

## **BILL ANALYSIS**

S.B. 2486  
By: Williams  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Townsen Bridge Development in Montgomery County is in need of an entity to own, operate, and construct drainage improvements in the development.

S.B. 2486 creates the Montgomery County Water Control and Improvement District No. 3, provides authority to impose a tax and issue bonds, and grants a limited 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**

SECTION 1. Amends Subtitle I, Title 6, Special District Local Laws Code, by adding Chapter 9040, as follows:

#### **CHAPTER 9040. MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 3**

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

Sec. 9040.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 9040.002. NATURE OF DISTRICT. Provides that the Montgomery County Water Control and Improvement District No. 3 (district) is a water control and improvement district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution.

Sec. 9040.003. 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. 9040.004. CONSENT OF MUNICIPALITY REQUIRED. Prohibits the temporary directors from holding an election under Section 9040.003 until each municipality in whose cooperate 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. 9040.005. 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.

Sec. 9040.006. 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 9040.007-9040.050 for expansion.]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9040.051. 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 9040.052, directors serve staggered four-year terms.

Sec. 9040.052. TEMPORARY DIRECTORS. (a) Authorizes the owner or owners of a majority of the assessed value of the real property in the district, on or after the effective date of the Act creating this chapter, 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. Requires TCEQ to appoint as temporary directors the five persons named in the petition.

(b) Provides that temporary directors serve until the earlier of the date permanent directors are elected under Section 9040.003 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 9040.003 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 9040.003 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 to submit a petition to 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 9040.053-9040.100 for expansion.]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 9040.101. GENERAL POWERS AND DUTIES. Provides that the district has the powers and duties necessary to accomplish the purpose for which the district is created.

Sec. 9040.102. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. (a) 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.

(b) Requires that the powers and duties authorized under Subsection (a) specifically include the powers authorized under Subchapter H (Waste Disposal and Control of Storm Water), Chapter 51, Water Code.

Sec. 9040.103. 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) or 42.0425 (Addition of Land in Extraterritorial Jurisdiction of Municipality to Certain Political Subdivisions), Local Government Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9040.104. 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 recreational facility as defined by Section 49.462 (Definitions), Water Code.

[Reserves Sections 9040.105-9040.150 for expansion.]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9040.151. 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 9040.153.

(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.

Sec. 9040.152. OPERATION AND MAINTENANCE TAX. (a) Authorizes the district, if authorized at an election held under Section 9040.151, to impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 9040.153. 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 may be modified or amended by the board without further voter approval.

[Reserves Sections 9040.154-9040.200 for expansion.]

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9040.201. 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 an authorized district purpose.

Sec. 9040.202. TAXES FOR BONDS. Requires the board, at the time the district issues bonds payable wholly or partly from ad valorem taxes, to provide for the 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 Chapter 51, Water Code.

Sec. 9040.203. BONDS FOR RECREATIONAL FACILITIES. (a) Authorizes the district to develop recreational facilities and issue bonds for the facilities under Chapter

49, Water Code, notwithstanding any overlap of the district's territory with the territory of one or more political subdivisions authorized to develop recreational facilities and issue bonds under Chapter 49, Water Code.

(b) Provides that the authority of the district to develop recreational facilities and issue bonds under this section does not limit the authority of any other political subdivision whose territory the territory of the district is authorized to overlap, wholly or partly, to develop recreational facilities and issue bonds under Chapter 49, Water Code.

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

SECTION 3. Provides that all requirements of the constitution and the 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. Provides the effective date of this Act.

#### **EFFECTIVE DATE**

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.