

BILL ANALYSIS

C.S.H.B. 4096
By: Phillips
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The purpose of the bill is to create King's Crossing Municipal Utility District of Grayson County, and to enumerate its powers, duties and obligations.

In 1925, the Legislature enacted its first law to authorize the creation of water control and improvement districts. Article 16, Section 59, of the Texas Constitution authorized such entities to have unlimited property taxing authority and to issue debt secured by such taxes in order to construct public infrastructure to control and use water beneficially. The Water Code now authorizes approximately 13 different types of water districts to deal with surface water supply.

In general, water districts can be created by three methods: by the county commissioners court, by the TCEQ or successor agencies, and by the Legislature. Each methodology has advantages and disadvantages.

CSHB 4096 proposes the legislative creation of a municipal utility district ("MUD") to be located entirely in Grayson County. Grayson County is a largely rural county that is experiencing growth and development. Legislative creation is proposed because it offers the most flexibility, is the quickest method, and allows "custom" authorizations of powers and duties.

CSHB 4096 proposes to combine the traditional powers and duties of a MUD governed by Chapter 49 and 54, Water Code, Water Code, and to authorize the issuance of tax-exempt bonds to pay all or part of the costs of roads inside and outside the boundaries of the District, if approved and built to the standards established by the city of Howe.

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

This Act adds Chapter 8251 to the Special District Local Laws Code, which shall be titled King's Crossing Municipal Utility District of Grayson County.

SUBCHAPTER A defines the GENERAL PROVISIONS that will apply to the new district. Definitions are provided. The nature of the District, being authorized by certain constitutional provisions, is set forth. The District is created to serve as a public use and benefit.

A requirement that a confirmation election is provided. If the District does not hold a confirmation election before September 1, 2009, under certain circumstances, the District may be dissolved. Prior to such date, the district shall pay any debts incurred and transfer any assets that remain after payment to Grayson County.

The land to be included in the District is described in the bill itself, the field notes shall be deemed to form a closure, and a mistake in the field notes shall not affect the validity of the District.

Subchapter A1 sets forth temporary provisions that will authorize and regulate the activities of the District until the District is confirmed by the voters, and the qualifications for their service

are provided. If at any time there are fewer than three qualified temporary directors, the TCEQ shall appoint members to fill those vacancies. The temporary directors are named.

The organizational meeting of the board of directors is authorized and the location of the meeting place is provided for. The temporary directors are required to hold a confirmation and initial directors election. A mechanism to determine which directors shall serve two year terms to create the staggering effect required for the four-year terms water district directors are to serve is provided. The temporary directors may not hold an election under Section 8251.024 until the owner of the land within the district has entered into a development agreement with the City of Howe with respect to the land within the district.

Section 8251.023 provides that the temporary directors may not hold a confirmation election or approve the issuance of bonds until a development agreement between the owner of land in the District and the city is executed.

Subchapter A1 expires September 1, 2009.

SUBCHAPTER B sets forth provisions relating to the BOARD OF DIRECTORS.

There shall be five directors who serve four-year terms.

SUBCHAPTER C sets forth the district's POWERS AND DUTIES that are bestowed in addition to the powers and duties the District shall acquire by virtue of creation as a municipal utility district. All applicable laws shall apply to this District, including specifically Chapters 49 and 54, Water Code.

The District may construct, acquire, improve, maintain, or operate streets and roads or improvements in aid of such, inside or outside the District. The construction standards of the municipality in whose extraterritorial jurisdiction the district is located shall be applied to such projects of the District. That city must consent by resolution to the District undertaking road projects prior to such undertaking.

SUBCHAPTER D provides for GENERAL FINANCIAL PROVISIONS. The District may impose a tax for any District operation and maintenance purpose as provided in Section 49.107, Water Code. The District may impose a tax to pay debt service on bonds it issues under 8251.201.

The District is prohibited from imposing impact fees or assessments on utilities within the District.

SUBCHAPTER E sets forth provisions related to BONDS. The District is authorized to issue bonds or other obligations under Chapters 49 and 54, Water Code, and to finance road projects.

The District may not issue bonds or other obligations secured in whole or in part by ad valorem taxes to finance road projects unless the issuance is approved by a vote of a two-thirds majority of the voters in the district. Bonds for such purposes may not exceed one fourth of the assessed value of the property in the District due to a constitutional prohibition in Article 3, Section 52.

SECTION 2. Sets forth the metes and bounds of the land initially to be within the District, encompassing 487 acres.

SECTION 3. Provisions relating to Notice required by the Constitution for Local Laws; confirming all such acts fulfilled.

SECTION 4. 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

In SECTION I of the bill:

In the substitute, the District is dissolved on September 1, 2009 if the creation of the district is not confirmed under Section 8251.024. In Section 8251.004 of the substitute, subsection (1) is rewritten to require that the District shall pay debts incurred and transfer any remaining assets to Grayson County before September 1, 2009. The substitute also deletes 8251.004 (C) requiring the District to maintain the organization of the District until debts are paid.

Subchapter A and Subchapter A-1 expired in 2012 in the bill as filed. The committee substitute is revised so that Subchapters A and A-1 expire on September 1, 2009.

Section 8251.021 of the substitute includes the names of the temporary directors.

The substitute adds a new Section 8251.023 which restricts the temporary directors from holding an election under Section 8251.024 or approving the issuance of tax exempt bonds until the owner of the land enters into a development agreement with the City of Howe. Subsequent sections have been renumbered appropriately.

In Section 8251.102, relating to road projects, the substitute authorizes district financing of roads both inside and outside the district.

In Section 8251.151, subsection (b) is deleted and the prior subsection is renumbered appropriately.

In Section 8251.201, subsection (e) is deleted.

Subchapter F, relating to division of the district into multiple districts, has been deleted from the substitute.