

BILL ANALYSIS

C.S.H.B. 3182
By: Parker
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Tradition Municipal Utility District No. 2 of Denton County (the "District") will encompass an area of land outside the corporate limits of any city and within extraterritorial jurisdiction of the City of Fort Worth, Texas. The land located within the District will be developed into single family residential and commercial development; therefore, road services need to be secured. It is necessary to empower 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 roads to serve the future occupants of the land utilizing tax exempt bonds. It is also necessary to empower the District with the authority to issue bonds. C.S.H.B. 3182 provides regulations regarding the District having road powers.

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 8189 to Subtitle F, Title 6, Special District Local Laws Code to read as follows:

CHAPTER 8189. TRADITION MUNICIPAL UTILITY DISTRICT NO. 2 OF DENTON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8189.001. DEFINITIONS. Defines "Board," "Director" and "District."

Sec. 8189.002. NATURE OF DISTRICT. Provides that a district is a municipal utility district in Denton County created under and essential to accomplish the purposes of Section 59, Article XVI Texas Constitution.

Sec. 8189.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8189.024 before September 1, 2011, (1) the district is dissolved September 1, 2011, except that: (A) any debts incurred shall be paid; (B) any assets that remain after the payment of debts shall be transferred to Denton County; and (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and (2) this chapter expires September 1, 2014.

Sec. 8189.004. INITIAL DISTRICT TERRITORY. Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter. Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect: (1) the organization, existence, or validity of the district; (2) the right of the district to impose taxes; (3) the validity of the district's bonds, notes, or indebtedness; or (4) the legality or operation of the district or the board.

[Sections 8189.005-8189.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

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Sec. 8189.021. TEMPORARY DIRECTORS. Provides that on or after September 1, 2007, 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 first petition received by the commission under this Section. Provides that if a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy. Provides that temporary directors serve until the earlier of the date directors are elected under Section 8189.024 or the date this subchapter expires under Section 8189.026.

Sec. 8189.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Provides that as soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8189.023. CONSENT OF MUNICIPALITY OR COUNTY REQUIRED. Provides that the temporary directors may not hold an election under Section 8189.024 until each municipality in whose extraterritorial jurisdiction the district is located has adopted a resolution after September 1, 2007, reconfirming its consent to the creation of the district.

Sec. 8189.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides the temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8189.025. INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors elected under Section 8189.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8189.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8189.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

[Sections 8189.027-8189.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8189.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors. Provides that directors will serve staggered four-year terms.

Sec. 8189.052. ELECTION OF DIRECTORS. Provides that on the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8189.053-8189.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8189.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. Provides that the district has the powers 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.

Sec. 8189.102. ROAD PROJECTS. Provides that to the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads, or improvements in aid of those roads, inside the district. Provides that a road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. Provides that the district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution.

Sec. 8189.103. DIVISION OF DISTRICT; REQUIREMENTS. Provides that the district may be divided into two or more new districts only if the district: (1) has no outstanding bonded debt; and (2) is not imposing ad valorem taxes. Provides that the board may consider a proposal to divide the district on: (1) petition of a landowner in the district (2) a motion by the board. Provides that if the board decides to divide the district, the board shall: (1) set the terms of the division, including names for the new districts and a plan for the payment or performance of any outstanding district obligations; (2) prepare a metes and bounds description for each proposed district; and (3) send written notice containing the information required by Subdivisions (1) and (2) to each county and municipality in whose extraterritorial jurisdiction the district is located. Provides that any new district created by the division of the district may not, at the time the new district is created: (1) contain any land outside the area described by Section 2 of the act creating this chapter; or (2) consist of fewer than 300 acres or more than 500 acres, without obtaining prior consent from the City Council of the City of Fort Worth. Provides that the City Council of the City of Fort Worth may refuse to issue a building permit or refuse to commence water service for an area located in the district until the area is in a new district that has been created by the division of the district in accordance with this section.

Sec. 8189.104. ELECTION FOR DIVISION OF DISTRICT. Provides that not sooner than the 30th day after the board has complied with Section 8189.103(c), the board shall hold an election in the district to determine whether the district should be divided as proposed. Provides that the board shall give notice of the election not later than the 35th day before the date of the election. The notice must state: (1) the date and location of the election; and (2) the proposition to be voted on. Provides that if a majority of the votes cast are in favor of the division: (1) the district is divided; and (2) not later than the 30th day after the date of the election, the district shall provide written notice of the division to: (A) the Texas Commission on Environmental Quality; (B) the attorney general; (C) the commissioners court of Denton County; and (D) any municipality having extraterritorial jurisdiction over territory in each new district. Provides that if a majority of the votes cast are not in favor of the division, the district may not be divided.

