

BILL ANALYSIS

Senate Research Center
81R1956 PMO-D

H.B. 2668
By: Ritter (Williams)
Natural Resources
5/21/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Smith Road Water Control and Improvement District No.1 of Jefferson County (district) will encompass an area of land that will be located inside the extraterritorial jurisdiction of the City of Beaumont, Texas. The land to be located within the district will be developed into single-family residential; therefore, flood control, water, sewer, drainage, and road services need to be secured. It is necessary to create the district under Chapters 49 (Provisions Applicable to All Districts), 51 (Water Control and Improvement Districts), and 57 (Levee 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 with authority to impose a tax and issue bonds and to grant the power of eminent domain.

H.B. 2668 relates to the creation of the district, provides authority to impose a tax and issue bonds, grants levee and flood hazard mitigation powers, and grants the power of eminent domain.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9031, as follows:

CHAPTER 9031. SMITH ROAD WATER CONTROL AND IMPROVEMENT DISTRICT NO. 1 OF JEFFERSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9031.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 9031.002. NATURE OF DISTRICT. Provides that the Smith Road Water Control and Improvement District No. 1 of Jefferson County (district) is a water control and improvement district in Jefferson County created under and essential to accomplish the purposes of Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 9031.003. CONFIRMATION ELECTION REQUIRED. Provides that if the creation of the district is not confirmed at a confirmation election held under Section 9031.024 before September 1, 2013, the district is dissolved September 1, 2013, except that the district is required to pay any debts incurred, transfer to Jefferson County any assets that remain after the payment of debts, and maintain the organization of the district until all debts are paid and remaining assets are transferred, and this chapter expires September 1, 2016.

Sec. 9031.004. 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 in Section 2 of the Act creating this chapter form a closure. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's organization, existence, or validity; the district's right to impose taxes; the validity of the district's bonds, notes, or indebtedness; or the district's board of directors' (board) legality or operation.

[Reserves Sections 9031.005-9031.020 for expansion.]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 9031.021. TEMPORARY DIRECTORS. (a) Authorizes a person who owns land in the district, on or after September 1, 2009, to submit a petition to the Texas Commission on Environmental Quality (TCEQ) requesting that TCEQ appoint as temporary directors the five persons named in the petition.

(b) Requires TCEQ to appoint as temporary directors the five persons named in the first petition TCEQ receives.

(c) Requires TCEQ, if a temporary director fails to qualify for office, to appoint a person to fill the vacancy.

(d) Provides that temporary directors serve until the earlier of the date directors are elected under Section 9031.024 or the date this chapter expires under Section 9031.003.

Sec. 9031.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. Requires the temporary directors, as soon as practicable after all temporary directors qualify under Section 49.055 (Sworn Statement, Bond, and Oath of Office), Water Code, to meet at a location in the district agreeable to a majority of the directors. Requires the meeting to be at the Jefferson County Courthouse if a location cannot be agreed upon. Requires the temporary directors, at their initial meeting, to elect officers from among the temporary directors and conduct any other district business.

Sec. 9031.023. CONSENT OF MUNICIPALITY REQUIRED. Prohibits the temporary directors from holding an election under Section 9031.024 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located, if any, has adopted a resolution consenting to the district's creation.

Sec. 9031.024. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. Requires the temporary directors to hold an election to confirm the district's creation and to elect five directors as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 9031.025. INITIAL ELECTED DIRECTORS; TERMS. Requires the directors elected under Section 9031.024 to draw lots to determine which two are required to serve until the first regularly scheduled election of directors under Section 9031.052 and which three are required to serve until the second regularly scheduled election of directors.

Sec. 9031.026. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires September 1, 2016.

[Reserves Sections 9031.027-9031.050 for expansion.]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9031.051. DIRECTORS; TERMS. (a) Provides that the district is governed by a board of five directors.

(b) Provides that directors serve staggered four-year terms.

Sec. 9031.052. ELECTION OF DIRECTORS. Requires the appropriate number of directors, on the uniform election date in May of each even-numbered year, to be elected.

[Reserves Sections 9031.053-9031.100 for expansion.]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9031.101. 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, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code.

Sec. 9031.102. ROAD PROJECTS. (a) Authorizes the district, to the extent authorized by Section 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III (Legislative Department), Texas Constitution, to construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads, or improvements in aid of those roads, inside the district.

(b) Requires that a road project 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. Requires that a road project, if the district is located outside the extraterritorial jurisdiction of a municipality, to meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

(c) Prohibits the district from undertaking a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution. Prohibits the district, if a district is located outside the extraterritorial jurisdiction of a municipality, from undertaking a road project unless each county in which the district is located consents by ordinance or resolution.

Sec. 9031.103. LEVEE AND FLOOD HAZARD MITIGATION POWERS. Authorizes the district to purchase, construct, acquire, own, operate, maintain, improve, or extend, inside or outside the district, levees, dikes, flood hazard mitigation structures, and any other improvements or facilities necessary or convenient to accomplish the levee improvements and flood hazard mitigation purposes of the district under Chapter 57 (Levee Improvement Districts), Water Code, as authorized by Section 59, Article XVI, Texas Constitution.

Sec. 9031.104. DIVISION OF DISTRICT. (a) Authorizes the district to be divided into two new districts only if the district has no outstanding bonded debt and is not imposing ad valorem taxes.

(b) Provides that the division procedure is prescribed by Sections 53.030 (Ordering Election), 53.031 (Order: Metes and Bounds), 53.032 (Order: Time of Election), 53.033 (Order: Election of Supervisors), 53.034 (Order: Division of Property and Money), 53.040 (Elected Supervisors Take Office), and 53.041 (Completing Membership of the Board), Water Code. Provides that Sections 51.748 (Division of Original District with No Outstanding Indebtedness), 51.749 (Election to Approve Division), 51.750 (Governing Resulting Districts), 51.751 (Current Obligations of Original District), 51.752 (Powers of Resulting Districts), and 51.753 (Notice of Resulting Districts), Water Code, do not apply to the district.

(c) Provides that any new district created by the division of the district has all the powers and duties of the district.

(d) Prohibits a new district, at the time it is created by the division of the district, from containing land outside the area described by Section 2 of the Act creating this chapter.

Sec. 9031.105. **LIMITATION ON DISTRICT DISSOLUTION.** (a) Prohibits the district, notwithstanding Section 43.0751 (Strategic Partnerships for Continuation of Certain Districts), Local Government Code, or any other general law, from being dissolved before December 31, 2019, 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.

(b) Provides that this section expires December 31, 2019.

[Reserves Sections 9031.106-9031.150 for expansion.]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9031.151. **TAX TO REPAY BONDS.** Authorizes the district to impose a tax to pay the principal of or interest on bonds issued under Section 9031.201.

[Reserves Sections 9031.152-9031.200 for expansion.]

SUBCHAPTER E. BONDS

Sec. 9031.201. **AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.** (a) Authorizes the district to issue bonds or other obligations as provided by Chapters 49, 51, and 57, Water Code, and to finance the construction, maintenance, or operation of projects under Sections 9031.101, 9031.102, and 9031.103.

(b) Prohibits the district from issuing bonds to finance projects authorized by Section 9031.102 unless the issuance is approved by a vote of a two-thirds majority of district voters voting at an election called for that purpose.

(c) Prohibits bonds or other obligations issued or incurred to finance projects authorized by Section 9031.102 from exceeding one-fourth of the assessed value of the real property in the district.

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

SECTION 3. 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 are fulfilled and accomplished.

SECTION 4. Effective date: September 1, 2009.