

BILL ANALYSIS

C.S.S.B. 1871
By: Jackson, Mike
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Brazoria County Municipal Utility District No. 44 (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 Bonney, Brazoria 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 and 54, Water Code, in order to purchase, acquire, or construct facilities for such service to serve the future occupants of the land utilizing tax exempt bonds. CSSB 1871 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 8153 to Subtitle F, Title 6, Special District Local Laws Code, as follows:

SUBCHAPTER 1. GENERAL PROVISIONS

SECTION 8153.001. DEFINITIONS. Defines "board," "director," and "district."

SECTION 8153.002. NATURE OF DISTRICT. Provides that a district to be known as the Brazoria County Municipal Utility District No. 44 (the "District"), is created in Brazoria County. Provides that the District is essential to accomplish the purposes of Section 59, Art. XVI, Texas Constitution.

SECTION 8153.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the District is not confirmed at a confirmation election held under Section 8153.024 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 Brazoria 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 8153.004. 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.

SUBCHAPTER A-1. TEMPORARY PROVISIONS.

SECTION 8153.021. TEMPORARY DIRECTORS. Provides that on or after September 1, 2005, 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 first 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.

SECTION 8153.022. 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 Tarrant 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 8153.023 CONSENT OF MUNICIPALITY OR COUNTY REQUIRED.

Provides (a) temporary directors may not hold the initial directors election or confirmation election until each municipality in whose corporate limits or extraterritorial jurisdiction the District is located has adopted a resolution consenting to the creation of the District; (b) if the District is located outside the extraterritorial jurisdiction of the municipality then the directors may not hold such election until each county in which the District is located has adopted a resolution consenting to the creation of the District; and (c) a municipality or county may not adopt a resolution under this section consenting to the creation of the District before the effective date of the Act.

SECTION 8153.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Subject to compliance with Section 8153.023, 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 8153.025. INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors elected under Section 8153.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8153.052 and which three shall serve until the second regularly scheduled election of directors.

SECTION 8153.026. EXPIRATION OF SUBCHAPTER. Provides that this Subchapter expires September 1, 2010.

SUBCHAPTER B. BOARD OF DIRECTORS.

SECTION 8153.052. 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 8153.101. MUNICIPAL UTILITY 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 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

SECTION 8153.102. ROAD PROJECTS. To the extent authorized by Section 52, Article III, Texas Constitution, 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 the District. Provides that a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality in whose corporate limits or extraterritorial jurisdiction the District is located. If the District is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the District is located. The District may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the District is located consents by ordinance or resolution.

SECTION 8153.103. 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 Bonney.

SECTION 8153.104. LIMITATION ON USE OF EMINENT DOMAIN. Provides that the District may exercise eminent domain outside the District only to acquire an easement necessary for a pipeline that serves the District.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

SECTION 8153.151. TAX TO REPAY BONDS. Provides that the District may impose a tax to pay the principle of or interest on bonds issued under Section 8153.201.

SUBCHAPTER E. BONDS.

SECTION 8153.201. 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 8153.101 and 8153.102. Provides that the District may not issue such bonds to finance projects authorized by Section 8153.102 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 8153.102 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 8153.102 or to bonds issued by the District to finance the project.

SECTION 2. BOUNDARIES. Sets 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, 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.

EFFECTIVE DATE

CSSB 1871 takes effect immediately if it receives a 2/3rds vote in both chambers, otherwise it takes effect Sept. 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSSB 1871 omits language in Section 8153.002 (Nature of District) stating that the District is created to accomplish the purposes of Section 52, Article III, Texas Constitution.

The substitute adds Section 8152.023 CONSENT OF MUNICIPALITY OR COUNTY REQUIRED. The substitute provides that the District may not hold an election to confirm the District or elect directors until each municipality in whose corporate limits or extraterritorial jurisdiction the District is located has adopted a resolution consenting to the creation of the District. If the District is located outside the extraterritorial jurisdiction of a municipality, the temporary directors may not hold the election until each county in which the District is located has adopted a resolution consenting to the creation of the District. A municipality or county may not adopt a resolution consenting to the creation of the District before the effective date of the Act.

The substitute renumbers Section 8153.023 to Section 8153.024; Section 8153.024 to Section 8153.025; Section 8153.025 to Section 8153.026.

The substitute bill adds a new Section 8153.101 which provides that the District shall have the powers 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.

The substitute bill revises Section 8153.101 to provide that road projects are authorized to the extent allowed under Section 52, Article III, Texas Constitution and only for road projects located inside the District. The substitute adds subsection (b) which provides a road project must 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. The substitute also adds subsection (C) which provides the District may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the District is located consents by ordinance or resolution. If the District is located outside the extraterritorial jurisdiction of a municipality, the District may not undertake a road project unless each county in which the District is located consents by ordinance or resolution.

The substitute bill adds Section 8153.103 to provide that subject to the limitations of Section 54.016, Water Code, the District shall comply with all applicable requirements of any ordinances or resolutions adopted by the City Council of the City of Bonney.

The substitute bill adds Section 8153.104 to provide that the District may exercise the power of eminent domain outside the District only to acquire an easement necessary for a pipeline that serves the district.

CSSB 1871 revises Section 4 to provide the Act takes effect immediately upon vote of two-thirds of all members of each house, otherwise the Act takes effect September 1, 2005.