

BILL ANALYSIS

S.B. 1894
By: Deuell
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 1894 creates the Kaufman County Water Control and Improvement District No. 1 (district), to provide water, sewer, drainage and road improvements to a 586-acre tract located in part of the unincorporated area of Kaufman County and partly in the City of Terrell, Texas. All of the land within the district is located in Kaufman County. The City of Terrell has provided formal consent, by way of two separate resolutions of support (City Resolution No. 512 and No. 520).

The proposed district will contain mixed use development and will abide by the rules and regulations of Kaufman County. The water, sewer and drainage bonds of the proposed district will be subject to approval by the Texas Commission on Environmental Quality. The bond issue for road improvements will be reviewed by the attorney general of Texas. The road bonds must be approved by a two-thirds vote at an election within the district and may not exceed 25 percent of the amount of the ad valorem tax base in the district.

The district is essential to the financing of the infrastructure of the development. Upon completion of build-out, the ad valorem tax base attendant to the development will have increased by approximately \$400 million. This will provide direct benefits to the school district and Kaufman County.

SB 1894 also authorizes creation of the Las Lomas Municipality Utility District No. 4 of Kaufman County. It amends the boundaries of Kingsborough Municipal Utility Districts Nos. 1, 2, and 3. In addition, it provides for converting the Rose Hill Water Supply Corporation into the Rose Hill Special Utility 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 1.01. Amends Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9002, as follows:

CHAPTER 9002. KAUFMAN COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9002.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 9002.002. NATURE OF DISTRICT. Provides that the Kaufman County Water Control and Improvement District No. 1 (district) is a conservation and reclamation district in Kaufman County created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 9002.003. CONFIRMATION ELECTION REQUIRED. Provides that certain actions will be taken if the creation of the district is not confirmed at a confirmation election held under Section 9002.023 before September 1, 2007.

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Sec. 9002.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 1.02 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 certain aspects of the district.

Sec. 9002.005. APPLICABILITY OF OTHER LAW. Provides that, except as otherwise provided by this chapter, Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, apply to the district.

[Reserves Sections 9002.006-9002.020 for expansion.]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 9002.021. TEMPORARY DIRECTORS. (a) Sets forth the composition of the temporary board of directors.

(b) Requires the Texas Commission on Environmental Quality (TCEQ), if a temporary director fails to qualify for office, to appoint a person to fill the vacancy.

(c) Sets forth the term lengths of temporary directors.

Sec. 9002.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. Requires the organizational meeting to be held at the Kaufman County Courthouse if a location cannot be agreed upon. Requires temporary directors, at the meeting, to elect officers from among the temporary directors and conduct any other district business.

Sec. 9002.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary directors to hold an election to confirm the creation of the district and to elect five directors of the board (directors) as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 9002.024. INITIAL ELECTED DIRECTORS; TERMS. Requires the directors elected under Section 9002.023 to draw lots to determine which two are required to serve until the first regularly scheduled election of directors under Section 9002.052 and which three are required to serve until the second regularly scheduled election of directors.

Sec. 9002.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 9002.026-9002.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9002.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors (board) who serve staggered four-year terms.

Sec. 9002.052. ELECTION OF DIRECTORS. Requires the appropriate number of directors to be elected on the uniform election date in May of each even-numbered year.

[Reserves Sections 9002.053-9002.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9002.101. ROAD PROJECTS. (a) Authorizes the district, to the extent authorized by Section 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit;

Grants; Bonds), Article III, Texas Constitution, to 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.

(b) Requires a road project to meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) Prohibits the district from undertaking a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 9002.102. **LIMITATION ON USE OF EMINENT DOMAIN.** Authorizes the district to exercise the power of eminent domain outside the district only to acquire an easement necessary for a pipeline that serves the district.

Sec. 9002.103. **AUTHORITY TO PROVIDE SERVICES.** Authorizes the district to provide water, sanitary water, drainage, and road services to any part of the district not receiving those services on the effective date of the Act creating this chapter.

Sec. 9002.104. **AUTHORITY TO CONTRACT.** Authorizes the district to enter into a contract with an owner of real property in the district to construct, acquire, finance, own, maintain, or operate works or projects authorized by Section 9002.103.

