001.202. LIMIT ON BONDS AND OTHER OBLIGATIONS. Provides that the District may not issue or incur bonds and other obligations to exceed one-fourth of the assessed value of the real property in the district. The bonds may not be issued until a development agreement between the City of Celina and the District has been signed.

SECTION 9001.203. USE OF BOND PROCEEDS. Provides how the District may use proceeds from the sale of bonds.

SECTION 2. BOUNDARIES. Details the description of all territory initially contained in the district (also known as meets and bounds).

#### SECTION 3.

Subsection (a) describes necessary legal notices required in local publications

Subsection (b) describes necessary notification to the Governor's Office

Subsection (c) describes necessary notification to the Texas Commission on Environmental Quality

Subsection (d) describes confirmation of all necessary steps required by law

SECTION 4. EFFECTIVE DATE. Provides that the effective date is September 1, 2005.

#### **EFFECTIVE DATE**

This Act takes effect immediately if the measure receives a two-thirds vote from each house of the legislature as provided by Section 39, Article III, Texas Constitution. If not, then effective date is September 1, 2005.

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## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Section 9001.105, Subsections (c) and (d) have been moved to Subsections (e) and (f); Subsection (c) provides that road projects must comply with the standards of the municipality or the county in which it is located. Subsection (d) provides that the district must have consent by ordinance or resolution from the municipality or the county before undertaking a road project. Section 9001.153 is added to provide that the district may not impose an impact fee for assessment to specified parties.