

## **BILL ANALYSIS**

Senate Research Center

C.S.H.B. 1565  
By: Puente (Uresti)  
Natural Resources  
5/18/2007  
Committee Report (Substituted)

### **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.

C.S.H.B. 1565 consists of three articles and conditions for the implementation of those articles. The first article provides that the district will be governed by the Commissioners Court of Bexar County. The article removes certain powers of the district, including eminent domain, and provides certain restrictions relating to expansion of current service. The second article, while similar to the first, does not specify a governing body for the district as does the first. The third article provides for the establishment and abolishment of the Bexar Metropolitan Water District Legislative Oversight Committee, subjects the district to an audit by the state auditor, and establishes the conditions to determine whether the text of the first or second article will become effective.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE I

SECTION 1.1. 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 1.2. 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 (the county).

SECTION 1.3. 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 the county commissioners court serving ex officio as the district's board of directors (board).

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

Sec. 23A. Prohibits the district from providing a service to a customer located outside the county unless the customer received services from the district on or before June 1, 2007, or the district agreed to provide services to the development or a new or existing customer located outside the county prior to June 1, 2007.

SECTION 1.5. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27A, as follows:

Sec. 27A. (a) Prohibits the district from terminating without cause certain employees set forth in this subsection.

(b) Provides that an employee described by Subsection (a) of this section who is terminated by the district for cause is entitled to a reasonable grievance process.

SECTION 1.6. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27C, as follows:

Sec. 27C. (a) Prohibits the district from employing fewer than one employee per 300 utility connections; [sic]

(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) Provides that an employee terminated by the district for cause is entitled to the grievance process.

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

SECTION 1.7. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27D, as follows:

Sec. 27D. (a) Requires the district, no later than 120 days after the first board meeting of the commissioners court serving ex officio, to take certain actions set forth in this subsection related to producing and delivering certain reports.

(b) Requires the district, no later than 180 days after that first meeting, to produce an assessment of the district's financial condition and present it to the legislative oversight committee.

(c) Requires the district, no later than 240 days after that first meeting, to take certain actions set forth in this subsection related to producing and delivering certain reports.

(d) Requires the district, no later than one year after that first meeting, to take certain actions set forth in this subsection related to producing and delivering certain reports.

(e) Requires the district, no later than three years after that first meeting, to have a uniform rate structure that contains rates that are equal to or lower than the rates of other large retail water providers in the region, provided that the district's rates shall be sufficient to meet debt service obligations and debt coverage requirements.

SECTION 1.8. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27E, as follows:

Sec. 27E. (a) Prohibits the district from transferring, selling, or leasing to a retail public utility the management or more than 40 percent of the assets, including certificates of convenience and necessity and water rights, of the district.

(b) Provides that this section does not apply to the transfer, sale, or lease of assets located outside the county's boundaries.

SECTION 1.9. 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 June 1, 2007, unless a comparable service branch is opened. Provides that this subsection expires September 1, 2012.

SECTION 1.10. Requires a representative from the district board to be selected for purposes of service on the Canyon Regional Water Authority Board of Directors.

SECTION 1.11. Repealer: Section 8 (relating to the election of the board of directors), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945.

## ARTICLE II

SECTION 2.1. Amends Section 3, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as follows:

Sec. 3. Grants the 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 2.2. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 23A, as follows:

Sec. 23A. Prohibits the district from providing a service to a customer located outside the county unless the customer received services from the district on or before June 1, 2007, or the district agreed to provide services to the development or a new or existing customer located outside the county prior to June 1, 2007.

SECTION 2.3. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 27D, as follows:

Sec. 27D. (a) Requires the district, no later than 120 days after the text of this section becomes effective, to take certain actions set forth in this subsection related to producing and delivering certain reports.

(b) Requires the district, no later than 180 days after the text of this section becomes effective, to produce an assessment of the district's financial condition and present it to the legislative oversight committee.

(c) Requires the district, no later than 240 days after the text of this section becomes effective, to take certain actions set forth in this subsection related to producing and delivering certain reports.

(d) Requires the district, no later than one year after the text of this section becomes effective, to take certain actions set forth in this subsection related to producing and delivering certain reports.

(e) Requires the district, no later than 18 months after the text of this section becomes effective, to have a uniform rate structure that contains rates that are equal to or lower than the rates of other large retail water providers in the region.

SECTION 2.4. 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 June 1, 2007, unless a comparable service branch is opened. Provides that this subsection expires September 1, 2012.

SECTION 2.5. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding a new Section 27A, as follows:

Sec. 27A. Requires the district to submit to the Bexar Metropolitan Water District Legislative Oversight Committee (committee) certain documentation and materials set forth in this subsection.

SECTION 2.6. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding a new Section 27C, as follows:

Sec. 27C. Requires the district to implement a rate structure that promotes and encourages conservation of water and provides for lower rates for customers using lower quantities of water.

SECTION 2.7. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding a new Section 27(E) [sic], as follows:

Sec. 27E. Requires the district to implement an appeal and grievance process for district employees.

### ARTICLE III

SECTION 3.1. Amends Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, by adding Section 33A, as follows:

Sec. 33A. LEGISLATIVE OVERSIGHT COMMITTEE. (a) Creates the committee in recognition of the goal set forth in this subsection.

(b) Requires the committee to take certain actions set forth in this subsection deemed appropriate by the committee related to monitoring and overseeing the district.

(c) Provides that the committee is comprised of three members appointed to represent certain persons set forth in this subsection.

(d) Provides that a member of the committee is not entitled to receive compensation for committee service but is entitled to reimbursement of the travel expenses incurred while conducting committee business, as provided by the General Appropriations Act.

(e) Requires the district to provide staff support for the committee.

(f) Provides that if the text of Article I of this Act becomes effective, this section expires on September 1, 2012, and the committee is abolished.

SECTION 3.2. STATE AUDIT. Requires the state auditor, subject to approval by the Legislative Audit Committee for inclusion in the annual audit plan, to conduct a financial and managerial audit of the district upon passage of this Act and submit the findings from the audit in a written report to certain governmental entities set forth in this subsection. Requires the district to cooperate and provide access to all necessary records, confidential or unconfidential, to the state auditor in conducting the audit. Requires the district to reimburse the state auditor for the audit cost.

SECTION 3.3. TRANSITION PERIOD. (a) Provides that the period on or after this Act's effective date and before the implementation of the text of Article I or the text of Article II of this Act is the transition period.

(b) Prohibits the district, during the transition period, from taking certain actions set forth in this subsection.

SECTION 3.4. (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 3.5. (a) Provides that the text of Article I and III is effective upon this Act's effective date.

(b) Requires the secretary of state, in the event that the United States Department of Justice issues a letter pursuant to Section 5 of the Voting Rights Act interposing an objection to the implementation of any portion of this Act, to publish notice of such objection in the Texas Registrar. Requires the notice to contain a copy of the letter reference in this section. Provides that only upon the publication of such notice shall the text of Article II become effective and the text of Article I be no longer effective.

SECTION 3.6. Effective date of this Act: September 1, 2007.