

BILL ANALYSIS

C.S.H.B. 3534
By: Denny
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Denton County Municipal Utility District No. 6 (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 Aubrey, Denton 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. 3534 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. Adds Chapter 8126 to Subtitle F, Title 6, Special District Local Laws Code, as follows:

SUBCHAPTER A. GENERAL PROVISIONS.

SECTION 8126.001. DEFINITIONS. Defines "board," "director," and "District."

SECTION 8126.002. NATURE OF DISTRICT. Provides that a District to be known as the Denton County Municipal Utility District No. 6 (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 public use and benefit.

SECTION 8126.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the District is not confirmed at a confirmation election held under Section 8126.023 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 8126.004. 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 8126.005. APPLICABILITY OF OTHER LAW. Provides that Chapters 49, 53 and 54, Water Code, apply to the District except as provided by this Chapter.

SUBCHAPTER A-1. TEMPORARY PROVISIONS.

SECTION 8126.021. 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 the temporary directors shall serve until the earlier of the date directors are elected under Section 8126.023 or the date this Chapter expires.

SECTION 8126.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Provides that the temporary directors shall meet at a location in the District agreeable to a majority of the directors as soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code. Provides that if a location for the meeting cannot be agreed upon, the meeting shall be held at the Denton County Courthouse. Provides that the temporary directors shall elect officers from among the temporary directors and conduct any other District business at the meeting.

SECTION 8126.023. 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 Section 49.102, Water Code.

SECTION 8126.024. INITIAL ELECTED DIRECTORS; TERMS. Provides that the temporary directors elected under Section 8126.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8126.052 and which three shall serve until the second regularly scheduled election of directors.

SECTION 8126.025. EXPIRATION OF SUBCHAPTER. Provides that this Subchapter expires September 1, 2010.

SUBCHAPTER B. BOARD OF DIRECTORS.

SECTION 8126.051. DIRECTORS; TERMS. Provides that the District is governed by a board of five directors. Provides that the directors serve staggered four-year terms.

SECTION 8126.052. 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 8126.101 MUNICIPAL UTILITY DISTRICT AND FRESH WATER SUPPLY DISTRICT POWERS AND DUTIES. Provides that the District has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this State, including Chapters 49 53, and 54, Water Code, applicable to municipal utility districts and fresh water supply districts created under Section 59, Article XVI and Section 52, Article III, Texas Constitution; except that the provisions of Water Code, Sections 53.029(b), 53.030-53.034 and 53.040-53.043 do not apply. 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.

SECTION 8126.102. ROAD PROJECTS. Provides that the District may 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. Provides that a project authorized by this section must meet only the construction standards adopted by the North Central Texas Council of Governments, or its successor agency.

SECTION 8126.103. ROAD CONTRACTS. Provides that the District may contract for a road project and competitive bidding shall be governed by Subchapter 1, Chapter 49, Water Code.

SECTION 8126.104. CERTIFICATE OF CONVENIENCE AND NECESSITY. Provides that the District may pay all expenses related to obtaining a new certificate of convenience and necessity (“CCN”) or the rights to a CCN of another utility out of any available resources.

Sec. 8126.105. CONTRACT WITH POLITICAL SUBDIVISION FOR WATER OR SEWER SERVICES. (a) Provides that the District may enter into a contract to allow a political subdivision to provide retail water or sewer service in the District. Provides that the contract may contain terms the board considers desirable, fair, and advantageous to the District. Provides that the contract may 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. Provides that the District may use bond proceeds or other available District money to pay for its obligations and for services and facilities provided under the contract. 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, Water Code.

Sec. 8126.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Provides that, subject to the limitation of Section 54.016, Water Code, the District shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Aubrey, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the District or to the inclusion of lands within the District.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS.

SECTION. 8126.151. OPERATION AND MAINTENANCE TAX. Provides that the District may impose a tax for any District operation and maintenance purpose in the manner provided by Section 49.107, Water Code. Provides that Section 49.107(f), Water Code, does not apply to reimbursements for projects constructed or acquired under Section 8126.102.

