

BILL ANALYSIS

H.B. 2668
By: Ritter
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Smith Road Water Control and Improvement District No.1 of Jefferson County (the “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; granting the power of eminent domain.

H.B. 2668 provides regulations regarding the creation, administration, powers, duties, operation, and financing of the district.

RULEMAKING AUTHORITY

It is the Committee's Opinion that the bill does not expressly delegate any additional rulemaking authority to a state office, department, institution, or agency.

ANALYSIS

SECTION 1. Amends Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9031 to read 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 district is a water control and improvement district in Jefferson County created under and essential to accomplish the purposes of Section 59, Article XVI, 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: (A) any debts incurred shall be paid; (B) any assets that remain after the payment of debts shall be transferred to Jefferson County; and (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred. Provides that this chapter expires September 1, 2016.

Sec. 9031.004. 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. Provides that a mistake made in the field notes or in copying the field notes in the legislative process does not affect the organization, existence, or validity of the district, the right of the district to impose taxes, the validity of the district's bonds, notes, or other indebtedness or the legality or operation of the district or the board.

[Sections 9031.005-9031.020 reserved for expansion]

SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 9031.021. **TEMPORARY DIRECTORS.** Provides that on or after September 1, 2009, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition. Provides that the Texas Commission on Environmental Quality shall appoint as temporary directors the five persons named in the first petition received by the commission. Provides that if a temporary director fails to qualify for office, the Texas Commission on Environmental Quality shall appoint a person to fill the vacancy. Provides that the temporary directors will 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.** 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 a location cannot be agreed upon, the meeting shall be at the Jefferson County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 9031.023. **CONSENT OF MUNICIPALITY REQUIRED.** Provides that the temporary directors may not hold 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 creation of the district.

Sec. 9031.024. **CONFIRMATION AND INITIAL DIRECTORS' ELECTION.** Provides that the temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

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

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

[Sections 9031.027-9031.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9031.051. **DIRECTORS; TERMS.** Provides that the district is governed by a board of five directors. Provides that directors serve staggered four-year terms.

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

[Sections 9031.053-9031.100 reserved 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, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9031.102. **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 turnpikes, or improvements in aid of those roads, inside the district. Provides that a road project must meet all applicable construction standards, subdivision requirements, and regulatory ordinances of the municipality in whose corporate

limits or extraterritorial jurisdiction the district is located. Provides that if the district is located outside the extraterritorial jurisdiction of the municipality, that a road project must meet all applicable construction standards, subdivision requirements, and regulatory ordinances. 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. If the district is located outside the extraterritorial jurisdiction of a municipality, the district may not undertake 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. Provides that the District may purchase, construct, acquire, own, operate, maintain, improve or extend inside and outside the district levees, dikes, flood hazard mitigation structures, and any other improvements or facilities necessary or convenient to accomplish the levee and flood hazard mitigation purposes of the district pursuant to Chapters 57, Water Code and authorized by Section 59, Article XVI, Texas Constitution.

Sec. 9031.104. DIVISION OF DISTRICT. Provides that the district may be divided into two new districts only if the district has no outstanding bonded debt and the district is not imposing ad valorem taxes and Sections 51.748 through 51.753, Water Code, do not apply to the district. Provides that the division procedure is prescribed by Sections 53.030 through 53.041, Water Code. Provides that any new district created by the division of the district has all the powers and duties of the district. Provides that at the time of creation, any new district created by the division of the district may not contain any land outside the area described by Section 2 of the Act creating this chapter.

Sec. 9031.105. LIMITATION OF DISTRICT DISSOLUTION. Provides that notwithstanding Section 43.0751, Local Government Code, or any other general law, prior to December 31, 2019, the district may not be dissolved unless approved by the board and the governing body of each municipality within whose corporate limits or extraterritorial jurisdiction the district lies. Provides that this section expires December 31, 2019.

[Sections 9031.106-9031.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9031.151. TAX TO REPAY BONDS. Provides that the district may impose a tax to pay the principal of or interest on bonds or other obligations issued under Section 9031.201.

[Sections 9031.152-9031.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 9031.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Provides that the district may issue bonds or other obligations as provided by Chapters 49, 51 and 57, Water Code, to finance the construction, maintenance, or operation of a project under Sections 9031.101, 9031.102 and 9031.103. Provides that the district may not issue bonds to finance projects authorized by Section 9031.102 unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election called for that purpose. Provides that bonds or other obligations issued or incurred to finance projects authorized by Section 9031.102 may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. Sets forth the geographical boundaries of the District.

SECTION 3. Sets forth legislative findings regarding the fulfillment of procedural requirements with respect to the notice, introduction, and passage of this Act.

SECTION 4. Provides the effective date of this Act.

EFFECTIVE DATE

This Act takes effect September 1, 2009.