

BILL ANALYSIS

C.S.H.B. 3895
By: Toth
County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that certain changes are needed to the enabling legislation for The Woodlands Road Utility District No. 1, of Montgomery County, Texas, created more than two decades ago. C.S.H.B. 3895 seeks to address these changes.

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. 3895 amends Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, to rename The Woodlands Road Utility District No. 1, of Montgomery County, Texas, as The Woodlands Road Utility District No. 1. The bill exempts the district from the application of a statutory provision granting the Texas Transportation Commission jurisdiction over road utility district activities or projects. The bill authorizes the district to define its boundaries by metes and bounds, by reference to property descriptions in documents filed for record in the real property records of the county or counties in which the district is located, or by a combination of metes and bounds and such reference. The bill requires a person to be a qualified voter of either Harris County or Montgomery County in order to be eligible to serve as a judge or clerk for a district election.

C.S.H.B. 3895 establishes that a majority of all directors of the district's board, including vacant director positions and absent directors, constitutes a quorum and that a majority vote of all directors, including vacant director positions and absent directors, is necessary to adopt any motion or measure. The bill authorizes the board, on its own motion and by written resolution, to increase from time to time the number of directors on the board to include a director appointed by each governing body of one or more political subdivisions, other than a school district or municipality, the boundaries of which overlap more than 90 percent of the district's territory. The bill authorizes such a political subdivision to appoint a member of its governing body or an employee of that political subdivision to the board. The bill requires such an appointee to the board to serve without compensation from the district and to take and perform the constitutional oath of office as a director of the district. The bill requires the Texas Transportation Commission, on petition of a person who owns land included in the district, to fill each vacancy on the board for the unexpired term if at any time there are fewer than the number of directors on the board necessary to constitute a quorum, rather than if at any time there are fewer than three directors on the board.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3895 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 1(a), Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, is amended.

SECTION 2. Section 2(3), Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, is amended.

SECTION 3. Sections 6(a) and (b), Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(a) The district has all of the rights, powers, privileges, authority, duties, and functions conferred by the general law of this state applicable to road utility districts created under Article III, Section 52, of the Texas Constitution, including Chapter 441, Transportation Code [13, Acts of the 68th Legislature, 2nd Called Session, 1984 (~~Article 6674r 1, Vernon's Texas Civil Statutes~~)], to the extent those provisions can be made applicable. If any provision of general law is in conflict or inconsistent with this Act, this Act prevails.

(b) In addition to the rights, powers, privileges, authority, and functions provided by Subsection (a) of this section, the district may:

(1) add or exclude territory in the manner provided by Subchapter H, Chapter 54, Water Code, and may define the boundaries of the district by:

(A) metes and bounds;

(B) reference to property descriptions in documents filed for record in the real property records of the county or counties in which the district is located; or

(C) a combination of the methods described in Paragraphs (A) and (B);

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Sections 6(a) and (b), Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, are amended to read as follows:

(a) The district has all of the rights, powers, privileges, authority, duties, and functions conferred by the general law of this state applicable to road utility districts created under Article III, Section 52, of the Texas Constitution, including Chapter 441, Transportation Code [13, Acts of the 68th Legislature, 2nd Called Session, 1984 (~~Article 6674r 1, Vernon's Texas Civil Statutes~~)], to the extent those provisions can be made applicable. If any provision of general law is in conflict or inconsistent with this Act, this Act prevails. A provision of Chapter 441, Transportation Code, granting the Texas Transportation Commission jurisdiction over road utility district activities or projects does not apply to the district.

(b) In addition to the rights, powers, privileges, authority, and functions provided by Subsection (a) of this section, the district may:

(1) add or exclude territory in the manner provided by Subchapter H, Chapter 54, Water Code, and may define the boundaries of the district by:

(A) metes and bounds;

(B) reference to property descriptions in documents filed for record in the real property records of the county or counties in which the district is located; or

(C) a combination of the methods described in Paragraphs (A) and (B);

(2) contract with any person for the payment, repayment, or reimbursement, out of bond proceeds or any other specified source of funds, of any costs and reasonable carrying costs incurred by that person for or on behalf of the district, including the costs of constructing, acquiring, or improving a district facility, notwithstanding that the facility may have been conveyed to and accepted by the appropriate governmental entity prior to the payment, repayment, or reimbursement;

(3) make application for and contract with any person or entity to: receive, administer, and perform the district's duties and obligations under any federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, donation, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing district facility or other roadway, water borne, pedestrian movement, or public transportation or conveyance system, facility, or improvement contemplated or described by Article III, Section 52(b), of the Texas Constitution; and

(4) provide or secure the payment or repayment of the district's costs or share of the costs by or through a contract or agreement with any person, or the issuance of district bonds, the levy of a maintenance tax, or the assessment of fees, in the manner provided by general law.

SECTION 4. Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, is amended.

No equivalent provision.

(2) contract with any person for the payment, repayment, or reimbursement, out of bond proceeds or any other specified source of funds, of any costs and reasonable carrying costs incurred by that person for or on behalf of the district, including the costs of constructing, acquiring, or improving a district facility, notwithstanding that the facility may have been conveyed to and accepted by the appropriate governmental entity prior to the payment, repayment, or reimbursement;

(3) make application for and contract with any person or entity to: receive, administer, and perform the district's duties and obligations under any federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, donation, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing district facility or other roadway, water borne, pedestrian movement, or public transportation or conveyance system, facility, or improvement contemplated or described by Article III, Section 52(b), of the Texas Constitution; and

(4) provide or secure the payment or repayment of the district's costs or share of the costs by or through a contract or agreement with any person, or the issuance of district bonds, the levy of a maintenance tax, or the assessment of fees, in the manner provided by general law.

SECTION 4. Same as introduced version.

SECTION 5. Section 7, Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by Section 7A, the ~~[The]~~ district is governed by a board of five directors.

(d) A majority of all directors, including vacant director positions and absent directors, constitutes a quorum.

(e) A majority vote of all directors, including vacant director positions and absent directors, is necessary to adopt any motion or measure.

No equivalent provision.

SECTION 6. Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, is amended by adding Section 7A to read as follows:

Sec. 7A. APPOINTED DIRECTORS. (a) The board, on its own motion and by written resolution, may from time to time increase the number of directors on the board to include a director appointed by each governing body of one or more political subdivisions, other than a school district or municipality, the boundaries of which overlap more than 90 percent of the territory of the district.

(b) Notwithstanding any other law, or a common law or judicial doctrine to the contrary, a political subdivision described by Subsection (a) may appoint to the board a member of the governing body of or an employee of that political subdivision. A director described by this subsection shall serve without compensation from the district and shall take and perform the constitutional oath of office as a director of the district.

No equivalent provision.

SECTION 7. Section 11(b), Chapter 816, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(b) If at any time there are fewer than the number of [three] directors on the board necessary to constitute a quorum, the commission shall, on petition of a person who owns land included in the district, fill each vacancy for the unexpired term.

SECTION 5. 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, 2013.

SECTION 8. Same as introduced version.