

## **BILL ANALYSIS**

C.S.H.B. 3770  
By: Puente  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, Section 54.234, Water Code, allows municipal utility districts ("MUDs") to petition the Texas Commission on Environmental Quality ("TCEQ") to acquire certain road powers under Chapter 441, Transportation Code. This bill is necessary to clarify powers of MUDs with regard to certain roads and to remove duplicative agency oversight.

C.S.H.B. 3770 amends Section 54.234, Water Code, regarding the acquisition of road powers by MUDs by defining the types of major roadways that a MUD may construct or finance, placing regulatory authority with the appropriate entity (i.e. city, county, or the Texas Transportation Commission), and providing that a petitioner seeking creation of a MUD by the TCEQ may petition the TCEQ for acquisition of road powers at the time of the MUD creation.

### **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. Amends Section 54.234, Water Code, to read as follows:

Sec. 54.234. ACQUIRING ROAD POWERS (deletes part of existing text in caption)

(a) Any district or any petitioner seeking the creation of a district may petition the commission to acquire the power under the authority of Article III, Section 52, Texas Constitution, to design, acquire, construct, finance, issue bonds for, and convey to this state, a county, or a municipality for operation and maintenance, a road describes by Subsection (b) or any improvement in aid of the road. Deletes existing text relating to the power to levy taxes and powers granted to road utility districts operating pursuant to Chapter 441, Transportation Code.

(b) The road must meet the criteria for a thoroughfare, arterial, or collector road of:

- (1) a county in whose jurisdiction the proposed road project is located; or
- (2) a municipality in whose corporate limits or extraterritorial jurisdiction the proposed road project is located.

(c) As soon as practicable after such petition has been filed with the commission, the commission shall issue an order either approving or denying such petition.

(d) If the commission issues an order approving the petition, the district may undertake a road project if:

- (1) the municipality or county that will operate and maintain the road has approved the plans and specifications of the road projects; or
- (2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state is to operate and maintain the road.

(e) Except as provided by Subsection (d), a district is not required to obtain approval from the Texas Transportation Commission to acquire, construct, convey, or finance the road project. Deletes existing language regarding the event of a conflict between the Water Code and general law.

SECTION 2. Section 54.234, Water Code, as amended by this Act, applies to a municipal utility district that acquires road powers before, on, or after the effective date of this Act.

SECTION 3. A bond election held before the effective date of this Act by a municipal utility district to finance a road project authorized by Section 54.234, Water Code, is validated.

SECTION 4. Effective date: 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.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 3770 amends the caption to Section 54.234 to read as follows: Sec. 54.234. ACQUIRING ROAD POWERS (deletes part of existing text in caption).

In the introduced version, the caption to Section 54.234 is not amended.

C.S.H.B. 3770, Section 54.234(a), Water Code provides that any district or any petitioner seeking the creation of a district may petition the commission to acquire the power under the authority of Article III, Section 52, Texas Constitution, to design, acquire, construct, finance, issue bonds for, and convey to this state, a county, or a municipality for operation and maintenance, a road described by Subsection (b) or any improvement in aid of the road.

The introduced version does not reference the ability to design or issue bonds for, and convey to this state, a county, or a municipality for operation and maintenance, a road or improvement in aid of the road.

C.S.H.B. 3770, Section 54.234(b), Water Code, provides that the road must meet the criteria for a thoroughfare, arterial, or collector road of a county in whose jurisdiction the proposed road project is located or a municipality in whose corporate limits or extraterritorial jurisdiction the proposed road project is located.

In the introduced version, this provision is part of Subsection (a) of Section 54.234, Water Code.

C.S.H.B. 3770, Section 54.234(d), Water Code provides that if the commission issues an order approving the petition, the district may undertake a road project if: (1) the municipality or county that will operate and maintain the road has approved the plans and specifications of the road projects; or (2) the Texas Transportation Commission has approved the plans and specifications of the road project, if the state is to operate and maintain the road.

Because the introduced version is not a Legislative Council draft, the text of Subsection (d) (Subsection (b) in the introduced version) is worded slightly differently.

C.S.H.B. 3770, Section 54.234(e), Water Code provides that except as provided by Subsection (d), a district is not required to obtain approval from the Texas Transportation Commission to acquire, construct, convey, or finance the road project.

The introduced version (in Subsection (b)) provides that no further approvals of the Texas Transportation Commission are required for the district to acquire, construct, convey, or finance road projects.

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C.S.H.B. 3770, Section 54.234(e), Water Code deletes existing language regarding the event of a conflict between the Water Code and general law.

In the introduced version, the text is not deleted.

C.S.H.B. 3770, SECTION 2 provides that Section 54.234, Water Code, as amended by this Act, applies to a municipal utility district that acquires road powers before, on, or after the effective date of this Act.

In the introduced version, SECTION 2 provides that a district that acquired road powers pursuant to Section 54.234, Water Code prior the effective date of this Act shall not be subject to the requirements of Chapter 441, Transportation Code, or rules promulgated thereunder.

C.S.H.B. 3770, SECTION 3 provides that a bond election held before the effective date of this Act by a municipal utility district to finance a road project authorized by Section 54.234, Water Code, is validated.

The introduced version, (in SECTION 2) contains validation language that contains slight word variations because it is not a Legislative Council draft.