

BILL ANALYSIS

C.S.H.B. 3901
By: Workman
Special Purpose Districts
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current state law provides for the creation of certain conservation and reclamation districts that are, subject to certain requirements, authorized to incur debt and levy taxes in order to provide for certain services and projects. C.S.H.B. 3901 seeks to create a conservation and reclamation district in Travis County to be known as the Cascades Municipal Utility District No. 1.

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. 3901 amends the Special District Local Laws Code to create the Cascades Municipal Utility District No. 1, subject to voter approval at a confirmation election and municipal consent. The bill dissolves the district September 1, 2014, and sets the bill's provisions governing the district to expire on such date if a municipality in whose extraterritorial jurisdiction the district is located does not consent to the creation of the district or if the district does not enter into an agreement required by the terms of the municipal ordinance or resolution consenting to the creation of the district before such date.

C.S.H.B. 3901 grants the district the power to undertake certain road projects and provides for a certain strategic partnership agreement regarding the continuation of the district after annexation by a municipality and also provides for municipal annexation and notice. The bill authorizes the district, subject to certain requirements, to issue obligations and impose property, operation and maintenance, and contract taxes. The bill prohibits the district from exercising the power of eminent domain.

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. 3901 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

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8477 to read as follows:

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CHAPTER 8477. CASCADES
MUNICIPAL UTILITY DISTRICT NO. 1
SUBCHAPTER A. GENERAL
PROVISIONS

Sec. 8477.001. DEFINITIONS.

Sec. 8477.002. NATURE OF DISTRICT.

Sec. 8477.003. CONFIRMATION AND
DIRECTORS' ELECTION REQUIRED.

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. 8477.004. CONSENT OF
MUNICIPALITY REQUIRED.

The temporary directors may not hold an election under Section 8477.003 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.

No equivalent provision.

Sec. 8477.005. FINDINGS OF PUBLIC
PURPOSE AND BENEFIT. (a) The
district is created to serve a public purpose
and benefit.

(b) The district is created to accomplish the
purposes of:

(1) a municipal utility district as provided
by general law and Section 59, Article XVI,
Texas Constitution; and

(2) Section 52, Article III, Texas

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Sec. 8477.003. CONFIRMATION AND
DIRECTORS' ELECTION REQUIRED.

The temporary directors shall hold an election to confirm the creation of the district and to elect permanent directors as provided by Section 49.102, Water Code, and this chapter.

Sec. 8477.004. CONSENT OF
MUNICIPALITY REQUIRED. (a) The

temporary directors may not hold an election under Section 8477.003 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.

(b) If a municipality in whose
extraterritorial jurisdiction the district is
located does not consent to the creation of
the district or if the district does not enter
into an agreement required by the terms of
the municipal ordinance or resolution
consenting to the creation of the district
under this section before September 1, 2014:
(1) the district is dissolved September 1,
2014, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment
of debts shall be transferred to the
municipality or another local governmental
entity to be used for a public purpose; and

(C) the organization of the district shall be
maintained until all debts are paid and
remaining assets are transferred; and

(2) this chapter expires September 1, 2014.

Sec. 8477.005. FINDINGS OF PUBLIC
PURPOSE AND BENEFIT. (a) The
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and benefit.

(b) The district is created to accomplish the
purposes of:

(1) a municipal utility district as 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, or improvement of macadamized, graveled, or paved roads described by Section 54.234, Water Code, or improvements, including storm drainage, in aid of those roads.

Sec. 8477.006. INITIAL DISTRICT TERRITORY.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8477.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

No equivalent provision.

No equivalent provision.

(b) Except as provided by Section 8477.052, directors serve staggered four-year terms.

Sec. 8477.052. TEMPORARY DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8477.101. GENERAL POWERS AND DUTIES.

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Sec. 8477.006. INITIAL DISTRICT TERRITORY.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8477.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (b), the district is governed by a board of elected directors qualified to serve under Section 54.102, Water Code.

(b) If required under the terms of the agreement, ordinance, or resolution by which a municipality consents to the creation of the district, the board consists of: (1) four elected directors qualified to serve under Section 54.102, Water Code; and (2) one director appointed by the governing body of the municipality who: (A) may be a member or other officer of the governing body or an employee of the municipality; and (B) is not required to be a qualified voter of the district or own land subject to taxation in the district.

(c) The common law doctrine of incompatibility does not disqualify a member or other officer of the governing body or employee of the municipality from being appointed a director by the governing body of a municipality under Subsection (b)(2), and a director appointed to the board may continue to serve in a public office of or be employed by the municipality.

(d) Except as provided by Section 8477.052, directors serve staggered four-year terms. A permanent director may not serve more than two four-year terms.

Sec. 8477.052. TEMPORARY DIRECTORS.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8477.101. GENERAL POWERS AND DUTIES.

Sec. 8477.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

Sec. 8477.103. AUTHORITY FOR ROAD PROJECTS.

Sec. 8477.104. APPROVAL OF ROAD PROJECT.

Sec. 8477.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. 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 land in the district.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8477.151. ELECTIONS REGARDING TAXES OR BONDS.

Sec. 8477.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8477.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 8477.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.

Sec. 8477.103. AUTHORITY FOR ROAD PROJECTS.

Sec. 8477.104. APPROVAL OF ROAD PROJECT.

Sec. 8477.105. COMPLIANCE WITH AND ENFORCEABILITY OF MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. (a) 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 land in the district.

(b) Any agreement between the district and a municipality related to the municipality's consent to the creation of the district is valid and enforceable.

(c) On the issuance of bonds by the district, the district is considered to have waived sovereign immunity to suit by a municipality for the purpose of adjudicating a claim for breach of an agreement described by this section.

(d) The district and a municipality may contract on terms that the board and governing body of the municipality agree will further regional cooperation between the district and the municipality.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8477.151. ELECTIONS REGARDING TAXES OR BONDS.

Sec. 8477.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8477.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

No equivalent provision.

Sec. 8477.153. CONTRACT TAXES.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8477.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.

Sec. 8477.202. TAXES FOR BONDS.

Sec. 8477.203. BONDS FOR ROAD PROJECTS.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

(c) If required by an agreement between the district and a municipality under Section 8477.105, the total ad valorem tax rate of the district may not be less than the total ad valorem tax rate of the municipality.

Sec. 8477.153. CONTRACT TAXES.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8477.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS.

Sec. 8477.202. TAXES FOR BONDS.

Sec. 8477.203. BONDS FOR ROAD PROJECTS.

SUBCHAPTER F. STRATEGIC PARTNERSHIP AGREEMENT; MUNICIPAL ANNEXATION AND NOTICE

Sec. 8477.301. STRATEGIC PARTNERSHIP; CONTINUATION OF DISTRICT AFTER ANNEXATION BY MUNICIPALITY. (a) The district may continue to exist as a limited district after full-purpose annexation by a municipality if the district and the annexing municipality state the terms of the limited district's existence in a strategic partnership agreement under Section 43.0751, Local Government Code.

(b) The strategic partnership agreement may provide for a term of any number of years. The limitation in Section 43.0751(g)(2), Local Government Code, on the length of the term does not apply to a limited district created under this section.

Sec. 8477.302. MUNICIPAL ANNEXATION; NOTICE. (a) Sections 43.0561 and 43.0562, Local Government Code, do not apply to the annexation of the district by a municipality that consents to the creation of the district under Section 8477.004.

(b) Not later than the 30th day after the date a municipality adopts a resolution or ordinance consenting to the creation of the district, the municipality shall file, in the real property records of the county in which

No equivalent provision.

SECTION 2. Establishes the initial boundaries for the Cascades Municipal Utility District No. 1.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, the lieutenant governor, and the speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8477, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8477.106 to read as follows:

Sec. 8477.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(b) This section is not intended to be an

the land to be included in the district is located, a notice to purchasers of real property in the district that describes:

(1) the municipality's authority and intention to annex the district; and

(2) the anticipated date of the annexation.

(c) After the notice is filed, a person who proposes to sell or otherwise convey real property in the district must include the information contained in the municipality's notice in the Notice to Purchasers required by Section 49.452, Water Code.

SECTION 2. Establishes different boundaries for the Cascades Municipal Utility District No. 1.

SECTION 3. Same as introduced version.

Sec. 8477.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

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 4. Same as introduced version.