Sec. 8189.105. ELECTION OF DIRECTORS OF NEW DISTRICTS. Provides that not later than the 90th day after the date of an election in favor of the division of the district, the board shall: (1) appoint itself as the board of one of the new districts; and (2) appoint five directors for each of the other new districts. Provides that directors appointed under Subsection (a)(1) serve the staggered terms to which they were elected in the original district. Directors appointed under Subsection (a)(2) serve until the election for directors under Subsection (c). Provides that on the uniform election date in May of the first even-numbered year after the year in which the directors are appointed, the appointed board shall hold an election to elect five directors in each district for which directors were appointed under Subsection (a)(2). The directors shall draw lots to determine which two shall serve until the next regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8189.106. CONTINUING POWERS AND OBLIGATIONS OF NEW DISTRICTS. Provides that each new district may incur and pay debts and has all powers and duties of the original district created by this chapter, including the power to divide into two or more districts. Provides that if a district is divided as provided by this subchapter, the current obligations and any bond authorization of the district are not impaired. Debts shall be paid by revenue or by taxes or assessments imposed on real property in the district as if the district had not been divided or by contributions from each new district as stated in the terms set by the board under Section 8189.103(c). Any other district obligation is divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts.

Sec. 8189.107. COMPLIANCE WITH MUNICIPAL ORDINANCES OR RESOLUTIONS. Provides that the original district and any new district created by the division of a district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Fort Worth that consents to the creation of the district.

Sec. 8189.108. PAYMENT OF IMPACT FEES. Provides that impact fees may be imposed pursuant to Chapter 395 of the Local Government Code by a municipality that provides water or wastewater service to new development in the district or any district created pursuant to this subchapter. The impact fees may be paid by the district, any district created pursuant to this subchapter, the landowner, or the developer pursuant to an agreement with the municipality and

regardless of any restriction regarding the time and method of payment in Subchapter B of Chapter 395 of the Local Government Code.

Sec. 8189.109. LIMIT ON EMINENT DOMAIN POWER. Provides that the district may exercise the power of eminent domain outside the district only to acquire an easement necessary for a pipeline, storm water, or drainage facilities that serve the district.

[Sections 8189.110-8189.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8189.151. TAX TO REPAY BONDS. Provides that the district may impose a tax to pay the principal of or interest on bonds issued under Section 8189.201.

[Sections 8189.152-8189.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8189.201. 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 8189.101 and 8189.102. Provides that the district may not issue bonds to finance projects authorized by Section 8189.102 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 bonds or other obligations issued or incurred to finance projects authorized by Section 8189.102 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 8189.102 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.

SECTION 4. This Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute amends Sec 8189.021(d)(2) to provide the date this subchapter expires under Section 8189.026.

C.S.H.B. 3182 deletes, "If a location cannot be agreed upon, the meeting shall be at the Denton County Courthouse" from Sec. 8189.022.

The substitute deletes language in Sec. 8189.023 to provide that the temporary directors may not hold an election under Sec. 8189.024 until each municipality in whose extraterritorial jurisdiction the district is located has adopted a resolution after September 1, 2007, reconfirming its consent to the creation of the district. Sec. 8189.023 (b)-(c) are deleted.

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The substitute deletes language in Section 8189.024 to provide that the temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

C.S.H.B 3182 deletes the word “turnpike” from Sec. 8189.102.

The substitute deletes the language, “If the district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located” from 8189.102(b).

The substitute deletes the language, “If the district is located outside the extraterritorial jurisdiction of a municipality, the district may not undertake a road project unless each county in which the district is located consents by ordinance or resolution” from 8189.102(c).

Sec. 8189.103 (Compliance with Municipal Ordinances or Resolutions) is replaced by a new Sec. 8189.103 (Division of District; Requirements) to provide that the district may be divided into two or more new districts with certain restrictions. Renumbers "Compliance with Municipal Ordinances or Resolutions" to Sec. 8189.107.

The substitute adds Sec. 8189.104 titled "Election for Division of District" to provide that not sooner than the 30th day after the date on which the board has complied with Section 8189.103(c), the board is required to hold an election in the district to determine whether the district should be divided as proposed.

The substitute adds Sec. 8189.105 titled "Election of Directors of New Districts" to provide that not later than the 90th day after the date of an election in favor of the district, the board is required to do certain things.

The substitute adds Sec. 8189.106 titled "Continuing Powers and Obligations of New Districts" provides for powers and obligations of the new districts that were divided.

The substitute adds Sec. 8189.108 titled "Payment of Impact Fees" provides that a municipality that provides water or wastewater service to a new development located in the district or in a district created under this subchapter may impose impact fees as provided by Chapter 395, Local Government Code.

The substitute renumbers Sec. 8189.104 to Sec. 8189.109 and renames the Sec. title.

Sec. 8189.110-8189.150 are reserved for expansion.

The substitute deletes Sec. 8189.201(d).