

BILL ANALYSIS

C.S.H.B. 3979
By: Laubenberg
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

McKinney Municipal Utility District No. 1 of Collin County and McKinney Municipal Utility District No. 2 of Collin County will both encompass an area of land inside the extraterritorial jurisdiction of the City of McKinney, Texas. The land to be located within the districts will be developed into single family residential and commercial development; therefore, water, sewer, drainage and road services need to be secured. It is necessary to create the districts 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 services to serve the future occupants of the land utilizing tax exempt bonds. It is also necessary to empower the districts with authority to impose a tax and issue bonds; granting the power of eminent domain. C.S.H.B. 3979 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the districts.

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 8223 and Chapter 8252 to Subtitle F, Title 6, Special District Local Laws Code, to read as follows:

CHAPTER 8223. MCKINNEY MUNICIPAL UTILITY DISTRICT
NO. 1 of Collin County
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8223.001. DEFINITIONS. Defines "Board," "Director," and "District."

Sec. 8223.002. NATURE OF DISTRICT. Provides that this district is a municipal utility district in Collin County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8223.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of a district is not confirmed at a confirmation election held under Section 8223.024 before September 1, 2011, 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 Collin County; and (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred. Provides that this chapter expires September 1, 2014.

Sec. 8223.004. INITIAL DISTRICT TERRITORY. Provides that this district is initially composed of the territory described by Section 2 of the Act creating this chapter. Provides that the boundaries and field notes of each district, as described by Section 2 of the Act creating this chapter, form a closure. Provides that 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 8223.005-8223.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8223.021. TEMPORARY DIRECTORS. Provides that on or after September 1, 2007, a person who owns land in a district may petition the Texas Commission on Environmental Quality to appoint as temporary directors of that district the five persons listed in the petition. Provides that the commission shall appoint as temporary directors the persons listed in a petition received by the commission under this section. If the commission receives more than one petition for a district, the commission shall appoint the directors listed in the first petition the commission receives. 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 (1) the date directors are elected under Section 8223.024; or (2) the date this chapter expires under Section 8223.003.

Sec. 8223.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Provides that as soon as practicable after all the temporary directors of a district have qualified under Section 49.055, Water Code, the temporary directors of that district shall meet at a location in the district agreeable to a majority of the directors of that district. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8223.023. CONSENT OF MUNICIPALITY REQUIRED. Provides that the temporary directors of this district may not hold an election under Section 8223.024 until each municipality in whose corporate limits or extraterritorial jurisdiction a district is located, if any, has adopted a resolution consenting to the creation of the district.

Sec. 8223.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides that the temporary directors of this district 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. 8223.025. INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors of this district elected under Section 8223.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8223.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8223.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

[Sections 8223.027-8223.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8223.051. DIRECTORS; TERMS. Provides that this district is governed by a board of five directors. Provides that directors will serve staggered four-year terms.

Sec. 8223.052. ELECTION OF DIRECTORS. Provides that on the uniform election date in May of each even-numbered year, the appropriate number of directors of this district shall be elected.

[Sections 8223.053-8223.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8223.101. GENERAL POWERS. Provides that this 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. 8223.102. ROAD PROJECTS. Provides that to the extent authorized by Section 52, Article III, Texas Constitution, each district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district. Provides that a road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances or orders

of each municipality in whose corporate limits or extraterritorial jurisdiction a district is located. Provides that if a district is located outside the territorial 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. Provides that a 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. 8223.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Provides that this district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of McKinney.

Sec. 8223.104. DIVISION OF DISTRICT. Provides that a district may be divided into two new districts only if the district has no outstanding bonded debt and is not imposing ad valorem taxes. Provides that the division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Provides that any new district created by the division of a district has all the powers and duties of a district. Provides that a new district, at the time it is created by the division of a district, may not contain land outside the area described by Section 2 of the Act creating this chapter.

[Sections 8223.105-8223.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8223.151. TAX TO REPAY BONDS. Provides that this district may impose a tax to pay the principal of or interest on bonds issued under Section 8223.201.

Sec. 8223.152. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-ways, facilities, or improvements on certain providers.

