

BILL ANALYSIS

C.S.S.B. 323
By: Deuell
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, the legislature is authorized to create water control and improvement districts and Article 16, Section 59, of the Texas Constitution authorizes such entities to have unlimited property taxing authority and to issue debt backed by these taxes in order to construct public infrastructure to control and use water. While the Water Code now authorizes approximately 13 different types of water districts to deal with surface water usage, there is no municipal utility district (district) located in Kaufman County. Kaufman County is a rapidly growing county adjacent to urban cities in need of master-planned suburban housing. While a water district can be created by the county commissioners court, by the Texas Commission on Environmental Quality or successor agencies, or by the legislature, legislative creation is the quickest method and allows flexibility with regard to a district's powers and duties.

C.S.S.B. 323 creates the Fairfields Municipal Utility District of Kaufman County to be located entirely in Kaufman County and enumerates its powers, duties, and obligations. This bill combines the traditional powers and duties of a district governed by Chapter 49 (Provisions Applicable to All Districts) and Chapter 54 (Municipal Utility Districts) of the Water Code and the powers of divisibility governed by Chapter 53 (Fresh Water Supply Districts) of the Water Code.

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 8162 to Subtitle F, Title 6, Special District Local Laws Code, as follows:

CHAPTER 8162. FAIRFIELDS MUNICIPAL UTILITY DISTRICT OF KAUFMAN COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8162.001. DEFINITIONS. Defines "Board," "Director," and "District."

Sec. 8162.002. NATURE OF DISTRICT. Provides that the district is a Municipal Utility District in Kaufman County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8162.003. FINDINGS OF PUBLIC USE AND BENEFIT. The district is created to serve a public use and benefit.

Sec. 8162.004. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 8162.023 before September 1, 2009, (1) the district is dissolved September 1, 2009, except that: (A) any debts incurred shall be paid; (B) any assets that remain after the payment of debts shall be transferred to Kaufman County; and (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and (2) this chapter expires September 1, 2012.

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Sec. 8162.005. 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 legality or operation of the board.

SUBCHAPTER A-1. TEMPORARY PROVISIONS.

Sec. 8162.021. TEMPORARY DIRECTORS. Provides for the temporary board members. If a temporary director fails to qualify for office, the temporary directors who have qualified are required to appoint a person to fill the vacancy. If at any time there are fewer than three qualified temporary directors, the Texas Commission on Environmental Quality is required to appoint the necessary number of persons to fill all vacancies on the board. The temporary directors serve until the earlier of: (1) the date directors are elected under Section 3162.023 or (2) the date this chapter expires under Section 8162.004.

Sec. 8162.022. 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 the location cannot be agreed upon, the organizational meeting is required to be at the Kaufman County Courthouse.

Sec. 8162.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires that the temporary directors of the district hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8162.024. INITIAL ELECTED DIRECTORS; TERMS. Provides that the directors elected under Section 8162.023 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. 8162.025. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2012.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8162.051. DIRECTORS; TERMS. Provides the district is governed by a board of directors. Provides that the directors serve staggered four-year terms.

SUBCHAPTER C. POWERS AND DUTIES.

Sec. 8162.101. 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. 8162.101. ROAD PROJECTS. Provides that the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or improvements in aid of those roads. Provides that a road project must meet 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 not located in the corporate limits or extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each county in which the district is located. Prohibits the district from undertaking a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by resolution. If the district is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the district is prohibited from undertaking a road project unless each county in which the district is located consents by resolution.

Sec. 8162.103. ROAD CONTRACTS. Authorizes the district to contract for a road project in the manner provided by Subchapter I, Chapter 49, Water Code.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS.

Sec. 8162.151. OPERATION AND MAINTENANCE TAX. Authorizes the district to impose a tax for any district operation and maintenance purpose in the manner provided by Section 49.107, Water Code.

Sec. 8162. 152. TAX TO REPAY BONDS. Authorizes the district to impose a tax to pay the principal of and interest on bonds issued under Section 8162.201.

Sec. 8162.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements of certain utility and service providers.

SUBCHAPTER E. BONDS

Sec. 8162.201. 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 projects under Section 8162.102. Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money. Provides that the district may not issue bonds or other obligations secured wholly or partly by ad valorem taxes to finance projects authorized by Section 8162.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose. Provides that bonds or other obligations issued or incurred to finance projects authorized by Section 8162.102 may not exceed one-fourth of the assessed value of the real property in the district.

SUBCHAPTER F. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8162.251. DIVISION OF DISTRICT; REQUIREMENTS. (a) At any time before the district issues indebtedness secured by taxes or net revenue, the district is authorized to be divided into two or more new districts. (b) Provides that a new district created by division of the district be at least 100 acres. (c) Any new district created by the division of the district is prohibited, at the time the new district is created, from containing any land outside the area described by Section 2 of the Act creating this chapter. (d) Authorizes the board to consider a proposal to divide the district on a petition of a landowner in the district or a motion by the board. (e) If the board decides to divide the district, the board is required to set the terms of the division, including names for the new districts and a plan for the payment or performance of any outstanding district obligations and prepare a metes and bounds description for each proposed district.

Sec. 8162.252. ELECTION FOR DIVISION OF DISTRICT. After the board has complied with Section 8162.251(e), the board is required to hold an election in the district to determine whether the district should be divided as proposed. The board is required to give notice of the election not later than the 35th day before the date of the election. Provides that the notice meet certain requirements. Provides that if a majority of the votes cast are in favor of the division the district is divided and not later than the 30th day after the date of the election, the district is required to provide written notice of the division to certain parties.

Sec. 8162.253. ELECTION OF DIRECTORS OF NEW DISTRICTS. Provides that not later than the 90th day after the date of an election in favor of the division of the district is required to make certain appointments. Provides that directors appointed under Subsection (a) (1) serve the staggered terms to which they were elected in the original district. Directors appointed under Subsection (a) (2) serve until the election for directors under Subsection (c). On the uniform election date in May of the first even-numbered year after the year in which the directions are appointed, the appointed board is required to hold an election to elect five directors in each district for which directors were appointed under Subsection (a) (2). The directors are required to draw lots to determine which two shall serve until the next regularly scheduled election of directors and which three shall serve until the second regularly scheduled election of directors.

Sec. 8162.254. CONTINUING POWERS AND OBLIGATIONS OF NEW DISTRICTS. Provides that each new district may incur and pay debts and has all powers of the original district created by this chapter. If the district is divided as provided by this subchapter, the current obligations and any bond authorizations of the district are not impaired. Debts are required to be paid by revenue or by taxes or assessments imposed on real property in the district as if the district had not been divided or by contributions from each new district as stated in the terms set by the board under Section 8162.251(e). Any other district obligation is divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts.

Sec. 8162.255. CONTRACT AUTHORITY OF NEW DISTRICTS. The new districts may contract with each other for water and wastewater services or any other matter the boards of the new districts consider appropriate.

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: Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

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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 8162.021 of the Act, relating to temporary directors, the substitute adds the names of the temporary board members.

In Section 8162.102, relating to road projects, the words “or turnpikes” are deleted.

In Section 8162.151, subsection (b) is deleted and the prior subsection is renumbered appropriately.

In Section 8162.201, subsection (e) is deleted.