

## **BILL ANALYSIS**

Senate Research Center

S.B. 1241  
By: Hegar  
Natural Resources  
9/2/2009  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Fort Bend County Water Control and Improvement District No. 10 will encompass an area of land within the extraterritorial jurisdiction of the City of Richmond, Fort Bend County, Texas. The district will provide water, sewer, and road maintenance and construction services to customers and lot owners within the subdivision.

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.

S.B. 1241 makes changes to current law relating to the creation of the Fort Bend County Water Control and Improvement District No. 10, providing authority to impose a tax and issue bonds, and granting a limited 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 9034, as follows:

#### **CHAPTER 9034. FORT BEND COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 10**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 9034.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 9034.002. NATURE OF DISTRICT. Provides that the Fort Bend County Water Control and Improvement District No. 10 (district) is a water control and improvement district created under Chapter 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 9034.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. Requires the temporary directors to hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102 (Confirmation and Director Election), Water Code.

Sec. 9034.004. CONSENT OF MUNICIPALITY REQUIRED. Prohibits the temporary directors from holding an election under Section 9034.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 9034.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) Provides that the district is created to serve a public purpose and benefit.

(b) Provides that the district is created to accomplish the purposes of a water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution, and Section 52 (Counties, Cities or other Political Corporations or Subdivisions; Lending Credit; Grants; Bonds), Article III (Legislative Department), Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 9034.006. 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 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 district's organization, existence, or validity, right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond, right to impose a tax, or legality or operation.

[Reserves Sections 9034.007-9034.050 for expansion.]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9034.051. GOVERNING BODY; TERMS. (a) Provides that the district is governed by a board of five elected directors.

(b) Provides that, except as provided by Section 9034.052, directors serve staggered four-year terms.

Sec. 9034.052. TEMPORARY DIRECTORS. (a) Provides that the temporary board consists of Jay Henry, Mark Schindler, David Vercellino, Chris Sitka, and Chrystal Seymour.

(b) Provides that temporary directors serve until the earlier of the date permanent directors are elected under Section 9034.003 or the fourth anniversary of the effective date of the Act creating this chapter.

(c) Requires successor temporary directors, if permanent directors have not been elected under Section 9034.003 and the terms of the temporary directors have expired, to be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of the date permanent directors are elected under Section 9034.003 or the fourth anniversary of the date of the appointment or reappointment.

(d) Authorizes the owner or owners of a majority of the assessed value of the real property in the district, if Subsection (c) applies, to submit a petition to the Texas Commission on Environmental Quality (TCEQ) requesting that TCEQ appoint as successor temporary directors the five persons named in the petition. Requires TCEQ to appoint as successor temporary directors the five persons named in the petition.

[Reserves Sections 9034.053-9034.100 for expansion.]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 9034.101. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 9034.102. 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 (Provisions Applicable to All Districts) and 51 (Water Control and Improvement Districts), Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9034.103. AUTHORITY FOR ROAD PROJECTS. Authorizes the district, under Section 52, Article III, Texas Constitution, to design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance [of] macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 9034.104. ROAD STANDARDS AND REQUIREMENTS. (a) Requires that a road project meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) Requires that the road project, if a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) Requires the Texas Transportation Commission (TTC), if the state will maintain and operate the road, to approve the plans and specifications of the road project.

Sec. 9034.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. Requires the district to comply with all applicable requirements of any ordinance or resolution that is adopted under Section 42.042 (Creation of Political Subdivision to Supply Water or Sewer Services, Roadways, or Drainage Facilities in Extraterritorial Jurisdiction), Local Government Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9034.106. LIMITATION ON USE OF EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a road project authorized by Section 9034.103 or a recreational facility as defined by Section 49.462 (Definitions), Water Code.

Sec. 9034.107. FIRE DEPARTMENTS. (a) Authorizes the district to contract with the City of Richmond to perform firefighting services in the district on the same terms that the municipality provides firefighting services in the extraterritorial jurisdiction of the municipality. Authorizes the district, with voter approval, to issue bonds payable from ad valorem taxes to pay for capital costs required under the contract, including the construction and purchase of facilities, land, and equipment; and the provision of adequate water supply.

(b) Provides that the district is not required, notwithstanding Sections 49.351(g) (relating to a detailed plan for the establishment, operation, and maintenance of the proposed department), (h) (relating to the adoption and approval of a plan), and (i) (relating to a requirement that after the approval of a plan by the Texas Natural Resource Conservation Commission for the district to submit to the electors of the district at the election to approve bonds or to impose a mandatory fee for financing the plan in certain situations), Water Code, if the district contracts with the City of Richmond to provide firefighting services in the district, to submit a fire plan to TCEQ for approval.

[Reserves Sections 9034.108-9034.150 for expansion.]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9034.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Authorizes the district to issue, without an election, bonds and other obligations secured by revenue other than ad valorem taxes or contract payments described by Section 9034.153.

(b) Requires the district to hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district is authorized to impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Prohibits the district from issuing bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 9034.152. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held under Section 9034.151, to impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107 (Operation and Maintenance Tax), Water Code.

(b) Requires the district's board of directors (board) to determine the tax rate. Prohibits the tax rate from exceeding the rate approved at the election.

Sec. 9034.153. CONTRACT TAXES. (a) Authorizes the district, in accordance with Section 49.108 (Contract Elections), Water Code, to impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) Authorizes a contract approved by the district voters to contain a provision stating that the contract is authorized to be modified or amended by the board without further voter approval.

[Reserves Sections 9034.154-9034.200 for expansion.]

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9034.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Authorizes the district to issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 9034.202. TAXES FOR BONDS. Requires the board, at the time the district issues bonds payable wholly or partly from ad valorem taxes, to provide for an annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433 (Tax Levy), Water Code.

Sec. 9034.203. BONDS FOR ROAD PROJECTS. Prohibits the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes, at the time of issuance, from exceeding one-fourth of the assessed value of the real property in the district.

SECTION 2. Sets forth the area and boundaries of the district.

SECTION 3. (a) Provides that the legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and 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 (Notice for Local and Special Laws), Government Code.

(b) Provides that the governor, one of the required recipients, has submitted the notice and Act to TCEQ.

(c) Provides that TCEQ has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) 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: upon passage or September 1, 2009.