

BILL ANALYSIS

C.S.H.B. 3847
By: Lavender
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Riverbend Water Resources District was recently created by the legislature and serves the citizens of Bowie and Red River Counties. C.S.H.B. 3847 seeks to restructure the district's board of directors and appoint a temporary administrator to oversee the transition.

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. 3847 amends the Special District Local Laws Code to establish that a member of the Riverbend Water Resources District has immunity from suit and immunity from liability in any action or proceeding brought by another member arising out of or relating to the changes in law made by the bill's provisions.

C.S.H.B. 3847 removes a provision requiring the governing body of each member to appoint a director to represent the member on the district's board of directors. The bill instead establishes that the board consists of five directors, with two directors appointed by the City of Texarkana, one director appointed by the City of New Boston, one director appointed by the Red River Redevelopment Authority or its successor, and one director appointed by the members not named, including any new members added.

C.S.H.B. 3847 requires the governing body of each named district member above to appoint the required number of directors to represent the member on the board and requires the members not named to appoint a single director to represent those members on the board. The bill requires a vacancy to be promptly filled in accordance with the policies, resolutions, and procedures of the applicable member or members. The bill authorizes the members not named to each nominate a person qualified to serve as a director, requires the governing body of each of those members to cast one vote for a candidate chosen from the list of nominees, and establishes that the nominee receiving a majority of the votes cast by the governing bodies of those members becomes the director representing those members on the board. The bill requires the district members, not sooner than the 150th day and not later than the 180th day after the bill's effective date, to appoint members, as appropriate, to the board.

C.S.H.B. 3847 replaces a provision authorizing a director to serve consecutive terms with a provision prohibiting a director from serving more than two consecutive terms and prohibiting a former director from serving again before the fourth anniversary of the last day of the director's previous term. The bill requires the initial directors to draw lots to achieve staggered terms, with three of the directors serving three-year terms and two of the directors serving four-year terms.

C.S.H.B. 3847 makes a person ineligible to be appointed or to serve as a director while the person is serving as an elected official of a political subdivision or other governmental body or is

an employee of a member.

C.S.H.B. 3847 removes a provision authorizing a director to be recalled at any time by the governing body of the member that appointed the director. The bill instead authorizes a director appointed by the City of Texarkana, the City of New Boston, or the Red River Redevelopment Authority or its successor to be recalled at any time by a two-thirds vote of the governing body of the member that appointed the director, and authorizes a director appointed by the members not named to be recalled by a two-thirds vote of such members.

C.S.H.B. 3847 appoints Clyde M. Siebman as temporary administrator for the district on the bill's effective date and sets to expire on that date the term of each person who is serving as a director. The bill requires the temporary administrator to serve until the 180th day after the date that a board consisting of five directors as provided by the bill is appointed and the directors have qualified. The bill authorizes the Texas Commission on Environmental Quality (TCEQ) to extend the term of the temporary administrator if TCEQ determines, after consultation with each state senator and representative who represents a district that includes territory in the district, that an extension is necessary to manage the transition between boards.

C.S.H.B. 3847 requires the temporary administrator to have the same powers and duties of the board, except that the temporary administrator is prohibited from issuing bonds. The bill requires the temporary administrator to:

- complete an inventory of the contracts to which the district is a party, including an evaluation of the benefit to the district of each contract, and an inventory of district assets and liabilities;
- retrieve district assets that are in the possession or under the control of persons not authorized by the temporary administrator, including keys, passwords, books, records, and personal, real, and intangible property;
- work to secure and protect the assets of the district;
- obtain a financial audit of the district;
- determine the current operational, functional, and financial condition of the district;
- recruit a qualified executive director and other management personnel;
- provide oversight and supervision of the board;
- provide for a program to educate the incoming board and management personnel on laws applicable to the district, sound management strategies, negotiation skills, conflict of interest policies and law, financial integrity, and contracting issues;
- develop and implement strategies to carry out the purposes of the district and to provide a safe, secure, and plentiful supply of water for use within the northeast area of Texas;
- review and accept new member petitions from political subdivisions; and
- at least every three months, report to TCEQ on the progress of the temporary administrator's duties.

The bill requires the temporary administrator, in the period after the appointment of a new board and before the end of the temporary administrator's term, to work cooperatively with the board in performing the duties listed above.

C.S.H.B. 3847 authorizes the temporary administrator to employ persons to assist the temporary administrator in carrying out the duties assigned by provisions of the bill relating to the temporary administrator. The bill entitles the temporary administrator and any person hired to reasonable compensation, based on the education, training, and experience of the person, and reimbursement of the reasonable and necessary expenses incurred in carrying out the duties assigned by such provisions. The bill requires the district to pay the cost of compensation and reimbursement. The bill requires the amount of compensation and reimbursement to be

determined by agreement of the temporary administrator and the board, except that before the appointment and qualification of the board consisting of five directors as provided by the bill, the bill requires the amount of compensation and reimbursement to be determined by agreement of the temporary administrator and the executive director of TCEQ. The bill requires TCEQ, in the event an agreement cannot be reached, to determine the compensation and reimbursement, after obtaining the approval of each state senator and representative who represents a district that includes territory in the district.

C.S.H.B. 3847 authorizes TCEQ, after obtaining the consent of each state senator and representative who represents a district that includes territory in the district, to remove the temporary administrator and appoint a new temporary administrator or return control of the district to the board.

C.S.H.B. 3847 entitles the temporary administrator, for acts or omissions undertaken in the course and scope of carrying out the duties assigned by provisions of the bill relating to the temporary administrator, to the same immunity from suit and liability that applies to a state district judge acting in a judicial capacity.

C.S.H.B. 3847 sets its provisions relating to the temporary administrator regarding a definition, appointment, term, powers and duties, personnel, compensation and reimbursement, removal and replacement, and expiration of sections to expire September 1, 2013.

C.S.H.B. 3847 authorizes a person or entity, in addition to a public agency, county, municipality, or other political subdivision of the state or another state, to enter into a contract or agreement with the district, on terms agreed to by the parties, for the purchase or sale of water; waste collection, transportation, processing, or disposal; or any purpose relating to the district's powers or functions.

C.S.H.B. 3847 repeals a provision prohibiting a position on the board from being construed to be a civil office of emolument for any purpose. The bill makes conforming and nonsubstantive changes.

C.S.H.B. 3847, for purposes of provisions relating to the district, defines "temporary administrator" and, for purposes of the bill's provisions relating to the district temporary administrator, defines "commission."

C.S.H.B. 3847 repeals Sections 9601.051(d) and 9601.059, Special District Local Laws Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3847 differs from the original by providing for the appointment of a temporary administrator for the Riverbend Water Resources District, whereas the original provides for the appointment of a conservator for the district, and making conforming changes. The substitute differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions.