

BILL ANALYSIS

C.S.H.B. 4127
By: Puente
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Southern Travis Special Utility District will be a special utility district governed by Chapter 65, Water Code, and this bill, for the purpose of providing retail water service within its boundaries in the southern portion of Travis County. The district will be able to finance projects by issuing tax-exempt bonds. The district will be governed by a board of not fewer than five and not more than 11 directors. The temporary board of directors is listed in the legislation and the board will be subsequently elected.

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 C, Title 6, Special District Local Laws Code, is amended by adding Chapter 7214, to read as follows.

CHAPTER 7214. SOUTHERN TRAVIS SPECIAL UTILITY DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7214.001. DEFINITION. Defines "district" for purposes of this chapter as the Southern Travis Special Utility District.

Sec. 7214.002. NATURE OF DISTRICT. Provides that the district is a special utility district in Travis County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

Sec. 7214.003. APPLICABILITY OF OTHER SPECIAL UTILITY DISTRICT LAW. Provides that except as otherwise provided by this chapter, Chapters 49 and 65, Water Code, apply to the district.

Sec. 7214.004. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 7214.022 before September 1, 2011:

- (1) the district is dissolved September 1, 2011; and
- (2) this chapter expires September 1, 2015.

Sec. 7214.005 INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake 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 issue any type of bond, including a refunding bond, for a purpose for which the district is created or to pay the principal of and interest on a bond; or (3) the legality or operation of the district or the board of directors of the district.

[Sections 7214.006-7214.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 7214.021. TEMPORARY DIRECTORS. (a) Provides the names of the temporary directors.

(b) Requires each temporary director to qualify for office as provided by Section 49.055, Water Code.

(c) If a temporary director fails to qualify for office, requires the temporary directors who have qualified to appoint a person to fill the vacancy. Requires the Texas Commission on Environmental Quality to appoint the necessary number of directors to fill all vacancies on the board, if at any time there are fewer than four qualified temporary directors.

(d) Provides that temporary directors serve until initial directors are elected under Section 7214.022.

(e) Requires the temporary directors to convene the organizational meeting of the district and elect officers from among the temporary directors as soon as practicable after all temporary directors have qualified under Section 49.055, Water Code.

Sec. 7214.022. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. (a) Requires the temporary board of directors to hold an election to confirm the creation of the district as provided by Section 49.102, Water Code, and to elect not fewer than five and not more than 11 directors, as determined by the temporary board.

(b) Requires the temporary board of directors to determine the method for determining the initial term of each person on the initial board of directors and provides that the terms must be clearly stated on the ballot for the directors' election.

(c) Provides that the initial directors serve until the first regularly scheduled election of directors under Subchapter C, Chapter 65, Water Code, to be held not later than the month in which the fourth anniversary of the date on which the confirmation election under this section was held occurs.

Sec. 7214.023. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2015.

[Sections 7214.024-7214.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7214.051. DIRECTORS. (a) Provides that the district is governed by a board of not fewer than five and not more than 11 directors.

(b) Provides that notwithstanding Section 65.103(b), Water Code, a director serves a four-year term of office and may serve consecutive terms.

[Sections 7214.052-7214.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7214.101. GENERAL POWERS. Provides that except as otherwise provided by this chapter, the district has all the rights, powers, privileges, functions, and duties provided by the general law of this state, including Chapters 49 and 65, Water Code, applicable to special utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7214.102. ANNEXATION. Provides that the owner of a tract of land that has an area of at least 50 acres and that has been released by written agreement from the certificate of public convenience and necessity of a rural water supply corporation may petition the district to be annexed into the district. On receipt of a petition, the board may issue an order granting the petition, and the land described by the petition will be included in the district. Land annexed under this section is not required to be contiguous to the district.

Sec. 7214.103. ROAD PROJECTS. (a) Authorizes the district, under Section 52, Article III, Texas Constitution, to finance, construct, or acquire a road project as provided by this section.

(b) Requires the district to employ or contract with a licensed engineer to certify whether a proposed road project meets the criteria for a thoroughfare, arterial, or collector road of: (1) a

county in whose jurisdiction the proposed road project is located; or (2) a municipality in whose corporate limits or extraterritorial jurisdiction the proposed road project is located.

(c) Authorizes the district to finance, construct, or acquire a thoroughfare, arterial, or collector road that has been certified by the licensed engineer, or any improvements in aid of the road.

