

BILL ANALYSIS

C.S.H.B. 3981
By: Eissler
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Hardin Store Road Municipal Utility District No. 1 of Montgomery County (the District) will encompass an area of land outside of the corporate limits or extraterritorial jurisdiction of any city but inside of Montgomery County. The land to be located within the District 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 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 services to serve the future occupants of the land utilizing tax exempt bonds. It is also necessary to empower the District with authority to impose a tax and issue bonds. C.S.H.B. 3981 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the District.

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. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8245 to read as follows:

CHAPTER 8245. HARDIN STORE ROAD MUNICIPAL UTILITY DISTRICT NO. 1 OF MONTGOMERY COUNTY.

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8245.001. DEFINITIONS. Defines "Board," "Director," and "District."

Sec.8245.002. NATURE OF DISTRICT. Provides that the district is a municipal utility district in Montgomery County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8245.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8245.024 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 Montgomery 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. 8245.004. 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 8245.005-8245.020 reserved for expansion]

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SUBCHAPTER AI. TEMPORARY PROVISIONS

Sec. 8245.021. 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 name 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 Subsection (a). Provides that if a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy. Provides that the temporary directors serve until the earlier of the date directors are elected under Section 8245.024 or the date this chapter expires under Section 8245.026.

Sec. 8245.022. 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. 8245.023. CONSENT OF MUNICIPALITY REQUIRED. Provides that the temporary directors may not hold an election under Section 8245.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located, if any, has adopted a resolution consenting to the creation of the district.

Sec. 8245.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides 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.

Sec. 8245.025 INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors elected under Section 8245.024 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8245.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8245.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

Sections [8245.027-8245.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8245.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors. Provides that the directors will serve staggered four-year terms.

Sec. 8245.052. 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 [8245.053-8245.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8245.101. 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. 8245.102. 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 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 of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. 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. 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. 8245.103. COMPLIANCE WITH MUNICIPAL CONSENT RESOLUTIONS. Provides that the district shall comply with all applicable requirements of any resolution, adopted by the governing body of a municipality under Section 54.016, Water Code, that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8245.104. RECREATIONAL FACILITIES; LIMIT ON EMINENT DOMAIN POWER. In this section, “recreational facilities” and “develop and maintain” have the meanings assigned by Section 49.462, Water Code. Provides that the district may develop and maintain recreational facilities in the manner provided by Subchapter N, Chapter 49, Water Code. Provides that the district may not, for the development or maintenance of a recreational facility, acquire by condemnation land, an easement, or other property inside or outside the district.

[Sections 8245.104-8245.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8245.151. TAX TO REPAY BONDS. Provides that the district may impose a tax to pay the principal of or interest on bonds issued under Section 8245.201.

[Sections 8245.152-8245.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8245.201. 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 8245.101 and 8245.102. Provides that the district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may issue bonds payable from ad valorem taxes. Provides that the district may not issue bonds to finance projects authorized by Section 8245.102 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 the bonds or other obligations issued or incurred to finance projects authorized by Section 8245.102 may not exceed one-fourth of the assessed value of the real property in the district.

Sec. 8245.202. BONDS FOR RECREATIONAL FACILITIES. If authorized at an election under Section 8245.201(b), the district may issue bonds payable from ad valorem taxes to pay for the development and maintenance of recreational facilities under Section 8245.104.

SECTION 2. BOUNDARIES. Sets forth the boundaries of the District.

SECTION 3. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS. Provides that 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, Government Code. Provides that the Governor, one of the required recipients, 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 are fulfilled and accomplished.

SECTION 4. EFFECTIVE DATE. Provides that this Act takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 3981 is a Legislative Council draft, inserting the appropriate chapter and section numbers throughout the bill and making slight wording and formatting changes.

The substitute amends language in Section 8245.021(d)(2) providing that the date this subchapter expires under Section 8245.003, rather than chapter as referenced in the introduced version.

The substitute amends Section 8245.103 to provide that the district shall comply with all applicable requirements of any resolution, adopted by the governing body of a municipality under Section 54.016, Water Code, that consents to the creation of the district or to the inclusion of land in the district. The introduced version required the district to comply with all applicable requirements of any ordinance or resolution adopted by an applicable city council.

The substitute adds Section 8245.104 to provide that in this section, “recreational facilities” and “develop and maintain” have the meanings assigned by Section 49.462, Water Code. Provides that the district may develop and maintain recreational facilities in the manner provided by Subchapter N, Chapter 49, Water Code. Provides that the district may not, for the development or maintenance of a recreational facility, acquire by condemnation land, an easement, or other property inside or outside the district.

The substitute adds Section 8245.201 (b) to provide that the district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may issue bonds payable from ad valorem taxes.

The substitute renumbers 8245.201 (b) to 8245.201 (c).

The substitute renumbers 8245.201 (c) to 8245.201 (d).

The substitute adds Section 8245.202 to provide that if authorized at an election under section 8245.201(b), the district may issue bonds payable from ad valorem taxes to pay for the development and maintenance of recreational facilities under Section 8245.104.