

BILL ANALYSIS

Senate Research Center
79R13739 SGA-F

C.S.S.B. 1849
By: Estes
Natural Resources
4/22/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, the Stephens County Rural Water Supply Corporation (SCRWSC) provides water service within Stephens, Eastland, Palo Pinto, Shackelford, Throckmorton, and Young counties. SCRWSC is governed by a seven-member board of directors elected by the members of the corporation.

The area served by SCRWSC is more particularly defined in Certificate of Necessity No. 11456. SCRWSC is interested in converting to a special utility district so that it may have the advantages of being a political subdivision of the state, including liability protections, ability to issue tax-exempt bonds for financing, and better insurance rates.

C.S.S.B. 1849 creates and establishes the Stephens Regional Special Utility District and dissolves SCRWSC.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle C, Title 6, Special District Local Laws Code, by adding Chapter 7205, as follows:

CHAPTER 7205. STEPHENS REGIONAL SPECIAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7205.001. DEFINITION. Defines "district."

Sec. 7205.002. NATURE OF DISTRICT. Provides that the Stephens Regional Special Utility District (district) is a special utility district in Stephens, Eastland, Palo Pinto, Shackelford, and Throckmorton counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 7205.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation and initial directors' election held before September 1, 2007 the district is dissolved on September 1, 2007, except that any debts of the district incurred shall be paid, any assets of the district that remain after the payment of debts shall be transferred to Stephens, Eastland, Palo Pinto, Shackelford, or Throckmorton County as appropriate, and the organization of the district shall be maintained until all debts are paid and remaining assets are transferred. Provides that this chapter expires September 1, 2010, if the creation of the district is not confirmed.

Sec. 7205.004. APPLICABILITY OF OTHER SPECIAL UTILITY DISTRICT LAW. Provides that except as otherwise provided by this chapter, Chapters 49 (Provisions Applicable to all Districts) and 65 (Special Utility Districts), Water Code, apply to the district.

Sec. 7205.005. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district; the right of the district to issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on a bond; or the legality or operation of the district or the board of directors of the district.

[Reserves Sections 7205.006-7205.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 7205.021. TEMPORARY DIRECTORS. (a) Sets forth the names of the members of the temporary board of directors.

(b) Requires each temporary director to qualify for office as provided by Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code.

(c) Requires the temporary directors who have qualified for office, if a temporary director fails to qualify, to appoint a person to fill the vacancy. Requires the Texas Commission on Environmental Quality, if at any time there are fewer than four qualified temporary directors, to appoint the necessary number of directors to fill all vacancies on the board.

(d) Provides that temporary directors serve until initial directors are elected under Section 7205.022.

Sec. 7205.022. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) Requires the temporary directors to hold an election to confirm the creation of the district and to elect seven initial directors in accordance with Chapters 49 and 65, Water Code, on or before September 1, 2007.

(b) Requires the temporary board of directors to determine the method for determining the initial term of each person on the initial board of directors. Requires the terms to be clearly stated on the ballot for the confirmation and directors' election.

(c) Provides that Section 41.001(a) (setting forth uniform election dates), Election Code, does not apply to a confirmation election held as provided by this section.

(d) Provides that initial directors serve until the first regularly scheduled election of directors under Subchapter C (Administrative Provisions), Chapter 65, Water Code.

Sec. 7205.023. TRANSFER OF ASSETS; DISSOLUTION. (a) Requires the Stephens County Rural Water Supply Corporation, if the district's creation is confirmed under Section 7205.022, to transfer the assets, debts, and contractual rights and obligations of the corporation to the district.

(b) Requires the board of directors of the Stephens County Rural Water Supply Corporation, not later than the 30th day after the date of the transfer under Subsection (a), to commence dissolution proceedings of the corporation.

(c) Provides that on dissolution of the Stephens County Rural Water Supply Corporation, Certificate of Convenience and Necessity No. 11456 is considered to be held by the district.

(d) Requires the board of directors of the Stephens County Rural Water Supply Corporation to notify the Texas Commission on Environmental Quality of the dissolution of the corporation and of the transfer of Certificate of Convenience and Necessity No. 11456 to the district.

(e) Requires the Texas Commission on Environmental Quality, on receipt of notice under Subsection (d), to note in its records that Certificate of Convenience and Necessity No. 11456 is held by the district and to reissue the certificate in the name of the district without further application or notice.

Sec. 7205.024. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 7205.025-7205.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7205.051. DIRECTORS. Provides that the district is governed by a board of not fewer than five and not more than 11 directors.

[Reserves Sections 7205.052-7205.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7205.101. GENERAL POWERS. 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 and 65, Water Code, applicable to special utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7205.102. WATER SERVICE IMPACT FEE. (a) Authorizes the district to charge a water service impact fee that is equal to the equity buy-in fee charged by the Stephens County Rural Water Supply Corporation on January 31, 2005, under that corporation's tariff.

(b) Provides that Chapter 395 (Financing Capital Improvements Required by New Development in Municipalities, Counties, and Certain Other Local Governments), Local Government Code, does not apply to the initial water service impact fee set under this section.

(c) Authorizes the district to increase the water service impact fee only as provided by Chapter 395, Local Government Code, or as approved by the Texas Commission on Environmental Quality.

Sec. 7205.103. EMINENT DOMAIN. Provides that the district, except as provided by this section, has all the authority under Chapters 49 and 65, Water Code, of a special utility district to acquire by condemnation any land, easement, or other property located inside or outside the boundaries of the district for any project or purpose. Prohibits the district from exercising the power of eminent domain to condemn, for sanitary sewer purposes, land, easements, or other property located outside the boundaries of the district.

SECTION 2. Sets forth the territory initially included in the district.

SECTION 3. Provides that the general law relating to consent by political subdivisions to the creation of a conservation and reclamation district and the inclusion of land in the district has been complied with. 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. Effective date: upon passage or September 1, 2005.