SECTION 8126.152. TAX TO REPAY BONDS. Provides that the District may impose a tax to pay the principal of or interest on bonds issued under Section 8126.101 and 8126.102, and the construction, maintenance, or operation of projects under Section 8126.101 and 8126.102, or the District’s contractual obligations under Section 8126.103.

SECTION 8126.153. TAX FOR CONTRACTUAL OBLIGATIONS. Provides that the District may impose a tax to pay for its contractual obligations under 8126.103.

Sec. 8126.154. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Provides that the District may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of an electric utility or power generation company, a gas utility, a telecommunications provider, a cable operator or a person who provides to the public advanced telecommunications service.

SUBCHAPTER E. BONDS.

SECTION 8126.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Provides that the District may issue bonds or other obligations as provided by Chapters 49, 53 and 54, Water Code, to finance the construction, maintenance or operation of projects under Sections 8126.101 and 8126.102. Provides that the District may not issue such bonds to finance projects authorized by Section 8126.102 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. Provides that such bonds or other obligations issued or incurred to finance projects authorized by Section 8126.102 may not exceed one-fourth of the assessed value of the real property in the District. Provides that Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the District under Section 8126.102 or to bonds issued by the District to finance the project.

SECTION 2. BOUNDARIES. Sets forth the boundaries of the District.

SECTION 3. 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 4. EFFECTIVE DATE. Provides that the effective date is September 1, 2005.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3534, Section 8126.002 adds the provision that the District is created to serve the public use and benefit.

Provides a new Section 8126.101(a) defining Municipal Utility District and Fresh Water Supply District powers under Chapters 49, 53 and 54, Water Code, except those powers under Sections 53.029(b), 53.030-53.034, and 53.040-53.043.

Provides a new Section 8126.101 (c) 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.

Section 8126.102(b) is added to confirm that projects authorized by Section 8126.102(a) must meet only the construction standards adopted by the North Central Texas Council of Governments, or its successor agency.

Section 8126.103 is added to provide the District the authority to contract for a road project and provides that competitive bidding shall be governed by Subchapter 1, Chapter 49, Water Code.

Section 8126.104 is added to provide that the District may pay all expenses related to obtaining a new certificate of convenience and necessity ("CCN") or the rights to a CCN of another utility out of any available resources.

Section 8126.105 is added to provide that the District may pay all expenses related to obtaining a new certificate of convenience and necessity ("CCN") or the rights to a CCN of another utility out of any available District revenues. The District may enter into a contract to allow a political subdivision to provide water or sewer service to the District. The contract may provide that the District will construct or acquire and convey to a political subdivision a water supply, treatment and distribution system, a sewer collection or treatment system, as necessary.

Section 8126.106 is added to provide that, subject to the limitation of Section 54.016, Water Code, the District shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Aubrey, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the District or to the inclusion of lands within the District.

Section 8126.151 is added to provide that the District may impose a tax for any District operation and maintenance purpose in the manner provided by Section 49.107, Water Code. Provides that Section 49.107(f), Water Code, does not apply to reimbursements for projects constructed or acquired under Section 8126.102.

Section 8126.152 is added to provide that the District may impose a tax to pay the principal of or interest on bonds issued under Section 8126.101 and 8126.102, and the construction, maintenance, or operation of projects under Section 8126.101 and 8126.102, or the District's contractual obligations under Section 8126.105.

Section 8126.153 is added to provide that the District may impose a tax to pay for its contractual obligations under Section 8126.103.

Section 8126.154 is added to provide that the District may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of an electric utility or power generation company, a gas utility, a telecommunications provider, a cable operator or a person who provides to the public advanced telecommunications service.

Provides a revised Section 8126.201 regarding the authority to issue bonds and other obligations to confirm that the District may issue bonds, or other obligations as provided by Chapters 49, 53 and 54, Water Code, and to finance the construction, maintenance or operation of projects permitted by the bill, Section 8126.101, Section 8126.102 and Section 50.107, Water Code does not apply.