[Sections 8223.153-8223.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8223.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Provides that this 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 8223.101 and 8223.102. Provides that a district may not issue bonds to finance projects authorized by Section 8223.102 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 8223.102 may not exceed one-fourth of the assessed value of the real property in the district.

CHAPTER 8252. MCKINNEY MUNICIPAL UTILITY DISTRICT

NO. 2 of Collin County

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8252.001. DEFINITIONS. Defines “Board,” “Director,” and “District,”

Sec. 8252.002. NATURE OF DISTRICT. Provides that this district is a municipal utility district in Collin County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8252.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of a district is not confirmed at a confirmation election held under Section 8252.024 before September 1, 2011, 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 Collin County; and (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred. Provides that this chapter expires September 1, 2014.

Sec. 8252.004. INITIAL DISTRICT TERRITORY. Provides that this district is initially composed of the territory described by Section 2 of the Act creating this chapter. Provides that the boundaries and field notes of each district, as described by Section 2 of the Act creating this chapter, form a closure. Provides that 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 8252.005-8252.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8252.021. TEMPORARY DIRECTORS. Provides that on or after September 1, 2007, a person who owns land in a district may petition the Texas Commission on Environmental Quality to appoint as temporary directors of that district the five persons listed in the petition. Provides that the commission shall appoint as temporary directors the persons listed in a petition received by the commission under this section. If the commission receives more than one petition for a district, the commission shall appoint the directors listed in the first petition the commission receives. 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 (1) the date directors are elected under Section 8252.024; or (2) the date this chapter expires under Section 8252.003.

Sec. 8252.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Provides that as soon as practicable after all the temporary directors of a district have qualified under Section 49.055, Water Code, the temporary directors of that district shall meet at a location in the district agreeable to a majority of the directors of that district. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8252.023. CONSENT OF MUNICIPALITY REQUIRED. Provides that the temporary directors of this district may not hold an election under Section 8252.024 until each municipality in whose corporate limits or extraterritorial jurisdiction a district is located, if any, has adopted a resolution consenting to the creation of the district.

Sec. 8252.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides that the temporary directors of this district 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. 8252.025. INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors of this district elected under Section 8252.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8252.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8223.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

[Sections 8252.027-8252.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8252.051. DIRECTORS; TERMS. Provides that this district is governed by a board of five directors. Provides that directors will serve staggered four-year terms.

Sec. 8252.052. ELECTION OF DIRECTORS. Provides that on the uniform election date in May of each even-numbered year, the appropriate number of directors of each district shall be elected.

[Sections 8252.053-8252.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8252.101. **GENERAL POWERS.** Provides that this 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. 8252.102. **ROAD PROJECTS.** Provides that to the extent authorized by Section 52, Article III, Texas Constitution, this district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district. Provides that a road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances or orders of each municipality in whose corporate limits or extraterritorial jurisdiction a district is located. Provides that if a district is located outside the territorial 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. Provides that a 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. 8252.103. **COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS.** Provides that this district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of McKinney.

Sec. 8252.104. **DIVISION OF DISTRICT.** Provides that a district may be divided into two new districts only if the district has no outstanding bonded debt and is not imposing ad valorem taxes. Provides that the division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Provides that any new district created by the division of a district has all the powers and duties of a district. Provides that a new district, at the time it is created by the division of a district, may not contain land outside the area described by Section 2 of the Act creating this chapter.

[Sections 8252.105-8252.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8252.151. **TAX TO REPAY BONDS.** Provides that this district may impose a tax to pay the principal of or interest on bonds issued under Section 8252.201.

Sec. 8252.152. **UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS.** Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-ways, facilities, or improvements on certain providers.

[Sections 8252.153-8252.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8252.201. **AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.** Provides that this 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 8252.101 and 8252.102. Provides that a district may not issue bonds to finance projects authorized by Section 8252.102 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 8252.102 may not exceed one-fourth of the assessed value of the real property in the district.

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

C.S.H.B 3979 adds Chapter 8223, which shall be titled the McKinney Municipal Utility District No. 1 of Collin County, and Chapter 8252, which shall be titled McKinney Municipal Utility District No. 2 of Collin County, to the Special District Local Laws Code. The substitute also amends Subchapter D of each Chapter by exempting certain utility entities from impact fees. These entities include electric, gas, telecommunications and cable providers.