Sec. 9002.105. **DIVISION OF DISTRICT.** Authorizes the district to divide into two new districts as provided by Section 53.029 (Division of or Assumption of Authority by Certain Districts), Water Code.

[Reserves Sections 9002.106-9002.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9002.151. **TAX TO REPAY BONDS.** Authorizes the district to impose a tax to pay the principal of and interest on bonds issued under Section 9002.201.

Sec. 9002.152. **UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS.** Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements of certain utilities and service providers.

[Reserves Sections 9002.153-9002.200 for expansion.]

SUBCHAPTER E. BONDS

Sec. 9002.201. **AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.** (a) Authorizes the district to issue bonds or other obligations as provided by Chapters 49 and 51, Water Code, to finance the construction, maintenance, or operation of projects under Section 9002.101.

(b) Prohibits the district from issuing bonds under Subsection (a) 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.

(c) Prohibits bonds or other obligations issued or incurred to finance projects authorized by Section 9002.101 from exceeding one-fourth of the assessed value of the real property in the district.

(d) Provides that Sections 49.181 (Authority of Commission Over Issuance of District Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water code, do not apply to a project undertaken by the district under Section 9002.101 or to bonds issued by the district to finance the project.

Sec. 9002.202. USE OF BOND PROCEEDS. Authorizes the district to use proceeds from the sale of bonds to acquire from a private owner supply corporation facilities or improvements necessary to provide a service authorized by Section 9002.103.

SECTION 1.02. Sets forth the initial territory included in the district.

SECTION 2.01. Amends Subtitle F, Title 6, Special District Local Laws Code, by adding Chapter 8138, as follows:

CHAPTER 8138. LAS LOMAS MUNICIPAL UTILITY DISTRICT NO. 4 OF KAUFMAN COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8138.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8138.002. NATURE OF DISTRICT. Provides that the Las Lomas Municipal Utility District No. 4 of Kaufman County (district) is a municipal utility district in Kaufman County created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 8138.003. CONFIRMATION ELECTION REQUIRED. Provides that certain actions will be taken if the creation of the district is not confirmed at a confirmation election held under Section 8138.023 before September 1, 2007.

Sec. 8138.004. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2.02 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2.02 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 certain aspects of the district.

[Reserves Sections 8138.005-8138.020 for expansion.]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8138.021. TEMPORARY DIRECTORS. (a) Sets forth the composition of the temporary board of directors.

(b) Requires the Texas Commission on Environmental Quality (TCEQ), if a temporary director fails to qualify for office, to appoint a person to fill the vacancy.

(c) Sets forth the term lengths of temporary directors.

Sec. 8138.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires the temporary directors, as soon as practicable after all the temporary directors have qualified under Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. Requires the organizational meeting to be held at the Kaufman County Courthouse if a location cannot be agreed upon. Requires temporary directors, at the meeting, to elect officers from among the temporary directors and conduct any other district business.

Sec. 8138.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary directors to hold an election to confirm the creation of the district and to elect five directors of the board (directors) as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 8138.024. INITIAL ELECTED DIRECTORS; TERMS. Requires the directors elected under Section 8138.023 to draw lots to determine which two are required to serve until the first

regularly scheduled election of directors under Section 8138.052 and which three are required to serve until the second regularly scheduled election of directors.

Sec. 8138.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2010.

[Reserves Sections 8138.026-8138.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8138.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors (board) who serve staggered four-year terms.

Sec. 8138.052. ELECTION OF DIRECTORS. Requires the appropriate number of directors to be elected on the uniform election date in May of each even-numbered year.

[Reserves Sections 8138.053-8138.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8138.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provides that the district has the powers and duties provided by Chapters 49 and 54, Water Code, applicable to municipal utility districts.

Sec. 8138.102 ROAD PROJECTS. (a) Authorizes the district, to the extent authorized by Section 52 (Counties, Cities, or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III, Texas Constitution, to 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.

(b) Requires a road project to meet construction standards adopted by the North Central Texas Council of Governments, or its successor agency.

(c) Prohibits the district from undertaking a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8138.103. CERTIFICATE OF CONVENIENCE AND NECESSITY. Authorizes the district to pay expenses related to obtaining a new certificate of convenience and necessity under Chapter 13, Water Code.

