

BILL ANALYSIS

S.B. 2518
By: Nichols
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Somerset Municipal Utility District No. 3 (district) will encompass an area of land outside the corporate limits and the extraterritorial jurisdiction of any city and within San Jacinto County, Texas. The land to be located within the district will be developed into single-family residential and commercial development; therefore, water, sewer, drainage and road services need to be secured. It is necessary to create the district under Chapters 49 (Provisions Applicable to All Districts) and 54 (Municipal Utility Districts), Water Code, and Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI (General Provisions), Texas Constitution, 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 with authority to impose a tax and issue bonds and grant the power of eminent domain.

S.B. 2518 provides for the creation, administration, powers, duties, operations, and financing of the district, including the authority to impose a tax, issue bonds, and exercise 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. Adds Chapter 8362 to Subtitle F, Title 6, Special District Local Laws Code, to read as follows:

CHAPTER 8362. SOMERSET MUNICIPAL UTILITY DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8362.001. DEFINITIONS. Defines "Board," "Director," and "District."

Sec. 8362.002. NATURE OF DISTRICT. Provides that the district is a municipal utility district created under Section 59, Article XVI.

Sec. 8362.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. Provides that the temporary directors shall 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. 8362.004. CONSENT OF MUNICIPALITY REQUIRED. Provides that the temporary directors may not hold an election under Section 8362.003 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 the land in the district.

Sec. 8362.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. Provides that the district is created to serve a public purpose and benefit. Provides that the district is created to accomplish the purposes of (1) a municipal utility district provided by general law and Section 59, Article XVI, Texas Constitution, and (2) Section 52, Article III, 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. 8362.006. INITIAL DISTRICT TERRITORY. Provides that the district is initially composed of the territory described by Section 2 of the Act creating this chapter. Provides that the boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect: (1) the organization, existence, or validity of the district; (2) the right of the district to issue any type of bond for the purposes for which the district is created or to pay the principal of an interest on a bond; (3) the right of the district to impose taxes; or (4) the legality or operation.

[Sections 8362.007—8362.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS.

Sec. 8362.051. GOVERNING BODY; TERMS. Provides that the district be governed by a board of five elected directors. Provides that, except as provided by Section 8362.052, directors serve staggered four-year terms.

Sec. 8362.052. TEMPORARY DIRECTORS. Provides that on or after the effective date of the Act creating this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition. Provides that temporary directors serve until the earlier of (1) the date permanent directors are elected under Section 8362.003 or (2) the fourth anniversary of the effective date of the Act creating this chapter. Provides that if permanent directors have not been elected under Section 8362.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed to serve terms that expire on the earlier of (1) the date permanent directors are elected under 8362.003, or (2) the fourth anniversary of the date of the appointment or reappointment. If the preceding sentence applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successors temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8362.053-8362.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8362.101. GENERAL POWERS AND DUTIES. Provides that the district has powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8362.102. 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. 8362.103. 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. 8362.104. APPROVAL OF ROAD PROJECT. 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. 8362.105. 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. 8362.106. 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 8365.103 or (ii) a recreational facility defined by Section 49.462, Water Code.

Sec. 8362.107. 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 8362.003 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; and (4) provide for the division of assets and liabilities between or among the new districts. Provides that on or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the Texas Commission on Environmental Quality 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 8362.003. Provides that municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8362.004 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. Provides that if the voters of a new district do not confirm the creation of the new district, the assets, obligations, territory, and governance of the new district revert to that of the original district.

[Sections 8362.108-8362.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8362.151. 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 8362.153. 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. 8362.152. OPERATION AND MAINTENANCE TAX. Provides that if authorized at an election held under Section 8365.151, 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. 8362.153. 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 8362.154-8362.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8362.201. **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. 8362.202. **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. 8362.203. **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.