

BILL ANALYSIS

C.S.S.B. 1245
By: Wentworth
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Kendall County Water and Control and Improvement District No. 2. (the “District”) will encompass an area of land inside the corporate limits and extraterritorial jurisdiction of the City of Boerne. The land to be located within the district will be developed into single family residential and commercial development. It is necessary to create the district under Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, in order to purchase, acquire, or construct facilities for such services to serve the future occupants of the land utilizing tax exempt bonds. It is also necessary to empower the district to impose taxes, to issue bonds, and to exercise the power of eminent domain. C.S.S.B. 1245 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the District.

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. Amends Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9022 to read as follows:

CHAPTER 9022. KENDALL COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9022.001. DEFINITIONS. Defines “Board,” “Director,” “District.”

Sec. 9022.002. NATURE OF DISTRICT. Provides that the district is a water control and improvement district in Kendall County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 9022.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 9022.023 before September 1, 2011, the district is dissolved September 1, 2011, except that (A) any debts incurred shall be paid; (B) any assets that remain after the payment of debts shall be transferred to Kendall County; and (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and this chapter expires September 1, 2014.

Sec. 9022.004. 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 district or the board.

[Sections 9022.005-9022.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 9022.021. INITIAL DIRECTORS. Provides that the initial board consists of: (1) Steve Mack; (2) Matthew Diana; (3) Glen Boehm; (4) Jamie D'Spain; and (5) Phillip Bell. Provides that notwithstanding this Section, the terms of the first three directors named in this Section expire on the uniform election date in November of the first even-numbered year after the year in which the creation of the district is confirmed at an election held under Section 9022.023, and the terms of the last two directors named in Section expire on the uniform election date in November of the next even-numbered year.

Sec. 9022.022. CONSENT OF MUNICIPALITY REQUIRED. Provides that the initial directors may not hold an election under Section 9022.023 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has adopted a resolution consenting to the creation of the district, after receipt of a petition requesting consent to creation of the district.

Sec. 9022.023. CONFIRMATION ELECTION. Provides that the initial directors shall hold an election to confirm the creation of the district.

Sec. 9022.024. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2014.

[Sections 9022.025-9022.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9022.051. DIRECTORS; TERMS. Provides that the district is governed by a board of five directors. Provides that the Directors will serve staggered four-year terms.

Sec. 9022.052. ELECTION OF DIRECTORS. Provides that on the uniform election date in November of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 9022.053-9022.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9022.101. WATER CONTROL AND IMPROVEMENT 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 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9022.102. ROAD PROJECTS. Provides that 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 that a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the 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 all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the county in which the district is located. Provides that 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. The district may improve and maintain roads or improvements in aid of those roadways outside of the district.

Sec. 9022.103. DIVISION OF DISTRICT. Provides that the district may divide into two new districts only if the district has no outstanding bonded debt and is not imposing ad valorem taxes. Provides that the division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Sections 51.748 through 51.753, Water Code, do not apply to the district. Provides that any new district created by the division of the district has all the powers and duties of the district.

Provides that 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.

Sec. 9022.104. DISSOLUTION OF DISTRICT. Provides that notwithstanding Section 43.0751, Local Government Code, or any other general law, before December 31, 2017, the district may not be dissolved unless the dissolution is approved by the board and the governing body of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. Provides that this section expires December 31, 2017.

9022.105. LIMIT ON EMINENT DOMAIN. The District may exercise the power of eminent domain outside the district only to acquire an easement necessary for below ground water, sewer, or storm water drainage pipelines that serve the district.

[Sections 9022.106-9022.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9022.151. TAX TO REPAY BONDS. Provides that the district may impose a tax to pay the principal of and interest on bonds issued under Section 9022.201.

[Sections 9022.152-9022.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 9022.201. 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 Section 9022.101 or 9022.102. Provides that the district may not issue bonds authorized by Section 9022.102 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 9022.102 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. Provides that the effective date is September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSSB 1245 amends 9022.021 by changing the word “May” to “November”.

The Substitute amends 9022.022 to provide that the initial directors may not hold an election under Section 9022.023 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has adopted a resolution consenting to the creation of the district, after receipt of a petition requesting consent to creation of the district.

C.S.S.B. 1245 80(R)

The Substitute amends Section 9022.052 by changing the word “May” to “November.”

The Substitute deletes the word “turnpike” from 9022.102 and adds language to 9022.102 which provides that the district may improve and maintain roads or improvements in aid of the roadways outside of the district.

The Substitute adds 9022.105 which limits eminent domain to acquiring an easement necessary for below ground water, sewer, or storm water drainage pipelines that serve the district.