Sec. 8138.104. CONTRACT WITH POLITICAL SUBDIVISION FOR WATER OR SEWER SERVICES. (a) Authorizes the district to enter into a contract to allow a political subdivision to provide retail water or sewer service in the district.

(b) Authorizes the contract to allow the district to construct or convey to the political subdivision a system necessary to provide water or sewer service in the district.

(c) Authorizes the district to pay for its obligations under the contract.

(d) Provides that the contract is subject to Section 49.108, Water Code if it requires the district to make payments from taxes other than operation and maintenance taxes.

Sec. 8138.105. LIMITATION ON USE OF EMINENT DOMAIN. Authorizes the district to exercise the power of eminent domain outside the district only to acquire an easement necessary for a pipeline that serves the district.

[Reserves Sections 8138.106-8138.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8138.151. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district to impose a tax for any district operation and maintenance purpose as provided by Section 49.107, Water Code.

(b) Provides that Section 49.107(f), Water Code, does not apply to reimbursements for projects constructed or acquired under Section 8138.102, Water Code.

Sec. 8138.152. TAX TO REPAY BONDS. Authorizes the district to impose a tax to pay the principal of and interest on bonds issued under Section 8138.201.

Sec. 8138.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements of certain utilities and service providers.

[Reserves Sections 8138.154-8138.200 for expansion.]

SUBCHAPTER E. BONDS

Sec. 8138.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, and to finance: certain projects under Section 8138.102; the district's efforts to obtain a new certificate of convenience and necessity or rights; and the district's contractual obligations under Section 8138.104.

(b) Prohibits the district from issuing bonds to finance road projects 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.

(c) Prohibits bonds or other obligations issued or incurred to finance projects authorized by Section 8138.102 from exceeding one-fourth of the assessed value of the real property in the district.

(d) Provides that Sections 49.181 (Authority of Commission Over Issuance of District Bonds) and 49.182 (Commission Supervision of Projects and Improvements), Water code, do not apply to a project undertaken by the district under Section 8138.102 or to bonds issued by the district to finance the project.

[Reserves Sections 8138.202-8138.250 for expansion.]

SUBCHAPTER F. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8138.251 DIVISION OF DISTRICT; REQUIREMENTS. (a) Authorizes the district to divide into two or more new districts any time before it issues indebtedness secured by taxes or net revenues.

(b) Provides that a new district created by division of the district must be at least 100 acres.

(c) Authorizes the board to consider a proposal to divide the district on petition by a landowner or motion of the board.

(d) Provides certain requirements if the board decides to divide the district.

Sec. 8138.252. ELECTION FOR DIVISION OF DISTRICT. (a) Requires the board to hold an election to determine whether to divide the district.

(b) Requires the board to provide notice of the election at least 35 days in advance and sets forth requirements for the notice.

(c) Provides that if a majority of votes favor division of the district the district is to be divided and requires the district to provide notice of the division within 30 days.

(d) Provides that if the division is not approved at the election, it may not be divided.

Sec. 8138.253. ELECTION OF DIRECTORS OF NEW DISTRICTS. (a) Requires the board, within 90 days of an election to divide the district, to appoint itself as the board of one of the new districts and appoint five directors for each of the other new districts.

(b) Provides for appointed directors' terms in the divided districts.

(c) Provides for an election of directors in the new district and the drawing of lots to determine who serves four-year and two-year terms.

(d) Provides that directors shall serve four year terms except as provided in subsection (c) and that elections shall take place in even-numbered years on the uniform election date.

Sec. 8138.254. CONTINUING POWERS AND OBLIGATIONS OF NEW DISTRICTS. (a) Authorizes each new district to incur and pay debts and provides that a new district has all powers of the original district created under this chapter.

(b) Provides that if the district is divided, its obligations and bond authorizations are not impaired. Authorizes debts to be paid by revenues, or by taxes or assessments on real property as if the district had not been divided, or by contributions from each new district under terms set by the board.

(c) Provides that any other district 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.

Sec. 8138.255. CONTRACT AUTHORITY OF NEW DISTRICTS. Authorizes the new districts to contract with each other for water and wastewater services or any other appropriate matter.

