

## **BILL ANALYSIS**

S.B. 1889  
By: Lindsay  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Harris County Municipal Utility District No. 464 (the "District") will encompass an area of land inside the extraterritorial jurisdiction of the City of Houston. 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 (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. SB 1889 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 8158 to Subtitle F, Title 6, Special District Local Laws Code, as follows:

#### SUBCHAPTER A. GENERAL PROVISIONS.

SECTION 8158.001. DEFINITIONS. Defines "board," "director," and "district."

SECTION 8158.002. NATURE OF DISTRICT. Provides that a district to be known as the Harris County Municipal Utility District No. 464 (the "District"), is created in Harris County. Provides that the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

SECTION 8158.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the District is not confirmed at a confirmation election held under Section 8158.023 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 Harris 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 8158.004. 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 8158.021. 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

the temporary directors shall serve until the earlier of the date directors are elected under Section 8158.023 or the date this Chapter expires.

**SECTION 8158.022. 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 Harris 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 8158.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.** Provides that the temporary board of directors shall call and hold an election to confirm the establishment of the District and to elect five initial directors in the manner provided by Section 49.102, Water Code.

**SECTION 8158.024. INITIAL ELECTED DIRECTORS; TERMS.** Provides that the temporary directors elected under Section 8158.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8158.052 and which three shall serve until the second regularly scheduled election of directors.

**SECTION 8158.025. EXPIRATION OF SUBCHAPTER.** Provides that this Subchapter expires September 1, 2010.

**SUBCHAPTER B. BOARD OF DIRECTORS.**

**SECTION 8158.051. DIRECTORS; TERMS.** Provides that the District is governed by a board of five directors. Provides that the directors serve staggered four-year terms.

**SECTION 8158.052. 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 8158.101 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 8158.102. ROAD PROJECTS.** Provides that 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 or county in whose jurisdiction the District is located. Also provides that 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 8158.103. 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 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 District or to the inclusion of lands within the District.

**SECTION 8158.104. LIMITATION ON USE OF EMINENT DOMAIN.** Provides 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.

**SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS.**

SECTION 8158.151. TAX TO REPAY BONDS. Provides that the District may impose a tax to pay the principal of or interest on bonds issued under Section 8158.201.

SECTION 8158.152. UTILITY PROPERTY EXEMPT FROM IMPACT FEES. Provides that the District may not impose an impact fee or assessment on the property, including equipment, right-of-way, facilities, or improvements of 1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code; 2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code; 3) a telecommunications provider as defined by Section 51.002, Utilities Code; or 4) a person who provides to the public, cable television or advanced telecommunication services.

#### SUBCHAPTER E. BONDS.

##### SECTION 8158.201. 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 8158.101 and 8158.102. Provides that the District may not issue such bonds to finance projects authorized by Section 8158.102 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 8158.102 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 8158.102 or to bonds issued by the District to finance the project.

SECTION 2. Sets forth the boundaries of the District.

SECTION 3. 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.

#### **EFFECTIVE DATE**

SB 1889 takes effect on September 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modified the original by specifying that the district is essential to accomplish the purposes of Section 59, Art. XVI, Texas Constitution, limiting the district's authority to undertake road projects, limiting the district's authority to exercise the power of eminent domain outside the district, and prohibiting the district from imposing an impact fee on certain utilities.