

BILL ANALYSIS

C.S.H.B. 4759
By: Quintanilla
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Territory within the proposed Tornillo Management District will be turned over to commercial development to promote commercial growth, and the creation of the district will provide needed funding to preserve, maintain, and enhance the community and will finance the construction of the necessary infrastructure, including water, sewer, and drainage facilities, railways, and roads. It is necessary to create the district to purchase, acquire, construct, or maintain facilities to promote such commercial growth.

C.S.H.B. 4759 creates the Tornillo Management District in the area of land outside the corporate limits and the extraterritorial jurisdiction of any city and within El Paso County, Texas. The bill sets forth standard language for the creation, administration, powers, duties, operation, and financing of the district. The bill provides the district with the authority to impose assessments, impose taxes, and issue bonds, and grants the power of eminent domain.

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. 4759 amends the Special District Local Laws Code to create the Tornillo Management District in El Paso County. The bill sets forth general provisions for the nature of the district, the district's public purpose and benefit, and initial district territory and the number, terms, and qualifications of members of the district's board of directors, including provisions for election and appointment of directors. The bill grants the district the powers and duties necessary to accomplish the purposes of the district, grants the district the powers and duties of a municipal management district, and prohibits the district from exercising the power of eminent domain.

C.S.H.B. 4759 prohibits the district from providing wholesale or retail water or wastewater services to any land inside or outside the district and from producing water for use on land owned or managed by the district unless authorized by a written resolution of the board of directors of the El Paso County Tornillo Water Improvement District. The bill requires such a resolution to specify the area authorized to receive water or wastewater services or for which the district is authorized to produce water. The bill specifies the El Paso County Tornillo Water Improvement District is not required to provide retail water or wastewater services to an area in which the Tornillo Management District is authorized to provide water services. The bill requires the district to convey and transfer to the El Paso County Tornillo Water Improvement District, on written request by that district, all water or wastewater facilities, equipment, and fixtures owned by the district. The bill requires water or wastewater facilities, equipment, and fixtures transferred to continue to be used to benefit land in the district. The bill authorizes the district to construct, acquire, improve, maintain, and operate rail facilities and improvements in aid of those facilities and to exercise the powers given to a development corporation.

C.S.H.B. 4759 sets forth general financial provisions authorizing the district to issue bonds and other obligations secured by revenue or payments other than property taxes without an election, to issue bonds and other obligations secured by a property tax and to impose a property tax for that purpose subject to voter approval, impose a property tax for operations and maintenance, and impose contract taxes, a hotel occupancy tax, and a sales and use tax. The bill requires the board, on bonds payable wholly or partly from property taxes, to provide for the annual imposition of a continuing direct property tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required. The bill prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from property taxes from exceeding one-fourth of the assessed value of the real property in the district at the time of issuance.

C.S.H.B. 4759 specifies that district taxes imposed for water, wastewater, and drainage facility construction and maintenance purposes are for the benefit of the area inside the district, do not generally or directly benefit the area inside the El Paso County Tornillo Water Improvement District as a whole, and do not duplicate a tax imposed by that district. The bill authorizes the district to impose taxes only inside district boundaries, specifies the bill's provisions are prohibited from being construed as creating an obligation of the El Paso County Tornillo Water Improvement District for a debt incurred by the district, and prohibits the El Paso County Tornillo Water Improvement District from being held liable for such a debt unless the debt is assumed by a resolution of the El Paso County Tornillo Water Improvement District board of directors. The bill sets forth in detail the initial boundaries of the district.

C.S.H.B. 4759 defines the terms "board," "director," and "district."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4759 differs from the original by providing that the Tornillo Management District is governed by a board seven directors, four of which are elected and three of which are appointed, whereas the original provides that the district is governed by a board of five elected directors. The substitute adds provisions not in the original relating to the appointment of the three appointed directors, the appointing authorities, their appointment to staggered three-year terms, and the qualifications for appointment to the board.

C.S.H.B. 4759 prohibits the district from providing wholesale or retail water or wastewater services to any land inside or outside the boundaries of the district or produce water for use on land owned or managed by the district unless authorized by a written resolution of the El Paso County Tornillo Water Improvement District board of directors, whereas the original does not prohibit the district from providing wholesale water or wastewater services or from producing water for use on land owned or managed by the district under the same circumstances. The substitute adds a provision not in the original requiring the written water improvement district's board of directors to specify the area for which the management district is authorized to produce water.

C.S.H.B. 4759 removes a provision in the original authorizing the district to construct and maintain water or wastewater facilities only according to standards established by the El Paso County Tornillo Water Improvement District. The substitute adds a provision not in the original establishing that the El Paso County Tornillo Water Improvement District is not required to provide retail water or wastewater services to an area in which the district is authorized to provide water services.

C.S.H.B. 4759 adds a provision not in the original requiring the district, on written request by the El Paso County Tornillo Water Improvement District, to convey and transfer to the water improvement district all water or wastewater facilities, equipment, and fixtures owned by the district and requiring those transferred facilities, equipment, and fixtures to continue to be used to benefit land in the district.

C.S.H.B. 4759 adds a provision not in the original authorizing the district to use revenue from the hotel occupancy tax for any district purpose for which property tax may be used and adds provisions not in the original prohibiting the district from imposing either a hotel occupancy or a sales and use tax if any territory of the district is annexed by a municipality or incorporates as a municipality.

C.S.H.B. 4759 differs from the original by authorizing the district to issue bonds or other obligations payable wholly or partly from property taxes, impact fees, revenue, contract payments, grants, revenue from economic development agreements, or other district money, or any combination of those sources, to pay for an authorized district purpose, whereas the original authorizes the district to issue bonds or other obligation payable wholly or partly from hotel occupancy taxes and sales and use taxes as well as from all of the sources specified in the substitute.

C.S.H.B. 4759 adds a provision not in the original prohibiting the El Paso County Tornillo Water Improvement District from being held liable for debt incurred by the district unless the debt is assumed by a resolution of that district's board of directors.