

## **BILL ANALYSIS**

C.S.H.B. 3990  
By: Aycock  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

C.S.H.B. 3990 proposes the legislative creation of a Water Control and Improvement District (WCID) to be located entirely Burnet County, in the extra-territorial jurisdiction (ETJ) of the City of Cottonwood Shores. Cottonwood Shores sits in the middle of a quickly developing area in Central Texas on the Highland Lakes. The proposed legislation includes already existing authorized powers from several Texas water district laws, combining them into this water district that will be suited for the needs of this area. C.S.H.B. 3990 combines the traditional powers of a WCID governed by Chapters 49 and 51, Texas Water Code and a Municipal Utility District, governed by Chapters 49 and 54, Texas Water Code. C.S.H.B. 3990 creates Burnet County Water Control and Improvement District No. 1 and enumerates its powers, duties and obligations. C.S.H.B. 3990 would authorize the district to have road powers pursuant to Article 3, Section 52, Texas Constitution.

### **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. Provides that Subtitle I, Title 6, Special District Local Laws Code is Amended, by adding Chapter 9030 to read as follows:

#### **CHAPTER 9030. BURNET COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO.1**

##### ***SUBCHAPTER A. GENERAL PROVISIONS***

###### **Sec. 9030.001. DEFINITIONS.**

- (1) "Board" means board of directors of the district.
- (2) "Commission" means the Texas Commission on Environmental Quality or its successor agency.
- (3) "District" means the Burnet County Water Control and Improvement District No. 1.
- (4) "Project" means any program or project authorized by this Act or general laws, inside or outside the boundaries of the district that is necessary to accomplish the public purposes of the district.

###### **Sec. 9030.002. NATURE OF A DISTRICT**

The district is a water control and improvement district in Burnet County created under and essential to accomplish the purposes of section 52, Article III, and Section 59, Article XVI, Texas Constitution.

###### **Sec. 9030.003. LEGISLATIVE FINDINGS.**

All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district pursuant to the powers conferred by Section 52, Article III and Section 59, Article XVI, Texas Constitution. The district serves a public use and benefit.

###### **Sec. 9030.004. CONFIRMATION ELECTION REQUIRED.**

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If the creation of the district is not confirmed at a confirmation election held under Section 9030.023 before September 1, 2011, the district is dissolved September 1, 2011, except that any debts incurred shall be paid, any assets that remain after the payment of debts shall be transferred to Burnet County, and the organization of the district shall be maintained until all debts are paid and remaining assets are transferred. This chapter expires September 1, 2014.

**Sec. 9030.005. INITIAL DISTRICT TERRITORY.**

The district is initially composed of the territory described by Section 2 of the Act creating this chapter. The Legislature finds that the boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to levy and collect taxes, or the legality or operation of the district or its governing body.

**Sec. 9030.006. APPLICABILITY OF ADMINISTRATIVE PROVISIONS OF OTHER LAW; CONFLICT OF LAW.** The district shall operate as a Water Control and Improvement District and comply with the Administrative Provisions in Texas Water Code Chapter 51, except as otherwise provided by this chapter. The District shall also comply with Chapter 49, Water Code to the extent it does not conflict with Chapter 51 of that code. If there is a conflict, Chapter 51 controls.

**Sect.9030.007. LIBERAL CONSTRUCTION OF CHAPTER.**

This chapter shall be liberally construed in conformity with the legislative findings and purposes stated in this chapter.

***SUBCHAPTER A-1. TEMPORARY PROVISIONS***

**Sec. 9030.021. TEMPORARY DIRECTORS.**

(a) The temporary board of directors is composed of :

- (1) Brian Carlton
- (2) Brandon Myers
- (3) Brent Wicker
- (4) Bob Sewell
- (5) Brandon Raney

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Commission shall appoint the necessary number of persons to fill all vacancies on the board.

**Sec. 9030.022 ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS**

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. If a location cannot be agreed upon, the meeting shall elect officials from among the temporary directors and conduct any other district business.

**Sec. 9030.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.**

(a) The temporary board of 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.

(b) 49.001 (a), Election Code, does not apply to a confirmation election held under this section.

**Sec. 9030.024 INITIAL ELECTED DIRECTORS; TERMS.**

The directors elected under Section 9030.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

**Sec. 9030. 025. EXPIRATION OF SUBCHAPTER.**

This subchapter expires September 1, 2014.

***SUBCHAPTER B. BOARD OF DIRECTORS***

**Sec. 9030.051. DIRECTORS; TERMS.**

Provides that the district is governed by a board of five directors. Provides that the directors serve staggered four-year terms.

Sec. 9030.052. 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.

*SUBCHAPTER C. POWERS AND DUTIES*

Sec. 9030.101. WATER CONTROL AND IMPROVEMENT DISTRICT AND MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

The district has all of the rights, powers, privileges, authority, functions and duties provided by the general law of this state applicable to water control and improvement districts, including Chapters 49 and 51, Water Code, and municipal utility districts, including Chapter 54, Water Code.

Sec. 9030.102. 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.

Sec. 8229.103. CONTRACT WITH POLITICAL SUBDIVISION FOR WATER OR SEWER SERVICES.

(a) The district may enter into a contract to allow a political subdivision to provide retail water or sewer service in the district. The contract may contain terms the board considers desirable, fair, and advantageous to the district.

(b) The contract may provide that the district will construct or acquire and convey to the political subdivision a water supply or treatment system, a water distribution system, or a sanitary sewage collection or treatment system, as necessary to provide water or sewer service in the district.

(c) The district may use bonds proceeds or other available district money to pay for its obligations under, or for services or facilities provided under, the contract.

(d) If the contract requires the district to make payments from taxes other than operation and maintenance taxes, the contract is subject to Section 49.108, Water Code.

*SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS*

Sec. 9030.151. TAX TO REPAY BONDS. Provides that the district may impose a tax to pay the principal of and interest on bonds issued under Section 9030.201.

*SUBCHAPTER E. BONDS*

Sec. 9030.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.

(a) The district may issue bonds or other obligations as provided by Chapters 49, 51 and 54, Water Code, and to finance the construction, maintenance, or operation of projects (b) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money. (c) The district may not issue bonds or other obligations secured wholly or partly by ad valorem taxation to finance projects unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 9030.101 or 9030.102 or contractual obligations under Section 9030.103 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. The 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 by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality. 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. All requirements of the constitution and laws of this state and 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: September 1, 2007.

**EFFECTIVE DATE**

September 1, 2007.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 3990 is a Legislative Council draft that contains wording and formatting variations. C.S.H.B. 3990 also places the Act in the Special District Local Laws Code adding appropriate chapter and section references.

C.S.H.B. 3990 provides that the initial directors shall draw lots to determine which two shall serve until the first regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors. The introduced version provides that the initial board shall serve a term of six years with two initial directors' terms expiring September 1, 2011 and three initial directors' terms expiring September 1, 2013.

C.S.H.B. 3990 adds language not contained in the introduced version authorizing the district to enter into a contract to allow a political subdivision to provide retail water or sewer service in the district. The contract may contain terms the board considers desirable, fair, and advantageous to the district.

C.S.H.B. 3990 adds provisions relating to bonding authority and general financial provisions not express in the introduced version and updates references to Chapter 49, Water Code with respect to director elections.

C.S.H.B. 3990 provides for an effective date of September 1, 2007, while the introduced version provides for an effective date upon passage of the Act, unless the Act does not receive the necessary vote, the Act takes effect September 1, 2007.