

BILL ANALYSIS

Senate Research Center

H.B. 1565
By: Puente (Uresti)
Natural Resources
5/1/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Bexar Metropolitan Water District (district) was created by the Texas Legislature in 1945 to serve expected growth in Bexar County. The district's initial service area contained 4,765 accounts, while today, it exceeds 80,000 commercial and residential accounts. Recently, the district has experienced certain design, management, and operational problems, causing the district's customers to pay higher water bills under an inconsistent rate structure for service that is unreliable and, at times, unsafe.

H.B. 1565 provides that the district will be governed by the Commissioners Court of Bexar County and the county judges from Medina, Comal, and Atascosa counties, and the mayor of San Antonio. This bill removes certain powers of the district, including eminent domain. This bill provides certain restrictions on the board of directors and a sunset provision for the board of directors. This bill provides certain restrictions relating to expansion of current service.

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 Section 3, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as follows:

Sec. 3. Grants the Bexar Metropolitan Water District (district) the power to acquire by condemnation any and all property of any kind, real, personal, or mixed, or any interest therein, within the boundaries of the county of Bexar, rather than within or outside of the boundaries of the district, necessary to the exercise of the powers, rights, privileges, and functions conferred by this Act, in the manner provided by General Law relative to condemnation, or at the option of the district, in the manner provided by law with respect to condemnation by agencies organized pursuant to Section 59, Article 16, Texas Constitution, provided that the district is prohibited from having the right or power to so condemn any such property that may be owned by any other political subdivision, city, or town located within the district in addition to the powers vested by the Constitution and general laws in such public agency for the greatest practicable measure of the conservation, preservation, and beneficial utilization of its public waters, the power to control and utilize its public waters and to regulate the disposal and the disposal of sewage, waste, and refuse. Deletes existing text providing the district with the power to store, control, and conserve storm and flood waters of its rivers and streams and to prevent the escape of any such waters without first obtaining therefrom a maximum of public service; to prevent devastation of property from overflow and to protect life and property from uncontrolled flood and storm waters; and to provide for the development of drainage systems to control, regulate, and dispose of all storm and flood waters of the district so as to protect effectively lives and property, and to utilize such waters for each and every purpose for which flood and storm waters when controlled, conserved, or regulated may be utilized as contemplated by the Constitution and the public policy therein declared. Makes nonsubstantive changes.

SECTION 2. Amends Section 5A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Subsection (c), to provide that the district's boundaries for the purpose of conducting an election are coextensive with the boundaries of Bexar County.

SECTION 3. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 7A and amending Section 9, as follows:

Sec. 7A. Provides that the district is governed by a board of nine directors (board), composed of certain members.

Sec. 9. Provides that a member of the board is not entitled to receive fees of office, notwithstanding Section 49.060 (Fees of Office; Reimbursement), Water Code, rather than requiring that a board member to receive a per diem of not more than \$10 per day, for the time actually expended on business of the District, together with traveling and other necessary expenses, provided that such per diem fee shall not be paid to a director for more than 100 days in any one year.

SECTION 4. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 8A, as follows:

Sec. 8A. (a) Provides that the board is subject to review under Chapter 325 (Texas Sunset Act), Government Code, but is prohibited from being abolished under that chapter. Requires the review to be conducted as if the board were scheduled to be abolished September 1, 2010.

(b) Sets forth certain actions if the legislature does not continue the members of the board of directors in office.

SECTION 5. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 23A, as follows:

Sec. 23A. (a) Prohibits the district from charging a customer who receives water services from the district on and after September 1, 2007, a residential or commercial water rate greater than the rate charged by the district on September 1, 2007. Provides that this subsection expires September 1, 2012.

(b) Provides that, if on or after September 1, 2007, the district contracts with a person to provide water services to district customers and the person with whom the district contracts has water rates lower than the district's rates, a customer who receives water services from the district on September 1, 2007, and when the contract is in effect is entitled to the water rate charged by the person with whom the district contracts.

SECTION 6. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27A, as follows:

Sec. 27A. Prohibits the district from providing a service to a customer located outside Bexar County unless the customer received services from the district on or before April 4, 2007.

SECTION 7. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27C, as follows:

Sec. 27C. (a) Prohibits the district from terminating without cause an employee who, on May 1, 2007 is vested in the district's retirement plan, and earns an annual salary of \$50,000 or less.

(b) Entitles an employee described by Subsection (a) of this section who is terminated by the district for cause to the grievance process available to an employee of Bexar County who is not classified as a civil service employee.

SECTION 8. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27D, as follows:

Sec. 27D. (a) Prohibits the district from employing fewer than 90 percent of the number of employees employed by the district on May 1, 2007, who earned an annual salary of \$50,000 or less.

(b) Authorizes the district to reduce the number of employees employed by the district who earn an annual salary of \$50,000 or less only through retirement, voluntary resignation, or termination for cause.

(c) Entitles an employee terminated by the district for cause to the grievance process available to an employee of Bexar County who is not classified as a civil service employee.

(d) Provides that this section expires September 1, 2012.

SECTION 9. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27E, as follows:

Sec. 27E. (a) Prohibits the district from charging a higher water rate than the rate charged by the San Antonio Water System for comparable services.

(b) Requires the district to lower the water rate to the rate charged by the San Antonio Water System for a customer who received services from the district on or after May 1, 2007, and on or after May 1, 2007, paid a higher rate than the rate paid by a customer of the San Antonio Water System for comparable services, not later than August 1, 2007.

(c) Prohibits the district from raising the water rate for a customer to whom Subsection (b) applies.

(d) Provides that this subsection and Subsections (b) and (c) expire December 1, 2012.

SECTION 10. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27F, as follows:

Sec. 27F. (a) Prohibits Bexar County or the district from transferring, selling, or leasing to a public utility the management or assets, including certificates of convenience and necessity and water rights, of the district.

(b) Provides that this section does not apply to a certificate of convenience and necessity or a non-water rights asset of the district outside of Bexar County.

SECTION 11. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 32, as follows:

Sec. 32. (a) Requires the district to permit a customer to pay a bill at one or more retail locations in the district.

(b) Prohibits the district from closing a customer service branch that is in operation on May 1, 2007. Provides that this subsection expires May 1, 2017.

SECTION 12. Repealer: Section 8 (relating to the election of the board of directors), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945.

SECTION 13. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and 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 (Notice for Special and Local Laws), Government Code.

(b) Provides that the governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) Provides that the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the 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 14. Effective date: upon passage or September 1, 2007.