

BILL ANALYSIS

H.B. 4112
By: Eiland
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County (the "district") will encompass an area of land outside the extraterritorial jurisdiction or corporate boundaries of any city but within the county of Galveston, Texas. The land located within the district is single family residential and commercial development; therefore, road services need to be secured. It is necessary to empower the district under Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code and Section 52(b)(3), Article III, Texas Constitution in order to purchase, acquire, or construct facilities for such roads 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 to repay bonds. H.B. 4112 creates Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County, provides regulations regarding the district having road and navigation powers, and provides authority to impose a tax to repay bonds.

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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9027 to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9027.001. DEFINITIONS. Provides that in this chapter: (1) "Board" means the district's board of directors. (2) "Director" means a board member. (3) "District" means the Bolivar Yacht Basin Water Control and Improvement District No. 1 of Galveston County.

Sec. 9027.002. NATURE OF DISTRICT. Provides that the district is a water control and improvement district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 9027.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 9027.023 before September 1, 2011: (1) the district is dissolved September 1, 2011, except that the district shall: (A) pay any debts incurred; (B) transfer to Galveston County 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. 9027.004. 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 board.

[Sections 9027.005-9027.020 reserved for expansion]

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SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 9027.021. 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 named in the petition. Provides that the commission shall appoint as temporary directors the five persons named in the first petition received by the commission. 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 9027.023; or (2) the date this chapter expires under Section 9027.003.

Sec. 9027.022. 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. If a location cannot be agreed upon, the meeting shall be at the Galveston County Courthouse. At the meeting the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 9027.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Provides 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. 9027.024. INITIAL ELECTED DIRECTORS; TERMS. Provides the directors elected under Section 9027.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 9027.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 9027.025. EXPIRATION OF SUBCHAPTER. Provides this subchapter expires September 1, 2014.

[Sections 9027.026-9027.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9027.051. DIRECTORS; TERMS. Provides the district is governed by a board of five directors. Provides directors serve staggered four-year terms.

Sec. 9027.052. 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 9027.053-9027.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9027.101. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. Provides the district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution, including the powers provided by Section 51.331, Water Code.

Sec. 9027.102. ROAD PROJECTS. Provides 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, inside the district. Provides 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 or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located. Provides 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. If a district is located outside the extraterritorial jurisdiction of a municipality, the district may not undertake a road project unless each county in which the district is located consents by ordinance or resolution.

Sec. 9027.103. NAVIGATION POWERS. Provides the district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the navigation purposes of the district under Chapters 60 and 62, Water Code, as authorized by Section 59, Article XVI, Texas Constitution.

Sec. 9027.104. DIVISION OF DISTRICT. Provides the district may be divided into two or more new districts only if the district: (1) has no outstanding bonded debt; and (2) is not imposing ad valorem taxes. Provides any new district created by the division of the district has all the powers and duties of the district. Provides 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. Provides the board, on its own motion or on receipt of a petition signed by the owners of a majority of the assessed value of real property in the district according to the most recent certified appraisal roll for Galveston County, may adopt an order dividing the district. Provides an order dividing the district shall: (1) name each new district; (2) include the metes and bounds of each new district; (3) appoint temporary directors for each new district; and (4) provide for the division of assets and liabilities among the new districts. Provides on or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order dividing the district with the Texas Commission on Environmental Quality and record the order in the real property records of Galveston County. Provides any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 49.102, Water Code. Provides any new district created by the division of the district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

[Sections 9027.105-9027.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9027.151. TAX TO REPAY BONDS. Provides that the district may impose a tax to pay the principal of or interest on bonds issued under Section 9027.201.

[Sections 9027.152-9027.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 9027.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Provides that the district may issue bonds or other obligations as provided by Chapters 49 and 51, Water Code, to finance the construction, maintenance, or operation of projects under Sections 9027.101 and 9027.102. Provides the district may not issue bonds to finance projects authorized by Section 9027.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose. Provides bonds or other obligations issued or incurred to finance projects authorized by Section 9027.102 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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