

## **BILL ANALYSIS**

S.B. 2512  
By: Williams  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

S.B. 2512 relates to the creation of the Chambers County Improvement District No. 3, grants road powers, 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 F, Title 6, Special District Local Laws Code, by adding Chapter 8361, as follows:

#### CHAPTER 8361. CHAMBERS COUNTY IMPROVEMENT DISTRICT NO. 3

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8361.001. DEFINITIONS. Defines "board," "director," and "district."

Sec. 8361.002. NATURE OF DISTRICT. Provides that the Chambers County Improvement District No. 2 (district) is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8361.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. Requires the temporary board of directors to hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8361.004. CONSENT OF MUNICIPALITY REQUIRED. Prohibits the temporary directors from holding an election under Section 8361.003 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. 8361.005. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 59, Article XVI, Texas Constitution; and Sections 52, Article III, Texas Constitution.

Sec. 8361.006. INITIAL DISTRICT TERRITORY. (a) Provides that the district is initially composed of the territory described by Section 2 of this Act enacting this chapter.

(b) Provides that the boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

- (1) organization, existence, or validity;
- (2) 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 the bond;
- (3) right to impose or collect an assessment or tax; or
- (4) legality or operation.

[Reserves Sections 8361.007-8361.050 for expansion.]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8361.051. **GOVERNING BODY; TERMS.** (a) Provides that the district is governed by a board of five directors elected or appointed as provided by this chapter and Chapter 49, Water Code.

(b) Provides that except as provided by Section 8361.052, directors serve staggered four-year terms.

Sec. 8361.052. **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.

(b) Provides that temporary directors serve until the earlier of the date permanent directors are elected under Section 8361.003, 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 8361.003 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 8361.003, 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 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 8361.053-8361.100 for expansion.]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8361.101. **GENERAL POWERS AND DUTIES.** Provides that the district has powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8361.102. **MUNICIPAL UTILITY 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 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8361.103. **AUTHORITY FOR ROAD PROJECTS.** Provides that under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue

bonds for, improve, operate, maintain, and convey macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8361.104. ROAD STANDARDS AND REQUIREMENTS. Provides that a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of the municipality or county in whose jurisdiction the district is located. Provides that if the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8361.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. Provides that the district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8361.106. LIMITATION ON USE OF EMINENT DOMAIN. Provides that the district may not exercise power of eminent domain outside the district to acquire a site or easement for (i) a road project authorized by Section 8361.103 or (ii) a recreational facility defined by Section 49.462, Water Code.

Sec. 8361.107. DIVISION OF DISTRICT. Provides that the district may be divided into two new districts only if the district: (1) has no outstanding bonded debt; and (2) is not imposing ad valorem taxes. Provides that any new district created by the division of the district has all the powers and duties of the district. Provides that any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act creating this chapter. Provides that the board, on its own motion or on receipt of a petition signed by the owner(s) of a majority of the assessed value of the real property in the district, may adopt an order dividing the district. Provides that the board may adopt an order dividing the district before or after the date the board holds an election under Section 8361.003 to confirm the district's creation. Provides that an order dividing the district shall (1) name each new district; (2) include the metes and bounds description of the territory of each new district; (3) appoint temporary directors for each new district; (4) provide for the division of assets and liabilities between or among the new districts; and (5) be subject to a confirmation election in each new district. Provides that on or before the 30<sup>th</sup> day after the date of adoption of an order dividing the district, the district shall file the order with the TCEQ and record the order in the real property records of each county in which the district is located. Provides that any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8361.003. Provides that municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8361.004 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district. Provides that any new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

Sec. 8361.108. FIREFIGHTING AND EMERGENCY MEDICAL SERVICES. Provides that Subchapter L, Chapter 49, Water Code, applies to the district.

Sec. 8361.109. FEASIBILITY EVALUATION. Provides that for purpose of an applicable evaluation by the TCEQ of the economic feasibility of the district or its projects and bonds, debt services tax rate, maintenance tax rate, or overlapping tax rate, the district shall be treated as a municipal utility district situated wholly within Harris County.

[Sections 8361.110-8361.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8361.151. ELECTIONS REGARDING TAXES OR BONDS. Provides that the district may issue, without an election, bonds and other obligations secured by (1)

revenue other than ad valorem taxes or (2) contract payments described by Section 8361.153. Provides that the district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes. Provides that the district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8361.152. OPERATION AND MAINTENANCE TAX. Provides that if authorized at an election held under Section 8361.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code. Provides that the board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8361.153. CONTRACT TAXES. Provides that in accordance with Section 49.108, Water Code, the district may 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. Provides that a contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8361.154-8361.200 reserved for expansion]

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8361.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. Provides that the district may 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. 8361.202. TAXES FOR BONDS. Provides that at the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall 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 Sections 54.601 and 54.602, Water Code.

Sec. 8361.203. BONDS FOR ROAD PROJECTS. Provides that at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. Sets forth the 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 take effect immediately if it receives a vote of two-thirds or all 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, the effective date is September 1, 2009.