

BILL ANALYSIS

C.S.S.B. 1823
By: Wentworth
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Schertz Municipal Utility District No. 1 (district) will encompass an area of land inside of the corporate limits of the City of Schertz. The land to be located within the district will be developed into single family residential and commercial developments; and therefore, water, sewer, and drainage services need to be secured. It is necessary to create the municipal utility district under Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, in order to purchase, acquire, and/or construct facilities to serve the future occupants of the land utilizing tax exempt bonds. CSSB 1823 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the district, and provides authority for the district to divide into smaller 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.

Amends Subtitle F, Title 6, Special District Local Laws Code by adding Chapter 8128, titled SCHERTZ MUNICIPAL UTILITY DISTRICT NO. 1, containing the following provisions:

Subchapter A. General Provisions

Sec. 8128.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8128.002. NATURE OF DISTRICT. Provides that a district, to be known as the Schertz Municipal Utility District No. 1 (district), is created in Bexar County and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8128.003. CONFIRMATION ELECTION REQUIRED. Provides that the creation of the district is subject to approval at a confirmation election held before September 1, 2007; and provides for dissolution of the district and the expiration of Chapter 8128 if the district is not confirmed.

Sec. 8128.004. INITIAL DISTRICT TERRITORY. Sets forth the territory that will be initially included in the district by reference to Section 2 of the Act. Sets forth legislative findings relating to the boundaries of the district.

Sec. 8128.005. APPLICABILITY OF OTHER LAW. Provides that the Act and Chapters 30, 49, and 54, Water Code, apply to the district.

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8128.021. TEMPORARY DIRECTORS. Sets forth the composition and terms of the temporary board of directors. Provides that a temporary director is not required to own land in or reside in the district. Provides that if a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. Provides that

if, at any time, there are fewer than three qualified temporary directors, the Texas Commission on Environmental Quality (TCEQ) shall appoint the necessary number of persons to fill all vacancies. Provides that temporary directors serve until directors are elected under Sec. 8128.022.

Sec. 8128.022. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary board to call and hold an election to confirm establishment of the district and elect five initial directors. Provides that at the election the board may submit to the voters a proposition to authorize an issuance of bonds, a maintenance tax, or a tax to fund payments required under a contract. Provides that Section 41.001(a) (Uniform Election Dates), Election Code, does not apply to the confirmation election.

Sec. 8128.023. INITIAL ELECTED DIRECTORS; TERMS. Sets forth staggered terms for the directors elected at the confirmation election.

Sec. 8128.024. EXPIRATION OF SUBCHAPTER. Provides for the expiration of Subsection A on September 1, 2010.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8128.051. DIRECTORS; TERMS. Provides that the district is governed by a five-member board of directors. Provides that permanent directors serve staggered four-year terms.

Sec. 8128.052. ELECTION OF DIRECTORS. Provides that the directors shall be elected on the uniform election day in May of each even-numbered year.

SUBCHAPTER C. DIVISION OF DISTRICT TO MULTIPLE DISTRICTS

Sec. 8128.101 DIVISION OF DISTRICT: PREREQUISITES. Allows the district, including any annexed territory, before issuing indebtedness secured by taxes or net revenues, to be divided, into two or more new districts. Provides that a district created by division may further subdivide. Any new district created by division of a district must be at least 100 acres in size. Authorizes the board to adopt a resolution setting forth the plan of division and a metes and bounds description of the divided districts.

Sec. 8128.102. DISTRICT DIVISION BY ELECTION. Authorizes the board to order an election to be held in the district to determine if the district should be divided as proposed and to give notice of the election.

Sec. 8128.103 NOTICE OF DIVISION. Requires the district to provide written notice of the plan for division to the Texas Commission on Environmental Quality, the attorney general, the commissioners court of each county in which each new district is located, and any municipality having extraterritorial jurisdiction over the land within each new district.

Sec. 8128.104. DISTRICT NAMES AFTER DIVISION. Provides that a district resulting from the division may retain the name of the original district and other new districts created shall be assigned consecutive letters to be appended to the name of the original district.

Sec. 8128.105. ELECTION OF DIRECTORS OF NEW DISTRICT. Provides that after an order dividing the district, the directors of the board shall continue to act as directors of the original district; and shall appoint initial directors for each of the other new districts. Provides that an appointed initial director is not required to own land in or reside in the district for which the person is appointed. Provides for terms of the appointed initial directors, and provides for the election and terms of directors to replace initial directors.

Sec. 8128.106. CONTINUING POWERS AND OBLIGATIONS OF NEW DISTRICTS. Provides that each new district may incur and pay debts and have all powers of the original district. Any obligations and any bond authorizations of the district are not impaired and shall be paid by revenues, or by taxes or assessments levied on the land in the district as if the district had not been divided or by contributions from each new district. Other obligations of the district shall be divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts.

Sec. 8128.107. CONTRACT AUTHORITY OF NEW DISTRICTS. Provides that the new districts may contract with each other and with the original district for water, wastewater, and any other matters the boards of the new districts consider appropriate.

Sec. 8128.108. BOND ISSUANCE BY NEW DISTRICT. Provides that a new district may issue bonds payable from ad valorem taxes upon approval of the majority of the residents voting in an election called and held for that purpose.

Sec. 8128.109 MAINTENANCE TAX APPROVAL FOR NEW DISTRICT. Provides that a new district may impose a maintenance tax on the approval of the majority of the residents voting in an election called and held for that purpose.

SECTION 2.

Sets forth a metes and bounds description of the territory that is to be initially included in the district, being 101.223 acres of land, more or less.

SECTION 3. (a) Provides that the proper and legal notice setting forth the substance of this Act has been published as provided by law. Provides that a notice of a copy of this Act has been furnished to the required persons, agencies, officials, or entities according to the constitution and other laws of this state.

(b) Provides that governor has submitted the notice and Act to the Texas Commission on Environmental Quality (TCEQ).

(c) Provides that the TCEQ has filed its recommendations relating to this Act with the governor, lieutenant governor, and the speaker of the house of representatives within the required time.

(d) 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. Provides that the effective date of the Act is September 1, 2005.

EFFECTIVE DATE

This Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSSB 1823 requires the board to give notice of an election to divide the district 35 days before the date of the election instead of 20 days as in the bill as filed.