(d) Provides that a road project must meet all applicable standards, regulations, ordinances, or orders of: (1) each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located; and (2) each county in which the road project is located if the road project is not located in the corporate limits of a municipality.

(e) Authorizes the district, with the consent of the municipality or county, to convey a completed road project to: (1) a municipality in whose corporate limits or extraterritorial jurisdiction the road project is located; or (2) a county in which the road project is located.

(f) Authorizes the district to exercise the power of eminent domain outside the district for a road project only to connect noncontiguous tracts of land that are in the district.

[Sections 7214.104 - 7214.150 reserved for expansion]

SUBCHAPTER D. BONDS

Sec. 7214.151. **AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.** Authorizes the district to issue bonds and obligations as provided by Chapters 49 and 65, Water Code, to finance the construction, maintenance, or operation of a project: (1) as provided by Subchapter G, Chapter 65, Water Code; or (2) under Section 7214.103 of this chapter.

SECTION 2. Sets forth the initial boundaries of the district.

SECTIONS 3. Provides that all requirements of the constitution and the 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. Provides that to the extent of any conflict, this Act prevails over any provision of S.B. No. 1688, S.B. No. 1689, or H.B. No. 3719, if those Acts are passed by the 80th Legislature, Regular Session, 2007, and become law.

SECTION 5. Effective date: 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

C.S.H.B. 4127 requires a confirmation election, to be held before September 1, 2011, for the Southern Travis Special Utility District and expressly requires the temporary board of directors to hold an election to confirm the district as provided by Section 49.102 of the Water Code. In the introduced version, the temporary board of directors is not required to hold a confirmation election.

C.S.H.B. 4127 provides that initial directors serve until the first regularly scheduled election of directors under Subchapter C, Chapter 65, Water Code, to be held not later than the month in which the fourth anniversary of the date on which the confirmation election under this section was held occurs. In the introduced version, the initial directors serve until the first regularly scheduled election of directors, to be held not earlier than 2012.

C.S.H.B. 4127 does not contain language contained in the introduced version authorizing the district to purchase, own, hold, lease, and otherwise acquire sources of water supply; build, operate or maintain facilities for the transportation of water; sell water to municipalities and other political subdivisions and private businesses and individuals; provide for the protection, preservation, and restoration of the purity and sanitary condition of water within the district; and purchase, construct, acquire, own, operate, maintain, repair, improve, extend, or establish a

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municipal solid waste collection and disposal system, including a system for recycling, inside or outside the district, and assess proper charges for the use of the system. C.S.H.B. 4127 also does not contain language contained in the original authorizing the district to require the use of a solid waste collection and disposal system described by Subsection (b)(5) as a condition for the receipt of other district services. C.S.H.B. 4127 does not contain language contained in the introduced version authorizing the district to enter into an exclusive contract with a private entity to provide solid waste collection and disposal services to all land and persons inside the district.

C.S.H.B. 4127 does not contain language contained in the introduced version providing that the district has all the authority under Chapters 49 and 65, Water Code, of a special utility district to acquire by condemnation any land, easement, or other property located inside or outside the boundaries of the district for any district project or purpose.

C.S.H.B. 4127 provides the Southern Travis Special Utility District with powers to do road projects under Section 52, Article III, Texas Constitution. The introduced version of the bill does not include language relating to the provision of road powers. In C.S.H.B. 4127, the district is required to employ or contract with a licensed engineer to certify whether a proposed road project meets the criteria for a thoroughfare, arterial, or collector road of a county in whose jurisdiction the proposed project is located or the municipality in whose corporate limits or extraterritorial jurisdiction the proposed road project is located. The district is authorized to finance, construct, or acquire a thoroughfare, arterial, or collector road that has been certified by the licensed engineer, or any improvements in aid of the road. Road projects under C.S.H.B. 4127 must meet all applicable county and municipal standards and may be financed through bonds. The district is authorized, with the consent of the municipality or county, to convey a completed road project to a municipality or county in which the road project is located. Under C.S.H.B. 4127, the Southern Travis Special Utility District may use eminent domain powers outside the boundaries of the district for a road project only to connect noncontiguous tracts of land that are within the boundaries of the district.

C.S.H.B. 4127 authorizes the district to issue bonds or other obligations as provided by Chapters 49 and 65, Water Code, to finance the construction, maintenance, or operation of a project: (1) as provided by Subchapter G, Chapter 65, Water Code; or (2) under Section 7214.103 of this chapter. The introduced version does not contain a section relating to the authority to issue bonds and other obligations.