

BILL ANALYSIS

C.S.H.B. 3435
By: Hamilton
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

A municipal utility district (MUD) has the right to charge an impact fee and a stand-by fee to a property owner within the district, while a special district like a management district has the right to charge an assessment. Such fees and assessments affect the electric, telecommunications, cable, and natural gas utilities because a MUD or special district can place such fees and assessments on rights-of-way and equipment in a district even when the utilities do not use or benefit from the services provided by that district. For example, an electric utility that owns an easement with transmission and distribution lines running through a MUD should not be required to pay fees to the MUD for the provision of water and sewer services that it does not, and likely will never, utilize. As a result, utilities jointly amend or attempt to amend each bill creating a MUD or special district to exempt utilities from such fees and assessments. However, such amending becomes a time consuming and inefficient process because of the hundreds of MUD and special district bills that are filed every session. Moreover, some bills create multiple districts and require multiple amendments. For example, H.B. 2619, 81st Legislature, Regular Session, 2009, would alone require more than 30 amendments. Legislation is needed to amend the general law within the Water Code that applies to all water districts to exempt utilities from fees and assessments unless the utilities make use of the services provided by those districts, as well as to districts that are formed by filing a petition with the Texas Commission on Environmental Quality under a provision of the Water Code.

C.S.H.B. 3435 exempts an electric utility, power generation company, a gas utility, a person who owns certain pipelines, a telecommunications provider, a cable service provider, and a video service provider from the fees and assessments charged by a water district, except on property used as office space, unless that exempted entity requests the services provided by 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

C.S.H.B. 3435 amends the Water Code to prohibit a water district, with certain exceptions, from imposing an impact fee, standby fee, or assessment on the property, including the equipment, rights-of-way, easements, facilities, or improvements, of an electric utility or power generation company, a gas utility or a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas, a telecommunications provider, or a cable service or video service provider. The bill authorizes a district to impose such a fee or assessment on such property that is used as office space. The bill authorizes a district to impose an impact fee on such property on the same terms as the district imposes an impact fee on other property if the owner of the property requests water or sewer services for that property from the district.

C.S.H.B. 3435 establishes that the bill's prohibition on a district does not affect a district's authority to impose a property tax on property in the boundaries of the district under other law.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3435 amends the Water Code, rather than the Special District Local Laws Code, as in the original.

C.S.H.B. 3435 imposes the prohibition on a district under Water Code provisions applicable to all districts, rather than under Special District Local Laws provisions relating to a development, improvement, and management district, a fresh water supply district, a municipal utility district, and a water control and improvement district as in the original.

C.S.H.B. 3435 differs from the original by including a standby fee in the prohibition, and including easements in the types of property to which the prohibition applies.

C.S.H.B. 3435 differs from the original by adding a person who owns pipelines used for the transportation or sale of oil or gas or a product or constituent of oil or gas to the entities whose property is included in the prohibition. The substitute refers to a cable service or video service provider, rather than a person who provides to the public cable service, video service, or advance telecommunications services as in the original.

C.S.H.B. 3435 adds a provision not in the original authorizing a district to impose an impact fee, standby fee, or assessment on property included in the prohibition if it is used as office space. The substitute adds a provision not in the original authorizing a district to impose an impact fee on property included in the prohibition on the same terms as the district imposes an impact fee on other property if the owner of the property requests water or sewer services for that property from the district.

C.S.H.B. 3435 adds a provision not in the original establishing that the prohibition does not affect the district's authority to impose a property tax on property in the boundaries of the district under other law.