

BILL ANALYSIS

C.S.H.B. 3546
By: Otto
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

East Montgomery County Municipal Utility District Nos. 5, 6, & 7 (the "Districts") will encompass an area of land within the extraterritorial jurisdiction of the City of Houston, Harris 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 Districts 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. CSHB 3546 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the Districts.

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 8140 to Subtitle F, Title 6, Special District Local Laws Code, as follows:

SUBCHAPTER A. GENERAL PROVISIONS.

SECTION 8140.001. DEFINITIONS. Defines "board," "director," and "district(s)."

SECTION 8140.002. NATURE OF DISTRICTS. Provides that the districts to be known as the East Montgomery County Municipal Utility District Nos. 5, 6, & 7 (the "Districts"), are created in Montgomery County. Provides that the districts are essential to accomplish the purposes of Section 52, Art. III, and Section 59, Art. XVI, Texas Constitution.

SECTION 8140.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the Districts are not confirmed at a confirmation election held under Section 8140.023 before September 1, 2007, the Districts are dissolved except that (a) any debts incurred shall be paid; (b) any assets that remain after the payment of debts shall be transferred to Montgomery 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 Districts as provided in this section, the Chapter expires on September 1, 2010.

SECTION 8140.004. INITIAL DISTRICT TERRITORY. Provides that the Districts are initially composed of the territory described by Section 2 of the Act. Sets forth legislative findings relating to the boundaries of the District.

SECTION 8140.005. APPLICABILITY OF OTHER LAW. Provides that Chapters 49 and 54, Water Code, apply to the District except as provided by this Chapter.

SUBCHAPTER A-1. TEMPORARY PROVISIONS.

SECTION 8140.021. 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 8140.023 or the date this Chapter expires.

SECTION 8140.022. 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 Montgomery 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 8140.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides that the temporary board of directors shall call and hold an election to confirm the establishment of the Districts and to elect five initial directors in the manner provided by Section 49.102, Water Code.

SECTION 8140.024. INITIAL ELECTED DIRECTORS; TERMS. Provides that the temporary directors elected under Section 8140.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8140.052 and which three shall serve until the second regularly scheduled election of directors.

SECTION 8140.025. EXPIRATION OF SUBCHAPTER. Provides that this Subchapter expires September 1, 2010.

SUBCHAPTER B. BOARD OF DIRECTORS.

SECTION 8140.051. DIRECTORS; TERMS. Provides that the Districts are governed by boards of five directors. Provides that the directors serve staggered four-year terms.

SECTION 8140.052. 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 8140.101 GENERAL POWERS. Provides that the Districts have all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this State, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

SECTION 8140.102. ROAD PROJECTS. Provides that the Districts 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 Districts. Also says a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county whose jurisdiction the district is located. Additionally, the district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

SECTION 8140.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Provides that, subject to the limitations of Section 54.016, Water Code, the District shall comply with all valid and applicable requirements of an ordinance or resolution adopted by the City Council of the City of Houston, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the Districts or to the inclusion of lands within the Districts.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS.

SECTION 8140.151. TAX TO REPAY BONDS. Provides that the District may impose a tax to pay the principal of or interest on bonds issued under Section 8140.201.

SUBCHAPTER E. BONDS.

SECTION 8140.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Provides that the District may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance or operation of projects under Sections 8140.101 and 8140.102. Provides that the Districts may not issue such bonds to finance projects authorized by Section 8140.102 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 8140.102 may not exceed one-fourth of the assessed value of the real property in each of the Districts. Provides that Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the Districts under Section 8140.102 or to bonds issued by the Districts 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

The Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

A new subsection (b) and (c) were added to the road authority language in Sec 8140.102 to clarify the extent and under what circumstances the municipal utility districts can build roads. Specifically, the substitute adds the following provisions: (b) Says a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county whose jurisdiction the district is located; and (c) the district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

There was also a technical change that fixed a transposed number. In the original bill, page 5, line 19, legislative council used the number "8140.102" when they should have used the number "8140.201." The substitute fixes that error.