SECTION 2.02. Sets forth the initial territory included in the district.

SECTION 2.03. 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 3.01. Amends Section 5, Chapter 1299, Acts of the 78th Legislature, Regular Session, 2003, to amend the boundaries of Kingsborough Municipal Utility District Nos. 1, 2, and 3.

SECTION 3.02. Amends Section 10(b), Chapter 1299, Acts of the 78th Legislature, Regular Session, 2003 to authorize a district to exercise the power of eminent domain outside its boundaries to construct, acquire, operate, repair, or maintain a drainage system.

SECTION 3.03. Amends Section 12(b), Chapter 1299, Acts of the 78th Legislature, Regular Session, 2003 so that the subsection is no longer subject to Section 12(c) of the district's enabling legislation.

SECTION 3.04. Amends Section 15, Chapter 1299, Acts of the 78th Legislature, Regular Session, 2003 to eliminate the expiration date of the district's enabling legislation if it is not confirmed at an election before September 1, 2005.

SECTION 3.05. Amends Subtitle C, Title 6, Special District Local Laws Code, by adding Chapter 7204 as follows:

CHAPTER 7204. ROSE HILL SPECIAL UTILITY DISTRICT

DEFINITION. Defines Adistrict@to mean Rose Hill Special Utility District.

NATURE OF DISTRICT. The district is a special utility district in Kaufman County created under Section 59, Article XVI, Texas Constitution.

CONFIRMATION ELECTION REQUIRED. If the district is not confirmed by September 1, 2007, it is dissolved except that any debts incurred by the district shall be paid; any assets of the district that remain after the payment of debts shall be transferred to Kaufman County; and the organization of the district shall be maintained until all debts are paid and remaining assets are transferred.

APPLICABILITY OF OTHER SPECIAL UTILITY DISTRICT LAW. Chapters 49 and 65, Water Code apply to this district, except as otherwise provided by this chapter.

INITIAL DISTRICT TERRITORY. Provides that the district is initially composed of the territory described in Section 4.02 of the bill. States that a mistake made in the field notes outlined in Section 4.02 of the bill will not effect the operation of the bill.

TEMPORARY DIRECTORS. Lists the temporary directors; provides for filling vacancies; temporary directors serve until initial directors elected.

CONFIRMATION AND INITIAL DIRECTORS= ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect the five initial directors, whose terms will be set by the temporary directors. Section 41.001(a), Election Code does not apply to the confirmation election required by this section. Initial directors serve until the first regularly scheduled directors election.

TRANSFER OF ASSETS; DISSOLUTION. If the district is confirmed, Rose Hill Water Supply Corporation shall transfer all asset, debts, and contractual rights to the district and commence dissolution. Within 30 days of the transfer, the Rose Hill Water Supply Corporation board must commence dissolution proceedings. Upon dissolution, Certificate of Convenience and Necessity No. 10849 is considered to be held by the district. The Texas Commission on Environmental Quality shall be informed of the changes, and shall reissue the certificate to the district without further application or notice.

BOARD OF DIRECTORS. The district is governed by a board of not fewer than five and not more than 11 directors.

GENERAL POWERS. The district shall have all the rights, powers, privileges, authority, functions, and duties provided by the laws of the state, including Chapters 49 and 65, Water Code, applicable to Special Utility Districts.

WATER SERVICE IMPACT FEE. The district may charge a water service impact fee that is equal to the sum of the equity buy-in fee, aids to construction fee, and connection fee charged by the Rose Hill Water Supply Corporation on January 15, 2005, under the corporation's tariff. Chapter 395, Local Government Code does not apply to the initial water service impact fee, and the district may increase the fee only as provided by Chapter 395, Local Government Code or as provided by the Texas Commission on Environmental Quality.

EMINENT DOMAIN. The district has the power of eminent domain consistent with a Special Utility District under Chapters 49 and 65, Water Code, except that it may not exercise the power of eminent domain outside the district for sanitary sewer purposes.

SECTION 4.02. Sets forth the initial territory included in the district

SECTION 4.03. 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 5.01. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

S.B. 1894 79(R)

Upon passage or September 1, 2005

S.B. 1894 79(R)