

BILL ANALYSIS

C.S.H.B. 3574
By: Giddings
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 3574 creates the Dallas County Municipal Utility District Number 3, and to enumerate its powers, duties and obligations.

In 1925, the Legislature enacted its first law to authorize the creation of water control and improvement districts. Article 16, Section 59, of the Texas Constitution authorized such entities to have unlimited taxing authority and to issue debt backed by such taxes in order to construct public infrastructure to control and use water beneficially. The Water Code now authorizes approximately 13 different types of water districts to deal with surface water usage.

Water districts can be created by three methods: by the county commissioners court, by the TCEQ or successor agencies, and by the Legislature.

C.S.H.B. 3574 proposes the legislative creation of a municipal utility district (“MUD”) to be located entirely in Dallas 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

This Act adds Chapter 8141 to the Special District Local Laws Code, which shall be titled the Dallas County Municipal Utility District Number 3.

SUBCHAPTER A defines the GENERAL PROVISIONS that will apply to the new district. Definitions are provided. The nature of the district, being authorized by certain constitutional provisions, is set forth.

A requirement that a confirmation election is provided. If the district does not hold a confirmation election before September 1, 2007, under certain circumstances, the district may be dissolved.

The land to be included in the district is described in the bill itself, the field notes shall be deemed to form a closure, and a mistake in the field notes shall not affect the validity of the district.

Subchapter A1 sets forth temporary provisions that will authorize and regulate the activities of the district until the district is confirmed by the voters. In this subchapter, the temporary directors are named, and the qualifications for their service are provided. If at any time there are fewer than three qualified temporary directors, the TCEQ shall appoint members to fill those vacancies.

The organizational meeting of the board of directors is authorized and the location of the meeting place is provided for. A mechanism to determine which directors shall serve two year terms to create the staggering effect required for the four-year terms water district directors are to serve is provided.

Subchapter A1 expires September 1, 2010.

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SUBCHAPTER B sets forth provisions relating to the BOARD OF DIRECTORS.

There shall be five directors who serve four-year terms and who shall stand for election on the May uniform election date of each even-numbered year.

SUBCHAPTER C sets forth the district's POWERS AND DUTIES that are bestowed in addition to the powers and duties the district shall acquire by virtue of creation as a municipal utility district.

The district may construct, acquire, improve, maintain, or operate roads or turnpikes, or improvements in aid of such, inside the district. A road project must meet or exceed all applicable construction standards of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the jurisdiction of a municipality, a road project must meet or exceed all applicable construction standards of each county in which the district is located.

The district may not undertake a road project unless each municipality the district is located consents by ordinance or resolution. If the district is located outside a municipality's jurisdiction, the district must obtain consent of each county in which the district is located.

The district may contract for a road project in the manner provided by Subchapter I, Chapter 49, Water Code.

The district may construct, acquire, improve, enlarge, or maintain dams, embankments, reservoirs, lakes and other improvements as necessary to control, store or preserve water for any useful purpose. The district may flood district lands and other public property in the district.

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 the political subdivision a water supply, treatment and distribution system, a sewer collection or treatment system, as necessary.

The district may use bond proceeds or other available district revenues to pay its obligations under such contract. If the contract referred to above requires the district to make payments from taxes other than O&M taxes, the contract is subject to Section 49.108, Water Code.

SUBCHAPTER D provides for GENERAL FINANCIAL PROVISIONS.

The district may impose a tax for any district operation and maintenance purpose as provided in Section 49.107, Water Code. Section 49.107(f) does not apply to reimbursements for projects described in Section 8141.102. The district may impose a tax to pay debt service on bonds it issues under 8141.201.

The bill includes language that prohibits the district from imposing impact fees or assessments on certain utilities within the district.

SUBCHAPTER E sets forth provisions related to BONDS.

The district is authorized to issue bonds or other obligations under Chapters 49 and 54, Water Code, and to finance road projects under Sections 8141.102 and 8141.104 or the district's contractual obligations set forth in Section 8141.106.

The district may not issue bonds or other obligations secured in whole or in part by ad valorem taxes to finance projects authorized by Section 8141.102 (road projects) unless the issuance is approved by a vote of a two-thirds majority of the voters in the district. Bonds for such purposes may not exceed one fourth of the assessed value of the property in the district due to a constitutional prohibition in Article 3, Section 52.

Sections 49.181 and 49.182, Water Code, do not apply to projects under Section 8141.102, or to bonds issued by the districts for such road projects.

SUBCHAPTER F provides for DIVISION INTO MULTIPLE DISTRICTS.

The district is proposed to encompass approximately 320 acres. Before the district issues debt secured by taxes or net revenues, the district may be divided into two or more new districts. Each new district must be at least 100 acres.

The division must be based on a petition from a landowner in the district or a motion of the board. If a decision to divide is made, the board shall set the terms of the division, including names for the new district or districts and a plan for the payment or performance of any outstanding district obligation and prepare a metes and bounds description for each new district.

After the board decides to divide, the board shall hold an election in the district to determine whether the district should be divided as proposed. The board shall give notice at least 35 days before the date of the election. If a majority of the votes are in favor of division, the district shall be divided and not later than the 30th day after the date of the election the district shall provide notice of the division to the TCEQ, the attorney general, the commissioners court of each county in which a new district is located and any municipality that has extraterritorial jurisdiction of any new district. Not later than the 90th day after the date of the division election, the board shall appoint itself as the board of one of the new districts to serve the same terms as they originally served before the division, and appoint five directors for each new district who shall serve until the uniform election date in May of the first even numbered year after the year in which the directors are appointed. They shall draw lots to establish staggered terms.

Each new district may incur and pay debts and has all the powers of the original district created by this chapter. If the district is divided, any bond authorizations remain in place. Debts shall be paid by revenues or by taxes or assessments imposed on real property in the district as if the district has not been divided or by contributions from each new district as stated in the terms set by the board. Any other obligation shall be divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts. The new districts may contract with each other for water and wastewater services, or any other matters the boards consider appropriate.

SECTION 2. SETS FORTH THE METES AND BOUNDS OF THE LAND INITIALLY TO BE WITHIN THE DISTRICT, ENCOMPASSING a 320.42 ACRE TRACT.

SECTION 3. PROVISIONS RELATING TO NOTICE REQUIRED BY CONSTITUTION FOR LOCAL LAW, AND CONFIRMING ALL SUCH ACTS FULFILLED.

SECTION 4. EFFECTIVE DATE.

Upon passage if the required vote is obtained in both houses or September 1, 2005, if not.

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COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute contains five (5) changes from the bill as filed, all of which are in SECTION 1 of the bill.

1. Sec. 8141.023 contains new language, and the subsequent sections in Subchapter A1 are renumbered appropriately. The new language provides that the temporary directors may not hold an election under the Act until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented to the creation of the district in accordance with Sec. 54.016, Water Code.

2. Sec. 8141.102 is revised to restrict the grant of road powers under the Act to inside the district only.

3. Sec. 8141.102 now requires a road project to meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the district is located outside the extraterritorial jurisdiction or corporate limits of a municipality, the applicable standards of the county must be met or exceeded.

In addition, Sec. 8141.102 also requires that a district desiring to undertake a road project under the Act must obtain the consent of the city or county, as applicable, by ordinance or resolution.

4. In Sec. 8141.104, the words “enlarge”, “extend”, “repair”, “levees”, “walls”, “dikes” and “canals”, have all been deleted.

5. In Sec. 8141.105, the word “other” is deleted in reference to “fees”, and the word “surveying” is added in lieu thereof.