

BILL ANALYSIS

H.B. 2091
By: Hill
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The provision of adequate and necessary utilities in an area proximate to urbanized development is important to the health, safety and welfare of higher density mixed use residential and retail communities. Where there are utility providers in the region, public policy dictates that they be notified and have an opportunity to provide utility service on a regional basis that is both functional and affordable. Current law requires that before a special district is created to provide water, sewer, roadway or drainage in the extraterritorial jurisdiction (ETJ) of a municipality, the municipality's consent is required to avoid duplication of utility services, roads or other provision of services if they will be provided by the municipality. This is especially important if the area to be developed is in the planning area of the municipality or its ETJ.

Clarification needs to be provided that if a district exists outside of the ETJ but wishes to expand into the ETJ of the municipality, the same protocol, procedure and planning process be employed to avoid the duplication services.

The purpose of House Bill 2091 is to clarify that the expansion or annexation of territory by an already created district, if it is inside the ETJ of a municipality, must follow the same procedures as if it was being created.

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

This bill amends the heading of Subchapter C, Chapter 42, Local Government Code to indicate that the subchapter applies to the expansion of special districts as well as their creation (adds "OR EXPANSION" to read SUBCHAPTER C. CREATION OR EXPANSION OF GOVERNMENTAL ENTITIES IN EXTRATERRITORIAL JURISDICTION).

This bill creates a new Section 42.0425, Local Government Code, that is entitled ADDITION OF LAND IN EXTRATERRITORIAL JURISDICTION OF MUNICIPALITY TO CERTAIN POLITICAL SUBDIVISIONS. The new Subsection 42.0425(a) prohibits certain political subdivisions (those whose one purpose is to supply fresh water for domestic or commercial use or to furnish sanitary sewer services, roadways, or drainage) from adding land that is located in the ETJ of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this new section and the Water Code. Prohibits the municipality, in giving its consent, from placing any conditions or other restrictions on the expansion of the political subdivision other than those expressly permitted by Section 54.016(e), Water Code. The new Subsection 42.0425(b) provides that the procedures under the existing Section 42.042, Local Government Code, governing a municipality's refusal to consent to the creation of a political subdivision apply to a municipality that refuses to consent to the addition of land to a political subdivision under this new Section 42.0425. The new Subsection 42.0425(c) prohibits an owner of land in the area proposed to be added to the political subdivision from unreasonably refusing to enter into a contract for water or sanitary sewer services with the municipality under the existing Section 42.042(c).

This bill amends the heading of Subchapter B, Chapter 54, Water Code to indicate that the subchapter applies to the expansion of special districts as well as their creation (adds "OR EXPANSION" to read SUBCHAPTER B. CREATION OR EXPANSION OF DISTRICT; CONVERSION OF DISTRICT).

H.B. 2091 80(R)

This bill creates a new Section 54.0165, Water Code, that is entitled ADDITION TO DISTRICT OF LAND IN EXTRATERRITORIAL JURISDICTION OF MUNICIPALITY. The new Subsection 54.0165(a) prohibits a municipal utility district (MUD) from adding land that is located in the ETJ of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution in accordance with this new subsection and the Section 54.016, Water Code. Prohibits the municipality, in giving its consent, from placing any conditions or other restrictions on the expansion of the MUD other than those expressly permitted by Section 54.016(e), Water Code. The new Subsection 54.0165(b) provides that the procedures under the existing Section 54.016, Water Code, governing a municipality's refusal to consent to the creation of a district apply to a municipality that refuses to consent to the addition of land to a MUD under this new Section 54.0165. The new Subsection 54.0165(c) prohibits an owner of land in the area proposed to be added to the MUD from unreasonably refusing to enter into a contract for water or sanitary sewer services with the municipality under the existing Subsection 54.016(c), Water Code

This bill contains a transition provision that provides that the changes in law made by this Act apply only to a political subdivision, including a municipal utility district, that adds land on or after the effective date of this Act. A political subdivision that adds land before the effective date of this Act is governed by the law in effect on the date the land was added, and the former law is continued in effect for that purpose.

This bill contains an effective date provision (upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007).

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.