

## **BILL ANALYSIS**

C.S.H.B. 4034  
By: Laubenberg  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Ledbetter Utility District No. 2 of Kaufman and Rockwall Counties (the “district”) will encompass an area of land inside the extraterritorial jurisdiction of the City of McLendon Chisholm, Texas. 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 and 54, 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; granting the power of eminent domain. C.S.H.B. 4034 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. Adds Chapter 8246 to Subtitle F, Title 6, Special District Local Laws Code, to read as follows:

#### CHAPTER 8246. LEDBETTER UTILITY DISTRICT NO. 2 OF KAUFMAN AND ROCKWALL COUNTIES

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8246.001. DEFINITIONS. Defines “Board,” “Director,” and “District.”

Sec. 8246.002. NATURE OF DISTRICT. Provides that the district is a municipal utility district in Kaufman and Rockwall Counties created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8246.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8246.024 before September 1, 2011: (1) the district is dissolved September 1, 2011, except that the district shall:(A) pay any debts incurred; (B) transfer equally to Kaufman and Rockwall Counties any assets that remain after the payment of debts; and (C) maintain the organization of the district until all debts are paid and remaining assets are transferred; and (2) this chapter expires September 1, 2014.

Sec. 8246.004. 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. 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 8246.005-8246.020 reserved for expansion]

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## SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8246.021. TEMPORARY DIRECTORS. (a) Provides the names of those who will serve on the temporary board. (b) Provides that if a temporary director fails to qualify for office, the Texas Commission on Environmental Quality shall appoint a person to fill the vacancy. (c) Provides that temporary directors serve until the earlier of: (1) the date directors are elected under Section 8220.024; or (2) the date this chapter expires under Section 8220.003.

Sec. 8246.022. 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. 8246.023. CONSENT OF MUNICIPALITY REQUIRED. Provides that the temporary directors may not hold an election under Section 8246.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has adopted a resolution consenting to the creation of the district.

Sec. 8246.024. 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. 8246.025. INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors elected under Section 8246.024 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. 8246.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

[Sections 8246.027-8246.050 reserved for expansion]

## SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8246.051. GOVERNING BODY; TERMS. Provides that the district is governed by a board of five directors. Provides that directors serve staggered four-year terms.

[Sections 8246.052-8246.100 reserved for expansion]

## SUBCHAPTER C. POWERS AND DUTIES

Sec. 8246.101. 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. 8246.102. 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 all applicable construction standards, zoning and subdivision requirements, and regulations 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. 8246.103. DIVISION OF DISTRICT. Provides that the district may be divided into two new districts only if the district: (1) has no outstanding bonded debt; and (2) 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 the district has all

the powers and duties of the district. Provides that any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter.

**Sec.8246.104 LIMIT ON EMINENT DOMAIN POWER; CONSENT OF CITY REQUIRED**

The district may not acquire land, an easement, or other property in the corporate limits of the city of McLendon-Chisholm by condemnation unless the governing body of the city consents by resolution to the acquisition.

[Sections 8246.104-8246.150 reserved for expansion]

**SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS**

Sec. 8246.151. **TAX TO REPAY BONDS.** Provides that the district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 8246.201.

Sec. 8246.152. **UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS.** Provides that the district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of: (1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code; (2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code; (3) a telecommunications provider as defined by Section 51.002, Utilities Code; or (4) a person who provides to the public cable television or advanced telecommunications services.

[Sections 8246.153-8246.200 reserved for expansion]

**SUBCHAPTER E. BONDS**

Sec. 8246.201. **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 a project under Section 8246.101 or 8246.102. Provides that the district may not issue bonds or other obligations to finance projects authorized by Section 8246.102 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election called for that purpose. Provides that bonds or other obligations issued or incurred to finance projects authorized by Section 8246.102 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.** **EFFECTIVE DATE:** September 1, 2007.

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**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute version of House Bill 4034 adds to components to the bill. CSHB 4034 specifies the names of the temporary directors of the district. It also clarifies that the district's power of

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eminent domain is limited within the corporate limits of McClendon-Chisolm. The district may only practice eminent domain with the prior approval of the city.