

BILL ANALYSIS

H.B. 3861
By: Craddick
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, there is an area located south and east of the City of Midland, partially within the city's extraterritorial jurisdiction, consisting of residential, small commercial, rural farm, and ranch land. Interested parties contend that potable water supplies within the area are in jeopardy as a result of groundwater contamination and drought. H.B. 3861 seeks to address this issue by establishing provisions relating to the creation of the Midland County Utility District, providing authority to impose a tax and issue bonds, and granting 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

H.B. 3861 amends the Special District Local Laws Code to establish the Midland County Utility District as a water control and improvement district. The bill sets out provisions relating to an election to confirm the district and to elect a permanent board of directors; municipal consent to the creation of the district and to the inclusion of land in the district; findings of public purpose and benefit; and the initial district territory, including provisions for the effect of certain mistakes in the description of the boundaries. The bill sets out provisions relating to the number and terms of the members of the district board of directors, including an ex officio member if an applicable municipality annexes any part of the territory of the district, and provisions for temporary directors. The bill requires the district to provide an applicable municipality with written notice prior to a meeting of the board.

H.B. 3861 sets out provisions relating to the powers and duties of the district. The bill requires the district to comply with all applicable requirements of any ordinance or resolution that consents to the creation of the district or to the inclusion of land in the district and that is adopted under Local Government Code provisions relating to the creation of a political subdivision to supply water or sewer services, roadways, or drainage facilities in the extraterritorial jurisdiction of a municipality. The bill provides for compliance with municipal regulations in regard to any water service infrastructure or public facilities or any water system constructed, acquired, improved, maintained, or operated by the district.

H.B. 3861 requires the district to obtain the approval of Midland County's governing body of the plans and specifications of any facilities to be installed on property located in a county right-of-way. The bill establishes that neither the county nor an applicable municipality are liable for any claims arising from the operation of the district's water system or other actions or inactions of the district, including issues related to labor, safety, or signage, or contamination or other environmental issues. The bill authorizes the district to enter into an interlocal contract with the county or an applicable municipality to provide governmental functions, including fire protection, trash collection and disposal, and ambulance service. The bill establishes that an applicable municipality is authorized to provide sewer and drainage service in the district and

requires the municipality to establish the amount of the fees to be charged to recipients of such sewer and drainage service. The bill prohibits the district from providing any services within the territorial limits of an applicable municipality as those limits existed on September 1, 2011.

H.B. 3861 authorizes an applicable municipality to annex a part of the territory of the district without annexing the entire territory of the district. The bill establishes that, if the city annexes all or part of the district, the district is not required to be dissolved and the district is not prevented from providing district services to the annexed territory. The bill, if any territory inside the district is annexed, requires the owner of the territory to pay the same rate of property tax to the municipality as other residents of the municipality. The bill establishes that the municipality does not assume any debt of the district by annexing territory in the district and prohibits the district from contesting an annexation by the municipality.

H.B. 3861 requires the district to begin operation of a water system serving at least a part of the district not later than the sixth anniversary of the date that district voters approve the issuance of bonds to provide for the development of the water system. The bill prohibits the district from dividing into two or more districts.

H.B. 3861, if it receives a two-thirds vote of all the members elected to each house, prohibits the district from exercising the power of eminent domain outside the district to acquire a site or easement for a recreational facility or in the corporate limits of an applicable municipality as those limits existed on September 1, 2011. The bill, if it does not receive such a vote, prohibits the district from exercising the power of eminent domain.

H.B. 3861 sets out provisions authorizing the district to issue, without an election, bonds and other obligations secured by revenue other than property taxes or by certain contract payments. The bill authorizes the district, subject to voter approval, to impose a property tax and issue bonds payable from property taxes, but the district is prohibited from issuing bonds payable from property taxes to finance a road project unless the issuance is approved by a two-thirds majority of district voters. The bill authorizes the district to impose an operation and maintenance tax if it is authorized at an election and to impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a voter-approved contract. The bill authorizes the district to issue bonds or other obligations payable wholly or partly from property taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, and requires the board, on bonds payable wholly or partly from property taxes, to provide for the annual imposition of a continuing direct property tax, without limit as to rate or amount, while all or part of the bonds are outstanding. The bill prohibits the projected combined operation, maintenance, and debt service tax rates as of the date of the issuance of any bonds, as described by the Texas Commission on Environmental Quality (TCEQ) in a TCEQ order approving the issuance of the bonds, from exceeding 65 cents for each \$100 of assessed valuation of property in the district. The bill establishes that bonds or other obligations of the district are prohibited from being paid wholly or partly by taxes imposed by the county or an applicable municipality, are not debts of the county or municipality, and do not give rise to a claim against the county or municipality.

H.B. 3861 sets out in detail the initial boundaries of the district. The bill defines "board," "commission," "county," "director," "district," and "municipality."

EFFECTIVE DATE

Except as otherwise provided, September 1, 2011.