

BILL ANALYSIS

C.S.S.B. 1091
By: Nichols
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The purpose of the bill is to create Somerset Municipal Utility District No. 1, 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 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 different types of water districts to deal with surface water supply.

Water districts can be created by the county commissioners court, by the TCEQ or successor agencies, and by the Legislature. Each methodology has advantages and disadvantages.

CSSB 1091 proposes the legislative creation of a municipal utility district (“MUD”) to be located entirely in San Jacinto County. San Jacinto County is a largely rural county that appears to be gaining popularity among retirees and those who enjoy second homes near a lake. Legislative creation is proposed because it offers the most flexibility, is the quickest method, and allows “custom” authorizations of powers and duties.

CSSB 1091 proposes to combine the traditional powers and duties of a MUD governed by Chapter 49 and 54, Water Code, and the powers of divisibility in Chapter 53, 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 San Jacinto County.

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 8203 to the Special District Local Laws Code, which shall be titled the Somerset Municipal Utility District No. 1.

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 a public use and benefit.

A requirement that a confirmation election be conducted is provided. If the District does not hold a confirmation election before September 1, 2009, under certain circumstances, the District may be dissolved.

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 organizational meeting of the board of directors is authorized and the location of the meeting place is provided for. A mechanism to determine which directors shall serve two year terms in order to create the staggering effect for district directors who serve four year terms is provided.

Subchapter A1 expires September 1, 2012.

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, roads or improvements in aid of such, inside or outside the District. The construction standards of the county in which the District is located shall be applied to such projects of the District. That county must consent to the District undertaking road projects prior to District activity on roads. The District may develop and maintain recreational facilities. The District may not acquire by condemnation land, easements, or other property inside or outside the District for development or maintenance of a recreational facility.

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 8203.201.

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.

SUBCHAPTER F provides for DIVISION INTO MULTIPLE DISTRICTS. Before the District issues debt secured by taxes or net revenues, the District may be divided into two or more new districts. Such new district must be at least 100 acres.

Any new district created by division of the district may not, at the time the new district is created, contain land outside the area described by Section 2 of this Act creating the chapter.

The division must be based on a petition from a landowner in the District or a motion of the board. If a decision to divide is made, the board shall set the terms of the division, including names for the new district or districts and a plan for the payment or performance of any outstanding district obligation and prepare a metes and bounds description for each new district.

After the board decides to divide, the board shall hold an election in the District to determine whether the District should be divided as proposed. The board shall give notice no later than the 35th day before the date of the election. If a majority of the votes are in favor of division, the District shall be divided and not later than the 30th day after the date of the election the District shall provide notice of the division to the TCEQ, the attorney general, the commissioners court of each county in which a new district is located and any municipality that has extraterritorial jurisdiction of any new district. Not later than the 90th day after the date of the division election, the board shall appoint itself as the board of one of the new districts to serve the same terms as

they originally served before the division, and appoint five directors for each new district who shall serve until the uniform election date in May of the first even numbered year after the year in which the directors are appointed. They shall draw lots to establish staggered terms.

Each new district may incur and pay debts and has all the powers of the original district created by this chapter. If the District is divided, any bond authorizations remain in place. Debts shall be paid by revenues or by taxes or assessments imposed on real property in the District as if the District has not been divided or by contributions from each new district as stated in the terms set by the board. Any other obligation shall be divided pro rata among the new districts on an acreage basis or on other terms that are satisfactory to the new districts. The new districts may contract with each other for water and wastewater services, or any other matters the boards consider appropriate.

SECTION 2. Sets forth the metes and bounds of the land initially to be within the District, encompassing 1456.518 acres.

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

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 1 of the bill:

In Section 8203.151, Subsection (b) is deleted and the prior subsection is renumbered.

In Section 8203.201 subsection (e) is deleted.